



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Third Session

Tuesday 8th October 2019

The House met at 2.30 p.m.

[Hon. Acting Speaker (Mr Chege Mwaura) in the Chair]

PRAYERS

QUORUM

Hon. Acting Speaker: Clerk, confirm if there is quorum. We have the quorum. Clerk, proceed.

PAPER

Hon. Peter Warutere: Hon. Speaker, pursuant to Standing Order No 146 (2) (b), I beg to lay the following paper on the Table of the Assembly, today Tuesday 8th October 2019: The report of the Sectoral Committee on Health Services on the consideration of the Governor's memorandum on Nairobi City County Tobacco Bill, 2019. I beg to lay.

(The paper was laid on the Table)

STATEMENTS

Hon. Acting Speaker: Hon. Minority Whip? Do you have any brief from Hon. Peter Imwato? I am aware he is away, so it will be rescheduled to tomorrow or whenever he is around. Hon. Elizabeth Nyambura? She is also not in. It will be brought at a later date. Hon. Silas Matara? I haven't seen him. He has two, it will be pushed to the date that they are available. Hon. Mberia is also not around. Hon. Benson Mwangi?

REQUEST FOR A STATEMENT REGARDING PAYMENT OF CASUAL WORKERS UNDER THE ENVIRONMENT
SECTOR

Hon. Benson Macharia: Thank you, Mr. Speaker. We as gentlemen are not accustomed to multitasking.

Pursuant to Standing Order No. 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Environment and Natural Resources regarding the payment of casual workers under the Environment Sector.

Hon. Speaker, there have been allegations of discrepancies in the payment of casual workers by the County Executive. In particular, it has been alleged that the sector has been inflating the actual number of casuals engaged in the environmental activities, with a number of casuals awaiting their payment for four months down the line.

Hon. Speaker, in the statement the Chairperson should inquire into and report on:

- i. The amount of money allocated for the casual workers for the last financial year;
- ii. The status of the audited list of payment of casual workers for the last financial year, including signed documents by each and every casual worker;
- iii. Whether the payment of the casuals was approved by the COBs;
- iv. The criteria used for the selection and employment of the first batch of casual workers; and
- v. Method used and the type of system that was used for the payment of the casual workers.

Thank you, Mr. Speaker.

Hon. Acting Speaker: It is a weighty issue. Hon. Ochola, do you want to say something on the same?

Hon. Wilson Ochola: Mr. Speaker, I would like to concur with my colleague. We MCAs are directly linked to wananchi. The criteria which was used by the office of the Governor--- there is a lot of problems. As we speak, even if this County Assembly will approve the amounts which the casuals will be paid, we must have proper way of selecting residents from our wards. Casuals must be selected by the hon. members. Thank you.

Hon. Acting Speaker: Thank you. Chair of Environment and Natural Resources, Hon. Kamau?

Hon. John Muthiga: Thank you, Mr. Speaker. One week.

Hon. Acting Speaker: Next week we will be going for recess. So, if you can try and stick to it, it will be good for members to go with an answer. Are you okay with that, Hon. Benson?

Hon. Benson Macharia: Mr. Speaker, I am comfortable.

Hon. Acting Speaker: Thank you very much, Mr. Speaker

Hon. Benson, you also have a statement request.

(Loud consultations)

Hon. Benson Macharia: Mr. Speaker, this is a House of rules and procedures and we cannot operate like a market.

Hon. Acting Speaker: Hon. Minority Whip, consult in low tone! Proceed.

REQUEST FOR A STATEMENT REGARDING THE OPERATIONS OF THE ACCOUNTING DEPARTMENT IN THE FACE OF RAMPANT DEMOTIONS, SUSPENSIONS OR SACKING OF NAIROBI CITY COUNTY GOVERNMENT STAFF

Hon. Benson Macharia: Hon. Speaker, pursuant to Standing Order No. 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Labour and Social Welfare regarding the operations of the Accounting Department in the face of rampant demotions, suspensions or sacking of Nairobi City County Government staff.

Hon. Speaker, the last two years of operation within the County Executive has been defined by instability characterized by constant reshuffles, suspensions and sackings which are based on mere allegations without tangible outcome or investigations, warning or due disciplinary process. The result has been shut down of critical services, for instance planning approvals, processing of permits, revenue collection, health services delivery, amongst others.

Hon. Speaker, it is not clear what these suspensions, demotions and sackings have achieved in the last two years other than worsening technical staff shortages and consequently delays in service delivery due to inadequate personnel for service delivery.

Hon. Speaker, this Assembly can no longer wait by as residents and professional associations complain of hampered service delivery and increasing business running costs arising from inertia and laxity in the part of the County Government in providing critical services needed to support the said sector of the economy. This state of affairs risk plunging the county in to irreparable social, political and economic damages that may spill into the national economy, given the critical nature of the Nairobi City County being that the 64% of GDP of Kenya is derived from Nairobi City County.

Hon. Speaker, in the statement the Chairperson should inquire into and report on:

- i. How many members of staff have been demoted, suspended or sacked since September 2017 per department;
- ii. Outcome of investigations done if any and disciplinary action taken against officers found culpable of committing offences as alleged for the said suspensions or sackings;
- iii. Whether the demotions, suspensions and sackings are guided by the law and if not, does it not constitute an abuse of office under the employment law;
- iv. The total amount of salaries paid to officers who are not gainfully engaged due to unprocedural suspensions since September 2017, and whether the said offices are on full pay or half pay;
- v. Report on position currently being held by officers in acting capacity, from the County Secretary to every sector, and the qualification of the said officers currently holding the said position in acting capacities; and
- vi. Steps being taken by the County Executive to have officers hold positions substantively, particularly those that have surpassed the six months acting capacity timeline.

Thank you, Mr. Speaker.

Hon. Acting Speaker: I think the hon. member was on overdrive when we went for the sporting recess. Chair of Labour?

Hon. Peter Wanyoike: Thank you, Mr. Chairman. I beg to be given up to next week on Thursday.

Hon. Acting Speaker: Hon. Benson Mwangi, are you okay with that? Chair, Labour, those issues are weighty and the public wants to hear good way forward on it.

Hon. Benson Macharia: Hon. Speaker, this matter is weighty. Yesterday I read an article that in the Planning Department alone, we have not collected Kshs.34 billion out of an estimated Kshs. 40 billion in collection of planning and approval fees. Given the magnitude of the issue, I will prefer the Chair to give me a report by Tuesday

Hon. Acting Speaker: Hon. Benson Mwangi, the Chair had already asked for a week, which translates to next week on Tuesday. You are aware that 10th October 2019 is a public holiday.

Hon. Peter Wanyoike: Mr. Chairman, because Thursday is a public holiday, I will give the response on Wednesday next week.

Hon. Acting Speaker: Fair enough. If you do not have a conclusive answer, we would at least want a status update of what is happening.

Hon. Benson Macharia: Wednesday will be okay.

Hon. Acting Speaker: Thank you. Next order!

(Consultation between the Speaker and the Clerk)

Hon. Acting Speaker: I have been told there was a paper that was to be laid. Let us go back to Papers.

Standing Order 41 (2) provides that, *“Business shall be disposed off in the sequence that it appears in the order paper or in such a manner or sequence the speaker may for the convenience of the county assembly direct”*.

So, I direct that we proceed to the paper that was not tabled then we proceed to Order No. 7.

PAPER

Hon. Acting Speaker: Chair of Justice and Legal Affairs?

Hon. Jayendra Malde: Thank you, Mr. Speaker. Pursuant to Standing Order No. 131) (3), I beg to lay the following paper on the Table of the Assembly, today Tuesday 8th October 2019:

The report of sectoral committee on Justice and Legal Affairs on the public participation on the Punguza Mizigo Constitutional Amendment Bill, 2019. I beg to lay, thank you.

(The paper was laid on the Table)

Hon. Acting Speaker: Thank you, Chairman. We will give it time to be able to be deliberated and acted upon immediately when the order comes.

STATEMENTS

Hon. Acting Speaker: We are back to statements. Leader of Majority? Or are you in your capacity as a member of Matopeni/ Spring Valley Ward?

REQUEST FOR A STATEMENT REGARDING THE OPERATION OF COUNTY VEHICLE FLEETS

Hon. Abdi Hassan: Thank you, Mr. Speaker Sir. I saw my friend, the Deputy Whip was laughing, but under the Constitution, my primary mandate is to represent my people of Matopeni/ Spring Valley Ward, to legislate and to oversight. That is why I am asking this question.

Mr. Speaker, pursuant to Standing Order No. 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Roads, Transport and Public Works regarding the operation of county vehicle fleets and related departments that rely on the said fleet to undertake their mandate.

Hon. Speaker, there have been complaints from the offices of the County Executive who rely on County Government fleets to do their jobs over the unavailability of county vehicles and poor state of some of the said vehicles. It is not clear how many vehicles the county owns or has leased, and whether such vehicles have been put to their proper use.

(Point of order)

Hon. Kennedy Oyugi: Point of order, Mr. Speaker.

Hon. Acting Speaker: On what he is reading?

Hon. Kennedy Oyugi: Mr. Speaker, is the member of Matopeni Ward in order to ask a question from Transport Committee where he is a member?

Hon. Acting Speaker: I think he was very clear that he is first and foremost a member of Matopeni Ward.

Hon. Abdi Hassan: Mr. Speaker, there is no Standing Order whatsoever that prohibits a member of certain committee to ask a question from same committee. Kindly go ahead and inform us which Standing Orders prohibits me from asking that question?

Hon. Acting Speaker: Hon. Oyugi, I do not want to make it a deliberate debate. Do you have one?

Hon. Kennedy Oyugi: Mr. Speaker, it has been a tradition in this House. This is a House of rules and procedures, normally many directions have come from your chair that if you are a member of a committee, you need not to ask a question that relates to that committee. It is even there in the Standing Orders. Let Clerk guide you on that. I don't think it is in order for the Majority Leader to ask the question.

Hon. Abdi Hassan: He has not quoted any Standing Order, that is an abuse of this House. If you are not conversant with Standing Orders, it is not of use for you to stand and talk out of ignorance.

(Loud consultations)

Hon. Acting Speaker: Order! Leader of Majority, have your seat. Let me make a ruling on this. Part 10 of our Standing Orders talks of statements. Standing Order 45 says:

(1) Notwithstanding Standing Order 37 (Sequence of Proceedings), there shall be time, to be designated Statements Hour, every Thursday, commencing not later than 3.00 pm.

(2) During the Statements Hour-

(a) a member of the County Assembly Business Committee designated by the Committee for that purpose shall, every Thursday or on the last sitting day, for not more than ten minutes, present and lay on the Table, a statement informing the County Assembly of the business coming before the County Assembly in the

following week;

- (b) the Leader of the Majority Party, or the Leader of the Minority Party as the case maybe, or their designees may make a statement relating to their responsibilities in the County Assembly or the activities of a Committee;*

I want to be guided by that Standing Order and allow that matter to rest. Again, once a statement has been presented here, it becomes the property of the House. It is for the benefit of Nairobi. So, let us take it for the merit that they are without looking at any other pay. I hope you are clear, Hon. Oyugi?

Hon. Kennedy Oyugi: Mr. Speaker, I stand guided. However, the member stood, not as Majority Leader, but a member of Matopeni/Spring Valley Ward.

Hon. Acting Speaker: Thank you. Leader of Majority, proceed.

Hon. Abdi Hassan: Mr. Speaker, we have a problem with someone who still thinks he is a shadow Minority Leader. *(Laughter)* He is still reigning from that hangover. We are not going back on that. We need to take these people for induction because they are still not conversant with the Standing Orders.

Hon. Acting Speaker: Order! He has also benefited from the advice, proceed.

Hon. Abdi Hassan: Mr. Speaker, I stated that I am asking this statement as a member of Matopeni/Spring Valley Ward.

Mr. Speaker, there are allegations of impropriety on the management, control and assignment of county vehicles to various departments, occasioning serious delays in service delivery at the sub-county and the ward level. The result is that the county is spending millions of money on maintenance and purchase of new vehicles when other alternatives such as leasing could have served this purpose.

Hon. Speaker, in the statement the Chairperson should inquire into and report on:

- i. The total number of the county owned vehicle fleets detailing their status, where assigned and the names of the respective officers assigned the said vehicles;
- ii. Whether the county has leased any vehicles or entered any lease agreement with any providers, and if yes, documents detailing the tender process which the said providers were identified and awarded the leasing contract and at how much;
- iii. Numbers of vehicles currently under any such lease agreement and their status; and
- iv. Documents relating to the tenders and/or contracts for the repair and maintenance of the county vehicles including record of all payments made to such said entities from maintenance of county fleets since September 2017.

Mr. Speaker, I know my good friend, Hon. Oyugi yesterday was given something small, but this Assembly's core mandate is to oversight regardless from which party you come from. Thank you.

Hon. Acting Speaker: Hon. member for Matopeni, Hon. Oyugi stood guided and got to understand the Standing Orders well, so don't rub it in. Chair of Transport?

I direct that the issue of being given something small be expunged from the HANSARD.

(Hon. Oyugi spoke off the record)

Hon. Acting Speaker: Hon. Oyugi, you are not on record. You raised an issue which was also not on record. Have your seat so that it doesn't look like an exchange. I have been magnanimous enough to

remove that issue from the recorded proceedings of the House. I think that is enough. That is bigger than apology.

(Hon. Oyugi spoke off the record)

Hon. Acting Speaker: You are out of order! Chair of Transport?

Hon. James Wambui: Thank you, Mr. Speaker. One week is enough.

Hon. Acting Speaker: Hon. member for Matopeni, is that fine with you?

Hon. Abdi Hassan: Yes.

Hon. Acting Speaker: Thank you. Hon. Mutheu is destined to be answered a question by the Chair of Water, and Hon. Daniel Ngengi, for Transport and also Environment. They are all not in. why don't we allow them to be here then we can have that issue taken care of so that we can proceed to the next order.

(Point of order)

Hon. Deputy Minority Whip, what is the problem?

Hon. Moses Ogeto: Hon. Speaker, I am standing on a point of order under Standing Order No.41. I request that we move to the next order by altering the proceedings of the House. Thank you.

Hon. Acting Speaker: We are on that direction. We are proceeding to the next order. All the requests that the movers are not here, I have directed that be taken to the next available session where we are sure they will be in so that we dispense them once and for all. Next order!

MOTION

Hon. Acting Speaker: Leader of Majority?

APPROVAL THE PUNGUZA MIZIGO CONSTITUTIONAL AMENDMENT BILL, 2019

Hon. Abdi Hassan: Thank you, Mr. Speaker Sir. THAT aware, that Article 257 of the Constitution of Kenya, 2010, (hereinafter "the Constitution") on Amendment to the Constitution by popular initiative, provides for the process by which the Constitution may be amended by Popular Initiative; whereas Article 257 (5) of the Constitution provides that if the Independent Electoral and Boundaries Commission is satisfied that an initiative meets the requirements of this Article, the Commission shall submit the draft Bill to each county assembly for consideration within three months after the date it was submitted by the Commission; whereas, the Independent Electoral and Boundaries Commission (IEBC), in keeping with the provisions of Article 257 (5) of the Constitution transmitted to the Speaker of the County Assembly a draft bill to amend the Constitution by Popular Initiative dubbed Punguza Mizigo Initiative, whose full title is The Punguza Mizigo (Constitutional Amendment) Bill, 2019 vide a letter dated 18th July, 2019 from the Chairperson of the Commission; whereas the Hon. Speaker vide a Communication from the Chair dated Tuesday 30th July, 2019 relayed to the Assembly his receipt of The Punguza Mizigo (Constitutional Amendment) Bill, 2019, and the admittance of the Bill before the House thereof; whereas the procedural exposition requisite for the consideration process when the Bill is transmitted to the County Assembly is not laid out in the Constitution nor indeed in the Assembly Standing Orders, which directions regarding consideration of the said Bill in keeping with the

provisions of Article 257 (6) the Speaker made in his Communication earlier referenced; and whereas, the said Article 257(6) provides that if a county assembly approves the draft Bill within three months after the date it was submitted by the Commission, the speaker of the county assembly shall deliver a copy of the draft Bill jointly to the Speakers of the two Houses of Parliament, with a certificate that the county assembly has approved it; now therefore, pursuant to the provision of Article 257(6) of the Constitution of Kenya, 2010, this Assembly resolves to approve The Punguza Mizigo Constitutional Amendment Bill, 2019.

Mr. Speaker, I ask my colleague and good friend, hon. member for Komarock Ward to second the Motion.

Hon. John Muthiga: Thank you, Mr. Speaker. I rise to second the motion.

(Question proposed)

Hon. Acting Speaker: Hon members the floor is open for debate. Deputy Minority Whip?

Hon. Moses Ogeto: Thank you Speaker, you need indulgence because today you have forgotten and you need to be taken to a refresher course *(Laughter)*. That notwithstanding I stand here to oppose this motion *(applause)*. The chair of Justice found out, when we were doing public participation, from Nairobians that they don't want Punguza Mzigo.

The merits of Punguza Mizigo disorganizes the two third gender rule which our constitution enshrined. I oppose the initiative because of representation. The constitution was drafted by technical experts but the initiative undermines the minority tribes. For example, a county like Narok or in Nairobi we have minority tribes where Majority Leader comes from. This Bill doesn't address that. The Bill says we shall have one Member of Parliament and 17 Members of the County Assembly. Only 17 to represent five million people is ridiculous. The Bill is not realistic. We urge Ekuru Aukot the initiator to go and fine tune and bring a Bill that is all inclusive.

Hon. Peter Warutere: Thank you Hon Speaker, I oppose this Bill for the following reasons. I have gone through it and realized the proponent are behaving like a jilted lover. This Bill is so good and toxic where it has flaws. 70% of the Bill is good but the 30% of this Bill that is bad is just toxic. Like a jilted lover it is like whereby you stay in a relationship but at tail end where you have flaws it is a whole exposure. It feels bad that five million people of this county can only have a representation to the level of two members. Like people of Roysambu if they ever need representation like bursaries, water and if one member of Parliament will represent two million people that will mean someone from all the way from Roysambu will have to walk to the cool trees of Karen to seek representation. This Bill does not represent the issue of representation at all. On issue of salaries we have never seen a Bill that would address issue of salaries in any given constitution. As you're all aware this Bill does not allow a window for any amendment and therefore if we pass we will never have any window to do any amendment. I think it is a good day for Nairobians and us as assembly to put the record straight. It is important that we tell Dr. Aukot that he has walked with us in this journey but it reaches a time that we must make the right decision. The right decision is to ensure it does not see the light of the day because when you look at the geographical representation of people it is one issue that Aukot and company does not understand. We will teach him on what matters representation is all about. I beg that all members rise, tell him the truth of the matter which is this Bill is toxic, bad, we stand to oppose it in totality. Thank you.

Hon. Clarence Munga: Thank you Mr. Speaker for giving me opportunity to contribute. Let me raise my voice to oppose this motion with three points. First this Bill was delegated to Justice committee and they went round doing public participation and when it came to Dagoreti. The voice of the people was heard clearly that they are against Punguza Mizigo. For that reason, as a representative of the people of Kabiro I want to stand with my people and oppose this Bill.

Secondly there is an aspect of gender. As a country we have made good gains in terms of gender and telling us women are not going to be nominated again, how will this question be felt at the ground if you tell me to step aside so that a woman can be elected? It is impossible. For us to ensure we have gender balance we need to give women opportunity to be nominated so that we can balance the issue of gender.

There is also issue of reducing constituencies. If you tell me Nairobi to have two constituencies you're talking about marginalization of other communities. Tell me how Nairobi can be represented by two communities. The rest will feel left out. For that reason, let me say I totally oppose this Bill.

Hon. Jeremiah ThemEndu: Thank you Mr. Speaker. I rise to oppose the Bill because as I said before I shall go to my people and seek their opinion and according to them the issue of representation is affected because there are about 130,000 people in my constituency and they are in need of another constituency. As they see you are going to delete constituency and replace it with wards they are not comfortable. There is also this issue of attaining 18 years and after getting identity card you're deemed to be a registered voter. Telling us where you're registered and where to go to vote is where there is a problem. I beg to oppose.

Hon. Cecilia Ayot: Thank you Mr. Speaker. I and other colleagues of this house know very well what the two thirds gender rule means. I want to clarify it does not only mean women. It is clear and speaks of 'not more than two thirds' shall be of same gender. As we proceed the elected seat as me and fellow colleagues it would be helpful for the men who will be left out. We know well that the county assembly and parliament are the highest decision making organs in this country and therefore we must be considerate of all genders. I rise to oppose and make clarity on the two thirds gender rule.

Hon. Joseph Wambugu: Thank you Hon Speaker. I rise to oppose the Bill for the reason being it is unconstitutional. I have two reservations. As a representative of the people of Karura my people were not involved or consulted through the drafting or coming up with this amendment Bill. Two, the Bill raises crucial question or concerns where it interferes with the two third gender rule which is very important and crucial to our constitution where our mothers and sisters were also given chance to represent the women of this country. For these two I beg to oppose.

Hon. David Ayo: Mr. Speaker thank you. First I stand to oppose, categorically, this draconian Bill. Ekuru Aukot for one is among the people who were vying the presidency of this country. To me I tend to believe he formed his own leeway to ascend to the presidency. For that reason, we need a playground that is level. Two, looking at the representation, this is unconstitutional bearing in mind we need more seats so that we can accommodate leadership down to our people. Three, when you scrutinize the Bill properly he has not factored in the issue of youths. Youth representation has not been factored into the Bill properly. I also believe the guy is smarting his game. He was among the people who drafted the constitution. I believe if he was brave he could have put all that...

(Point of order)

Hon. Anthony Karanja: Point of order 35; I think it is unfair for my colleague to discuss Aukot the person, not the document.

Hon. Acting Speaker: I agree. Hon. Ayoï refrain and make your points within the Bill that is on the floor as opposed to the personality. Proceed.

Hon. David Ayoï: Thank you Mr. Speaker sir, but he is the author of the Bill.

Hon. Acting Speaker: order Hon Member, every time as you ask a question you cannot be attacking the person. Attack the merits and demerits of the proposal. I know you stand guided.

Hon. David Ayoï: Thank you Mr. Speaker sir, obliged. Thank you for protecting me. Looking at the issue of women the Bill does not actually favour women because we need more women in the assembly, parliament, senate so as we fight to ensure our women are in houses, looking at the Bill it sorts of short change the women. Thank you I stand to oppose this Bill.

Hon. Hafsa Khalif: I arise to oppose the Bill. I wanted to know how Dr. Ekuru arrived at the decision to reduce the number of constituencies. Unless he tells us the population has gone down we will not support this Bill. Thank you.

Hon. Mellab Lumalah: Thank you Mr. Speaker for this opportunity. I arise to oppose this motion. First when I look at the title of the motion Punguza Mizigo it makes me wonder because I have not seen the legislation houses being a 'mzigo' in this country; I have seen legislation houses needing more representatives in each and every area so that we can serve our people well.

When the Bill is talking about reducing I wonder if it means we are the ones having high wage Bill. When you reduce the constituencies and the wards does it mean the wage Bill will go down. Does it mean it is the legislators who are using the whole money in the country? I feel it is not the right Bill at the moment. I rather say we increase the numbers on legislation. I oppose it.

Hon. Anthony Gathumbi: Shukurani sana bwana Spika kwa fursa hii ambayo umenipa. Mimi nitaripoti yale nilipata kwa wodi yangu wakati tulienda kuwazungumzia kuhusu jambo hili la punguza mzigo. Wakina mama waliikataa. Vijana pia waliikataa. Wale wa religion pia waliikataa. Wazee pia waliikataa kwa sababu ambazo zimetajwa na wengi hapa. Waliomba mwenyezi mungu azipunguze mzigo bali atupe mabeba makubwa ya kubeba mzigo huu. Vita vilivyo mbele yetu ni vita ya kupigana na ufasidi lakini sio kupunguza mzigo. Hatuwezi kupunguza wakina mama wasio nominated, hatuwezi punguza vijana wasipate nafasi ya kusimama ka vile sisi tulipata nafasi ya kuwa concillors, tukakuwa MCA. Pia hawa wanaitaji nafasi. Ukiwacha constitutnecy ama ward ikuwe kubwa then umetupilia hawa vijana inje. Napinga mswada huo. Asante sana.

Hon. Jared Akama: Thank you Mr. Speaker. I equally rise to oppose this motion with four reasons. First I have a tendency of debating our constitution we so much love with a lot of soberness and without emotions. A constitution defines a county. It is through it that the gains we make is based. One of the reasons I am opposing this motion is because the promoters of this initiative have put an insinuation that the leaders of this country are a burden. This amendment of the constitution has citizens of this country against its leaders. It is important to go on record that the leaders or political class only spend less than 10% of the total budget. This insinuation that all the monies goes to the leaders is a wrong notion. This amendment should be opposed with passion and all the energies.

I equally oppose this motion because of the issue of marginalization. The promoters of this amendment say we will only have two members of parliament from every county, male and female. I was seriously thinking of a county like Migori where my Minority Leader comes from. In that county we have two communities- and I am not being tribal because I am just giving an example. If you look at that county it has two tribes who originate from that area- the Kuria community and the Luo community. Politics is about

numbers. To be on record Migori is predominantly occupied by Luo community and this is to say that because politics is about number there is no time a Kuria will be a member of parliament. That is retrogressive. We have said this country should be owned by all of us and all of us should share in the cake. To say that there is no time a Kuria will be a member of parliament because of numbers is retrogressive.

When we are making a constitution it must aspire to bring everybody on board. A constitution is always made based on the culture and the situation of that country and not basing on this aspect of sophistication. With that reason I want to strongly oppose.

The third point is that promoters of that Bill said we are not going to have a deputy Governor. A county is like a country, a state. To say a country cannot have a deputy president is retrogressive. I was hoping they could have said for purpose of promoting issues of gender that if we have a male Governor let's have a deputy who is female. I think in a modern society where we want to promote gender issues that could have been the spirit. So that everybody feels all the genders are respected. Therefore, I want to imagine that if we didn't have a deputy Governor in Nyeri and Bomet what would be the costs the country would have gone through in terms of elections. A deputy is important when for example the president is not in the country the person who stand in is the deputy.

I want to be in record that even us here in Nairobi we need one. They have also said that we are going to have a constituency as the ward. That is the implication. Moving forward Nairobi will have only 17 MCAs. They came up with this notion that we are going to have ward fund for purpose of blindfolding us and getting excited but I want to assure these people promoting the amendment Bill that we were much alert and understood as leaders what we are doing. We are monitoring closely. We cannot allow the representation of our people to be reduced.

Finally, we should be able to avoid this notion that for example in the 2010 constitution we were using the word *wanjiku*. This time around we are using *punda*. We are not donkeys. We are serious Kenyans. When addressing things let us address as Kenyans and not *pundas* or *wanjiku*. I oppose.

Hon. Margaret Mbote: I stand to oppose. First of all, it is very unfortunate because I was not involved from the word go. I don't understand the contents although I read it but I could not understand where I was coming in because I am nominated and I am being put aside.

I oppose it completely and I beg that this man go back to the drawing board or that forum and see what they can do about the nominations and all the nominated members especially women. I stand to oppose.

Hon. Acting Speaker: Thank you. The mover?

Hon. Abdi Hassan: Thank you Mr. Speaker sir. I want to take this opportunity to thank members for opposing my motion. I am the mover of the motion not by design but by default, because of the position that I hold.

Mr. Speaker sir, Punguza Mizigo erodes the gains which we got in the Constitution of Kenya 2010. The key things which I think--- I know I am the mover by default but I need to give my opinion (*laughs*) On matters representation, I heard Hon. Akama saying that in Nairobi for instance, two large communities will get the two seats which is wrong Mr. Speaker sir. There are no two large communities in Nairobi 50% comes from one community. This means that the two seats will be taken by that community, Luos have no room here Mr. Speaker. After Kikuyus, the second largest community is Luyha and 50% is Kikuyu. So somebody like me and the Minority Leader will be nowhere near parliament.

It also beats logic to say that Nairobi with a population of 7 million people can have the same representation as Lamu County or Isiolo County where I hail from, it doesn't make any sense at all. The gains

that we have had since the inception of the Constitution of 2010 in issues pertaining to gender will be gone. As you can see in this House, the gender is well represented. But if this motion goes through, that gain will be irrelevant.

With your indulgence Mr. Speaker sir, I want to move to move out of this Punguza Mizigo thing and I want to reply. I heard some two individuals on Sunday---

Hon. Acting Speaker: Order Leader of Majority! We will allow us to conclude and then may be by my indulgence I will give you some time because I know some members---

Hon. Abdi Hassan: Then I will only conclude and that is the reason why I have gone out of the Punguza Mizigo bill.

Hon. Acting Speaker: Let us conclude now that you have concluded and then I will give you another chance before we finally conclude so that now it is dispensed with.

Hon. Abdi Hassan: Mr. Speaker sir, you will now go to put the question----

Hon. Acting Speaker: I will give you a chance.

Hon. Abdi Hassan: I know I will not get a chance because we will all have participated, let me say what I want to say Mr. Speaker sir. It is not right for individuals to peddle lies outside there and we don't defend our politicians. I heard that the former Speaker saying when she was in PCEA Church---

Hon. Acting Speaker: Under 44 (2) (b), I will give you a chance.

Hon. Abdi Hassan: Mr. Speaker sir I beg to reply, thank you.

Hon. Acting Speaker: Hon. Members, allow me to say that I am quite impressed by the level of debate that has taken place. I apologize most sincerely for not having the video coverage for TV because they would have seen and I hope the media which is here have seen the quality of debate that Nairobi has taken is not because somebody somewhere called you to do anything or push you to a certain direction. The quality of debate has been very high and I congratulate you Hon. Members for upholding the dignity of Nairobi.

The Committee of Justice and Legal Affairs may please be up standing? It is important that we recognize this committee because it went all over Nairobi in clustered sub-counties of six and they had a chance to speak with Nairobians. I am saying this so that we do not fall the trap that opinion polls usually are told, 'who did they ask?' I know for sure you went and I heard Hon. Kimemia saying that he was in Ofafa Jericho. I heard another member saying that he was in Kahawa West, another in Karen and all those other places that you went. You did a good job and the report is there, the media will also be given that report including the photos that were taken so that Nairobians don't just think that we sit here and we think through. We also consulted and got whatever views we got. A loud of applause to Committee of Justice and Legal Affairs!

(Applause)

Thank you very much. I think now we can proceed and you know the rules of this debate because it is already requesting for approval. If you are supporting for its approval, the ayes will be on the approval and the nays will be of not approving. Is that okay? So that we don't seem like we are changing goal posts in between. The ones who will be for the bill to pass as it is, you say aye, and the ones who are for the bill not to pass, you say nay. Because I know many are used to the ayes having it with the DS, today you should be very cautious.

(Question put and negatived)

You have heard it, the Punguza Mizigo Constitutional Amendment Bill 2019 stand defeated in Nairobi.

(Applause)

Order! Before we proceed to the next order, I wish to say that the next motion for Hon. Mbote I negotiated with her maybe because of the urgency of today we put it to tomorrow and she in concurrence with it. I will allow the Leader of Majority to make statements with regards to a matter of importance to the County if he so wishes and if you also want to weigh in, I will allow a few members and then we can proceed.

Hon. Abdi Hassan: Thank you Mr. Speaker sir for your indulgence. If you would not have given me this opportunity, by the end of the day I could have collapsed and died out of pressure. Thank you for that.

Mr. Speaker sir on Sunday in Kibra, one former Speaker Hn. Beatrice Elachi and one Dennis Waweru who were rejected by the people of Dagoretti South and Dagoretti North alluded that this assembly impeached the former Speaker of Nairobi because we were instructed by the Deputy President to do that. To the contrary, the Deputy President called us several times to dissuade us from impeaching her.

(Applause)

The only two people who tried to save the former embattled Speaker are the Deputy President and the former H.E Prime Minister Hon. Raila Odinga.*(Inaudible)*

Hon. Abdi Hassan: I have said that. I respect to the former Prime Minister. Mr. Speaker sir---

Hon. Acting Speaker: Order! Proceed.

Hon. Abdi Hassan: Mr. Speaker sir, it is wrong for people to go outside there and peddle lies and I thought it is right to put the records straight. Dennis Waweru was elected by people of Dagoretti South, they said they don't want him they want KJ, you cannot blame that on other people. Some people were saying that they were rigged out because they were supporting Hon. Peter Kenneth. Mr. Speaker I want to confirm that I was the number one supporter of Hon. peter Kenneth before nomination, and he was not rigged out. Those are just lies peddled by those two people and anyone who loves Madam Elachi should employ her in his or her bedroom and I know that she is good at that. Thank you Mr. Speaker sir.

Hon. Acting Speaker: You have heard; I will give may one response each so that we come to conclusion. I can see Oyugi, somebody is using his card.

Hon. Mark Mugambi: Thank you Mr. Speaker. I want to support the sentiments of my Majority Leader and ask the former Speaker never to evoke the name of our Deputy president and the name of our Deputy Party Leader in those *Kieleweke* rallies where they were rejected by wananchi and now purport to speak on behalf of Jubilee Party which has over 2,000 elected leaders in this country.

Mr. Speaker these are people that have their own agendas and they are doing this to try to earn their daily bread because the sideshows that they are showing Kenyans that is how they behave to get nominations and appointments. We would like the assembly with all due respect, Madam Elachi should apologize to our Deputy President and our Deputy Party Leader. Thank you Mr. Speaker.

Hon. Acting Speaker: Thank you.

(Point of Order)

Hon. Moses Ogeto: Hon. Speaker I am on a Point of Order No.1 where you have powers to guide this House and its proceedings correctly. It is okay we have heard the members of the Jubilee Party giving their grievances on the floor of the House on how the sequence of proceedings of this House. It is ridiculous to discuss an agenda which the Leader of Majority should have brought a good motion to this House to be debated.

Hon. Speaker, I am on Point of Order No. 1---

Hon. Acting Speaker: Proceed.

Hon. Moses Ogeto: I am on Point of Order No. 1, that unless you give—

(Loud consultations)

Hon. Acting Speaker: Proceed.

Hon. Moses Ogeto: Hon. Speaker I want to guide this House--- Hon. Speaker I want to get your attention. I want you to give guidance to the House which will not jeopardize this House.

(Loud consultations)

Hon. Moses Ogeto: Hon. Speaker, I am wondering which order are we on the proceedings of this House.?

Hon. Acting Speaker: Point taken. I think--- Order! The Hon. Member challenged the ruling using Standing Order No. 1, let me read it. That, *'In cases where matters are not expressly provided for by the standing orders or by other orders of the county assembly, any procedural question shall be decided by the Speaker.'* Hon. Members, I allowed the Leader of Majority to discuss matters that he felt were important and using the same Standing Order No. 1, I gave him the indulgence.

Secondly, the reason why I opened up the debate so that the reason that the Leader of Majority is making, are not based on his own and that is why I allowed two other members to speak so that it doesn't look like he has a personal vendetta on whatever he is speaking about. You heard Hon. Mark Mugambi speak and I have also given the Minority Whip.

Allow us to be able to be able to debate whether you like whatever is being said or you don't, you are given a chance to be heard. Having said that, the matter has been concluded, unless --- Order! Hon. members, the Minority Leader had raised some issues which were not clear and I hope I have cleared them. I will not allow us to debate on that, may be one person and then we conclude.

Hon. Leah Supuko: Thank you Mr. Speaker sir for catching my eye because I was disappointed because I wanted to contribute on the Puguza Mizigo, and you never caught my eye. I thank you for this opportunity and I rise to support our Majority Leader. Mr. Speaker sir, I sit in the election board of the Jubilee party of Kenya and we are putting on notice to those bunch of losers like Kamanda that we will revoke his nomination because he can't go against the President and the Deputy President.

Secondly for Beatrice Elachi, we impeached her with no regrets and if she comes back here, we will still impeach her. It is right for her to go and rumor monger everywhere that she goes---

Hon. Acting Speaker: Can you proceed Hon. Member?

Hon. Leah Supuko: Yes Mr. Speaker sir. Protect me from these noise makers behind me.

Hon. Acting Speaker: Hon. Ndonji I have seen you. Hon. Leah proceed.

Hon. Leah Supuko: Mr. Speaker sir, I just want to urge those bunch of losers to keep off our President and our Deputy President, and the leadership of this House. She is all over churches, burials,

rallies abusing the leadership of this House. Majority of the people in this House impeached her and with no malice.

(Loud consultations)

Hon. Acting Speaker: Order! Are you done Hn. Leah? Hon. Ndonji, one minute and then we conclude.

Hon. Joseph Ndonji: Mr. Speaker, it is very unfortunate that you are allowing this assembly to discuss personalities. I don't think that is the right thing to do. We are not supposed to discuss personalities or party issues. Let them discuss their party issues in their party offices but not in this assembly.

(Loud consultations)

Hon. Acting Speaker: Order! Have your seats. I think---

(Loud consultations)

Hon. Acting Speaker: Order! Hon. Njambi, keep your cool, sit down! The Leader of Majority brought an issue---

(Loud consultations)

Hon. Acting Speaker: Order! Hon. Mark Mugambi have your seat! Hon. Mugambi, I will have to kick you out.

(Loud consultations)

Hon. Acting Speaker: Hon. Majiwa, I will kick you out, have your seat. This is an issue--- Order! Hon Leah have your seat. Hon. Njambi I will mention you, have your seat.

(Loud consultations)

Order! Hon. Leah, have your seat. Where is the Chairman Powers and Privileges?

(Loud consultations)

Hon. Majiwa calm down! I want to give directions. Order! We are not going that direction.

(Loud consultations)

Have your seats! Leader of Majority I give you--- Order!

(Loud consultations)

Have your seats, calm down.

(Loud consultations)

Order! Serjeant-at-Arms escort the member out.

(Loud consultations)



Serjeant-at-Arms, escort Hon. Njambi out for the day.

(Hon. Njambi escorted out)

(Loud consultations)

Hon. Acting Speaker: Order! Hon. Leah, out for the day. As she is making her matching orders, Hon. Geophrey Majiwa out for the day, Hon. Rose Kula out for the day. Thank you very much. Order Members! Thank you very much. Order Members!

This is a House where we give every member a chance to say whatever they want as long as we do it in the confines to the dictates that we have set for ourselves. Whatever point you want to say, you will be accorded the chance to say it. But say it in a way does not demean the dignity of the House. I direct that all the four members--- No they are not going to the--- I am just saying that today it will not be counted as a meeting that they sat in. Hon. Majority Leader, have your seat.

The reason why I allowed the Majority Leader is because he had requested and he wanted to put it together when he was replying on the serious matter on Punguza Mizigo Bill. I asked to seek the indulgence so that we don't mix issues and he agreed. We passed the Punguza Mizigo Bill and that is when I gave him a chance.

The reason why I opened debate for that particular issue, is so that it doesn't look like it is his own sentiments. That is also why I wanted us to hear if those issues are relevant. I gave Hon. Leah a chance and she had already spoken, you have to let others to speak. When you respond to others it becomes chaotic and that is why I have decided to expunge the four. I know it is a heated debate, every time so that the media understands, once a member like Hon. Beatrice Elachi is mentioned out there, there are two options; we either respond in the streets or we do it on the floor and It is an issue that is affecting all of us. If it is an issue that we want to debate, let us do so and conclude and let us take politics out there. The issues that have been brought here, let us have time to debate them freely and I will give everyone a chance so long as time is there.

Please stand guided, there is no victimization we just want us to be able to allow us anyone to speak whatever they want even if you don't like, just speak I will give you a chance and we will proceed very procedurally. With that, I will allow because I want to put this thing to a close, the ones who have been very patient here before I recognize everyone who participated in the sports. I also wanted to recognize them because they did us proud to whatever level they reached.

You are most senior most on this side, do you have anything before I allow the Leader of Majority and then we come to a close.

Hon. Moses Ogeto: Thank you Hon. Speaker. It is god that you have given guidance because you gave the Leader of Majority a chance but I don't want to speak on it because it was like a Jubilee affair which should not be the case. Let it be on record that it should not be a Jubilee affair. That is why Members started attacking when people mentioned names until you diluted everything. I don't want to comment on this because I am standing here despite you giving the chance unprocedurally we go on record so that the leader of Majority, and I have told him he is my good friend that next time when he wants to bring something like this, he brings it like a kind of debate so that all are serious statements which may guide also to debate on such a serious issue.

Hon. Speaker, I concur with the statement of the Leader of Majority that the debates in this House should be limited and should be done on a procedural manner. Hon. Speaker thank you for that.

Hon. Acting Speaker: Leader of Majority on behalf of your majority side?

Hon. Abdi Hassan: Thank you Mr. Speaker sir. I wish to remind my good friend here that under Standing Order No. 1, the Speaker has discretion and it cannot be disputed anyone. I want to put one thing very clearly about the 'handshake' that brought a lot of hatred. The 'handshake' was undertaken by the President of the republic of Kenya who is our party leader and as Jubilee we fully support the handshake'. We don't want any contradiction about that.

The issue at hand was not about the 'handshake', it was what Madam Elachi said on Sunday. I wanted to make that clear. Thank you Mr. Speaker sir and I will ask members when one members is talking, it is not right for the others to shout. This is not a shouting match; it is a House of debate. If you have nothing between your ears, you have no business being in this House because we debate here. You listen to what your colleague is saying and if you have a different opinion from him, it is upon you to request the Speaker a chance and you do the same.

Thank you Mr. Speaker sir for giving me this opportunity.

Hon. Acting Speaker: Thank you. Before we close any member who was part of the sporting activity that we had last week? Please be upstanding. If you were active participant, most of us came to cheer you whatever discipline that you were part of, you did us proud and we will continue supporting the sporting activities. The rest of us who were not actively involved please give them an honorable recognition.

(Applause)

Thank you very much. I know most of them are not here, let them know that the assembly takes whatever they did very seriously and we will support it to the best of our ability. Having said that, we come to the end of the session today which was very lively, I hope that even the others that are here, tomorrow and the day after, you will ensure that we will have very lively debates so that the assembly also lives to the billing that it is a House of rules and debate.

ADJOURNMENT

Hon. Members, we are adjourned until tomorrow Wednesday 9th October 2019 at 2.30 p.m.

The House rose at 4.26 p.m.

