



COUNTY ASSEMBLY OF MOMBASA

OFFICIAL REPORT

Wednesday, 16th October, 2019
The House met at 2:41p.m.

(The Speaker (Hon. Aharub Ebrahim Khatri) in the Chair)

PRAYERS

The Speaker (Hon. Khatri): Hon. Members you may be seated. Yes, Clerk?

PAPERS

MOMBASA COUNTY BUDGET REVIEW AND OUTLOOK PAPER, 2019

Yes Hon. Hamisi Musa Mwidani, Leader of Majority party please lay down the Paper.

The Leader of Majority (Hon. Mwidani): Thank you Mr. Speaker Sir. Let me take this opportunity to lay Paper on Mombasa County Budget Review and Outlook Paper, 2019.

(Paper laid)

The Speaker (Hon. Khatri): Thank you Hon. Hamisi Musa Mwidani, Leader of Majority party. Yes, Clerk next order.

REPORTS AND FINANCIAL STATEMENT FOR THE FY ENDED JUNE 30th, 2019

Yes, Hon. Hamisi Musa Mwidani?

The Leader of Majority (Hon. Mwidani): Mr. Speaker again, let me take this opportunity to lay Paper on Reports and Financial Statement for the FY ended June 30th 2019, thank you Mr. Speaker.

(Paper laid)

The Speaker (Hon. Khatri): Thank you again Hon. Hamisi Musa Mwidani. Hon. Members the Reports and Financial Statement for the FY ended June 30th, 2019, having been laid stands committed to the Committee on Public Investment and Accounts Committee. Yes, Clerk next order?

(Silence)

Hon. Members the Mombasa County Budget Review and Outlook Paper, 2019 having been laid stands committed to the Committee on Finance, Budget and Appropriation. Yes, Clerk next order?

STATEMENTS

Yes Hon. Ali Shomari? Hon. Members the Statement from Hon. Ali Shomari seems he is absent, so we will take the matter back to the House Business Committee. Yes, Clerk next order?

STATEMENT

Yes Hon. Kibwana Swaleh, Chairperson Committee on Health, please give the Statement.

(Silence)

Hon. Members again Hon. Kibwana Swaleh seems to be absent, so the matter will go back to the House Business Committee. Yes, Clerk next order?

MOTION

ADOPTION OF REPORT OF THE DRAFT PUNGUZA MZIGO (CONSTITUTION OF KENYA AMENDMENTS)
BILL, 2019

(Consultations)

Yes, Hon. Amriya Juma Boy, Chairperson Committee on Justice and Legal Affairs, please move the Motion.

Hon. Amriya Juma: Thank you Mr. Speaker. I beg to move the Motion.

THAT, this House adopts the Committee on Justice and Legal Affairs Report on the Draft Punguza Mzigo (Constitution of Kenya Amendments) Bill, 2019 laid on the Table this Morning Mr. Speaker.

Mr. Speaker I ask Hon. Mwaka to second.

Hon. Mwaka Zahoro: I second Mr. Speaker.

The Speaker (Hon. Khatri): Thank you Hon. Members. Hon. Members I now propose a question that the Motion by Hon. Amriya Boy Juma on, adoption of Committee on Justice and Legal Affairs report on the Draft Punguza Mizigo (Constitution of Kenya Amendments) Bill 2019, be considered by this Honourable House in the same terms as moved.

(Question put and agreed to)

Yes, the Chairperson Committee on Justice and Legal Affairs Hon. Amriya Juma please make your contribution.

Hon. Amriya Juma: Thank you so much Mr. Speaker. It is with great pleasure that I table this report of the Draft Punguza Mzigo 2019, that is referred as Punguza Mzigo Bill. Mr. Speaker the Punguza Mzigo Bill was forwarded to the County Assembly from the IEBC on the 18th and through your indulgence you were able to commit it to the Justice and Legal Affairs Committee to scrutinise the content on whether it fits the Constitutional or the legal parameters, on the proposed amendments of the Constitution.

Mr. Speaker on that note the Committee organised a scrutiny exercise from 20th September, at the Jambo Resort to look to the draft Bill and the Committee had the following observations and findings that one; the Committee resolved that the Bill goes for Public Participation which it went for pursuant to Article 196 (2) (c). So the Bill went for Public Participation which was in line with the invitation of the memorandums from the 9th October, 2019 to 14th October Mr. Speaker and that exercise lasted at 4:30p.m on the 14th, that has been the brief introduction Hon. Speaker.

On to the meat of the Report, on observation and findings as a Committee, that Bill as a Committee we had issues particularly with Clauses 3 and 4 which had intended to amend Article 73 of the Constitution on leadership and integrity. Mr. Speaker as all Members are aware that the draft proposes that any person who had been adversely mentioned in any public inquiries or in any audit report bans him or her from seeking or holding any public office or state office. The Committee Mr. Speaker finds this Clause to be against the principal of fair hearing and natural justice that is enshrined in the Bill of Rights, that is Article 50 of the Constitution of Kenya and also undermines the principal of the whole human rights (??), that is the whole understanding of the Human rights, it is a whole understanding of the proposal of the Human right Mr. Speaker and that proposal according to the Committee, is an unconstitutional and it is a movement that is backward.

Mr. Speaker also I would like to inform the House that the Committee Members also had an issue with Clause 4 of the draft Bill, which deals with the prosecution of corruption and theft of public resource cases. It is in this Bill that the drafter of the Bill intended that, those who have been adversely mentioned should step aside and abstain from opting into any political or any appointive positions and so in our scrutiny as a Committee that this is against Article 50 2(1) that talks about one is presumed innocent until proved guilty.

Mr. Speaker, also the Committee had a problem with that Clause and also the proposal that these cases should be handled within thirty days after one has been adversely mentioned. Mr. Speaker the House is aware that our Judiciary is a bit incapacitated in regards to the infrastructure so this is a long shot and it is very unrealistic.

Forward Mr. Speaker we had also a problem with Clause 2.3 which was about the amendment of the Article 93 of the Constitution which proposes to make the Senators the upper House with virtual power. Mr. Speaker making a Senate it is in the view of the Committee that of making Senate an upper House will water down the function of the National Assembly, so there will be no point of having the National Assembly if the buck then stops with the Senate. So that will be amounting to abuse of powers because as the proposal of the Bill had suggested that each County to produce two people in form of a man and a woman to be at the National Assembly and one Member from each County to be the Senate. So giving the Senate a virtual power Mr. Speaker will undermine; so what is the purpose of two people coming from the National Assembly anyway.

So it is the opinion of the Committee that the Clause was a bit far-fetched Mr. Speaker and also the Clause that had really hit the Committee was on the gender clause which had the removal of nomination of women and marginalised groups. That is another setback, because the history of affirmative action Mr. Speaker was to cure the inequalities and the inequities that were faced by women and marginalised groups in our Country. So we are saying as a country if we are moving forward we are moving together Mr. Speaker, so that Clause we had issues with it and also moving forward on Clause 2.4 on amendment of Article 142 of the Constitution touches on the fundamental of why this Bill had to come through all 47 Counties because this amendment has to go through a referendum which limits the Presidency to one term of seven years. Mr. Speaker we thought that this will result to one elected as a President they will feel that it is their time to eat because they do not have anything to lose at the end of the day, so given seven terms I get what I earn you know it is man's society since the social contract... the theory Mr. Speaker Hon. Members will agree with the Committee that before we entered into social contract theory, it was told that this earth is a man eat man, so we thought that giving the President just one term will feel that one term i will have to finish with the seven term period and has nothing to lose and it would be like it is our time to eat given that this country is a Presidential system.

Mr. Speaker I want also to highlight the Committee also had issues... maybe quickly when am highlighting on Article 157, that it is almost the same as Article 50 that one is innocent until proven guilty, so that is also in line with Article 50 and we had spoken about it earlier and also Article 77 is almost the same as 93 so I had spoken about it, that the two-third gender rules removing nomination of MCAs is a backward movement and it is against the two-third gender rule because we are looking in a Kenya that we have a fifty-fifty or a seventy-thirty where women are more than men because when we are looking at our last (??) of statistic, we are seeing that women are more than men so we are looking at a country that will have fifty-fifty gender equity Mr. Speaker or even more or even having 75 to 25.

So on Article 1 of the (??) the Committee also had issue with Article 179 which scraps off the position of Deputy Governor, and proposes that the Deputy Governor should be removed and it is in our opinion that this is a very important position because the Deputy Governor since the Governor is a political figure, the Deputy Governor deals with administrative issues that are in line with the Cabinet and all that. So when you remove this post as Deputy Governor such that when the Governor is engaged in political issues the office will be too vacant Mr. Speaker and the Cabinet will not run very well.

So finally Mr. Speaker the Bill also had proposed to amend Article 31 that creates the office of the auditor general, Departments and administrative structures which function needs to be enshrined with the highest level. Mr. Speaker so they were proposing that there would be forensic Department of the Auditor General unit, that would fasttrack the corruption cases, we had no issue with it but we are saying that this office is already in place, so it does not need a Bill to create this office. So under our conclusion I will take through the House that from above findings the Committee on Justice and Legal Affairs is dissuaded by the draft Punguza Bill because there are some of the issues that we had not mentioned here, because the Committee discussed at length but this is just a brief and highlight Mr. Speaker, of those core Clauses that we had reached a consensus that they had no value to warrant that this Bill should be passed so that this Punguza Mzigo, 2019 is geared towards enriching the current Constitution, since it is violating the multiple of good governance and natural justice. It does not promote inclusivity and equity as we have demonstrated they want to scrap off the Women Representative positions, the nomination positions so it does not promote inclusivity and equity and it does not adhere to good governance so that is pursuant to Article 257 of the Constitution.

So in that light Mr. Speaker, the Committee disapproves the draft Punguza Mzigo Bill, 2019, and so our final recommendation is that this County Assembly rejects the Draft Punguza Mzigo following the findings of this Committee. Mr. Speaker on that note I beg to rest my report, thank you.

(Applause)

The Speaker (Hon. Khatri): Thank you Hon. Amriya Juma Boy. Yes, Members the floor is open for the debate of the Motion. Yes, Hon. Fadhili the Deputy Speaker?

The Deputy Speaker (Hon. Mwalimu): Ahsante Mheshimiwa Spika. Bwana Spika kando na kuwa *Bill* hii imeletwa na kuchambuliwa na Kamati husika Mheshimiwa Spika kuna mambo ambayo ningependa kuyaeleza mbele ya Nyumba hii ambayo nitasema ni mazuri katika *Bill* hino ya lakini sisemi kuwa naunga mkono. Katika kitengo ama *Article 79 (a)* Mheshimiwa Spika ya *Bill* ya Aukot, alikuwa ameangazia kuhusu maswala ya ufisadi ya kuwa yeyote yule atakayepatikana na ufisadi atakuwa ni mwenye kufungwa kifungo cha maisha Mheshimiwa Spika.

Mheshimiwa Spika hili ni jambo zuri ambalo lingeweza kusaidia nchi yetu kiupande wa maendeleo na vile vile *Article 133* ilikuwa imeondosha nguvu za Raisi kumsaidia ama kutetea yeyote yule ambaye atapatikana na maswala ya ufisadi alafu Raisi awe atakuwa na nguvu za kuweza kumsaidia. Kwa vitengo hivyo Mheshimiwa Spika nilikuwa naona Kamati haikuelezea lakini ni vitengo ambavyo katika *Bill* ile ilikuwa ni vizuri iwapokuwa mimi pia nimesimama kuipinga *Bill* hii ya Ekuru Aukot kwa sababu *Article 83* ya Aukot hiyo marekebisho ya Aukot ilikuwa inaelezea kuwa mwananchi yeyote anayefika miaka 18 anapochukua kitambulisho ni kuwa atakuwa na uwezo wa kupiga kura pahali popote na kwa hili kuwa yeyote yule ambaye ana kitambulisho iwe ichukuliwe ni kuwa akichukua kitambulisho ni kuwa ashajiandikisha pia kama mpiga kura. Mheshimiwa Spika hii ingehujumu kura za nchi yetu kwa sababu kungekuwa na sitonfahamu nyingi na kungekuwa na kura ambazo hazieleweki na vile vile wale wanati au watu wa maeneo yale wangekuwa wanakosa kupata uwakilishi kwa sababu yeyote yule ambaye ana kitambulisho aweza simama mahali popote wakati wowote. Mheshimiwa Spika ingeleta shida nyingi katika kura zetu za hapa nchini kwetu na vile vile nafikiri imeangaziwa na nazidi tu kugotea ni kuwa *Article 142* vile vile kama Mwenyekiti wa Kamati alivyozungumza ya kumpa Raisi mamlaka kwanzo ya kusimama muhuma mmoja wa miaka saba hii ingeleta ama ingetengeza Maraisi ambao wangekuwa ma *dictator* na vile vile ingekuwa ni kama njia ya kutengeza ama kuzidisha ukabila ndani ya nchi yetu. Maana ikiwa mimi nitakaa na najua ninakaa kwa miaka saba Mheshimiwa Spika nitatafuta yule wangu wa karibu ama nitatafuta yule mkabila wangu wa karibu niweze kumtengeza ninapoondoka mimi naye miaka mingine saba aje achukue Mheshimiwa Spika. Vile vile Mheshimiwa Spika ingezidi kudidimisha watu wengine kuja kupata mamlaka haya.

Mheshimiwa Spika kwa hayo ambayo nimeangazia mimi nimesimama kuipinga na naomba wenzangu wa Bunge letu la Mombasa tuweze kuipinga kutokana na haya niliyosema na yale mengine ambayo Mwenyekiti ameyazungumzia. Kwa sababu Mheshimiwa Spika ndani ya Katiba yetu inaonyesha jinsi gani ambavyo tunataka kuwe na uwakilishi wa kina mama, uwakilishi wa vijana, uwakilishi wa kina baba na uwakilishi wa walemavu, lakini katika Katiba hii ama katika *Bill* hii ya Ekuru Aukot Mheshimiwa Spika Punguza mzigo imehujumu haki za hawa ndugu zetu wengi na nikimalizia ni kuwa *Bill* hii naomba isione mwangaza katika Bunge letu la Mombasa, ahsante.

The Speaker (Hon. Khatri): Thank you Hon. Fadhili Makarani. Yes Hon. Milka Moraa Ngare?

Hon. Ngare: Thank you Mr. Speaker for giving me this chance to give my contribution on the Bill that is on the floor and I want to state that I am standing to oppose the Punguza Mzigo Bill.

(Applause)

And I am doing that vehemently! I will just quote or touch on the three Clauses that Ekuru Aukot purports to amend; one is the deletion of Article 90 of the Constitution which clearly state, Article 90 of our Constitution as the Chair of Justice and Legal affairs has rightly put it is the nomination of party list. This proposal for 90 to be deleted is to abolish proportional representation through nomination of representatives to Parliament and the County Assemblies by use of party list which has been provided by the Constitution; the 2010 Constitution, notably Bill proposes to amend Article 97 of the Constitution to reduce the number of nominees to the National Assembly from 12 to six and the same time he gives the Senate the veto power so whatever that will be passed in the National Assembly where we shall have six nominees; female nominees might not see the light of day when it gets to the Senate.

Another Article that is a claw back to gains made by women on the same is in the Article 98; that Article 98 of the Constitution is amended to abolish nominations of representatives of women, youth and persons with disabilities to the Senate. Again this proposal is aimed at reducing, according to him reducing the wage bill. As stated though well intended the amendment does not factor in the Constitutional imperative in Article 81 (b) of the Constitution which provides that more than two thirds of the Members of the elected public bodies shall be of the same gender. This amendment therefore is a claw back to the gains made by the women in the 2010 Constitution and being a woman and one who was nominated into this House I oppose it.

Article 100 of the Constitution also proposes that Article 100 of the Constitution be amended by excluding women and marginalised Committees as categories of persons in respect of whom Parliament is obligated to enact legislation to promote their representation in the Parliament. The rationale for this amendment is perhaps the fact that the representation of women is guaranteed by the proposed amendment to Article 97 of the Constitution, therefore this amendment therefore again is a claw back to the gains made by women and marginalized communities in the 2010 Constitution.

Having said that I also want to touch on Article 79 (a), he proposes that the Constitution is amended by inserting the following new Article immediately after Article 97, 79... sorry! That Article 79(a) (1) a corruption or theft of public resources case shall be tried within 30 days of arraignment before a court of competent jurisdiction and appeal be concluded within 21 days. A person convicted and found guilty of corruption or theft of public resources of money shall serve a life sentence.

Notwithstanding the provision of Article 133 no Presidential pardon or amnesty shall be applicable for those found guilty of corruption or theft of public resources, this is a populist approach seemingly aimed at addressing corruption and theft of public resources by introducing strict timelines to the hearing and determination of corruption cases and enhance punishment upon conviction.

The practicability of this amendment is questionable in view of the complex nature of such cases whereas it is desirable to have such matters concluded expeditiously; the rights of an accused person under Article 50, as read with Article 25 of the Constitution must be protected at all times. I therefore vehemently find this Bill one that is not lined well with the rights of the citizens of Kenya and I repeat again I am opposed to it and I vehemently oppose it and I urge my colleagues that we should not pass such a populist Bill in this House. Thank you very much.

The Speaker (Hon. Khatri): Thank you Hon. Milka Moraa. Yes Hon. Shebe Athuman?

Hon. Shebe Athuman: Ahsante sana Mheshimiwa Mwenyekiti kunipatia nafasi hii kuweza kuchangia Mswada huu wa Punguza Mzigo. Kwanza kabisa Mheshimiwa Mwenyekiti mimi ni mmoja ambaye nitaweza kutofautiana na Waheshimiwa wenza katika Bunge hili nikisema kuwa naiunga mkono ama naunga mkono huu Mswada wa Punguza Mzigo na niko na sababu zangu za kimsingi na niko chini ya himaya yako uweze kunilinda na alama viamrishi vile vile na alama vielimishi. Kwanza kabisa Mheshimiwa Mwenyekiti sisi ni wawakilishi wa wananchi wetu kule mashinani na nitaangazia swala hili ama Mswada huu kwa muktadha mpana kama utaniruhusu. Ahsante, Punguza Mzigo tuangalie maana yake katika muktadha na taswira ya uongozi Mheshimiwa Mwenyekiti. Leo Wakenya tunalia kuwa maisha yamekuwa magumu vipato vimekuwa shida hakuna kipato kinachoongezeka Mheshimiwa mwenyekiti lakini maisha yanazidi kuwa magumu. Ukiangalia katika Serikali yetu Mheshimiwa Mwenyekiti serikali imekuwa kubwa wawakilishi wamekuwa wengi lakini ukiangalia katika maswala ya mwananchi kipato chake kinakuwa kidogo; nazungumzia kuhusu maswala ya *representation* ya viongozi. Kenya ni takriban idadi ya wananchi milioni 45 labda hesabu ya *census* Mheshimiwa Mwenyekiti ikitoka lakini angalia Mheshimiwa tafadhali nasikia chocho nimeomba niweze kulindwa. Rusha rusha ya maneno tafadhali niko katika ulingo...

(Interruption)

The Speaker (Hon. Khatri): Order! Hon. Members Order let the Hon. Member give his views! You will have your chance. Order!

Hon. Athuman Shebe: Ahsante Mheshimiwa Mwenyekiti.

The Speaker (Hon. Khatri): Yes you may continue Hon. Shebe?

Hon. Athuman Shebe: Ahsante Mheshimiwa Mwenyekiti. Mheshimiwa wananchi wanalia kuwa Kenya ni idadi ya milioni 45 takriban lakini ukiangalia uwakilishi umekuwa mkubwa sasa huu mzigo ambao tunasema upunguzwe ni kuangalia zile nafasi ambazo ziko nyingi katika serikali ambazo zinashikana au *duplication* nataka tuhakikishe Mheshimiwa Mwenyekiti ikiwa hoja hii ama Mswada huu utapatiwa uhai katika Bunge la Mombasa maswala kama hayo yataangaziwa. Swala la Seneti ukiangalia mimi ninamshukuru Mheshimiwa mwenza wa Kamati ya sheria ambaye ameweza kuchachawiza na kuangalia vipengee ambavyo ameona havifai katika huu Mswada, lakini je shilingi Mheshimiwa Mwenyekiti ina pande mbili; sikuona upande mmoja wa shilingi hapa! Kwa hivyo mimi ninasema kuwa katika swala la ugutuzi Mheshimiwa Mwenyekiti tuko na Seneti na ukiangalia Mswada huu kwa muktadha wa upana umesema hii Seneti iweze kupatiwa mamlaka.

Leo tunalia tukiangalia maswala ya rasilmali katika Gatuzi zinakuwa chache Mheshimiwa Mwenyekiti; changamoto zinakuwa mia leo maendeleo mashinani yanakuwa shida kwa sababu pesa ni haba. Kwa hivyo ikiwa katika serikali ambayo ni wakilishi wa Seneti ndio ngao ya ugatuzi wanavyosema mimi ninaona kuwa Seneti katika Mswada huu wa Ekuru Aukot imeweza kuzingatiwa kwa muktadha huo. Tukiangalia wawakilishi ni wengi tusemeni ukweli, tunasema kuwa hawa wawakilishi ma *nominated* sijui nini, hawa wote ni kuangalia wanakula mshahara wa serikali; naam ni mshahara unatumika hapa Mheshimiwa Mwenyekiti na mimi nasema kama Mheshimiwa ambaye nimechaguliwa, *two third gender rule* Mheshimiwa Mwenyekiti...

(*Interruption*)
(*Technical hitch*)

Ahsante Mheshimiwa Mwenyekiti. Ukiangalia *Article* 142 ya Katiba inasema Raisi apatiwe awamu moja ya miaka saba; kwa nini katika hekma ya Ekuru Aukot ameamua miaka saba? Ewe Mheshimiwa Mwenyekiti utakubaliana na mimi aidha kiroho ama kifalsafa Mheshimiwa miaka saba ya Uraisi tutafanya hiki Kiti kisiwe kimithili ya kupiganiwa kama mpira wa kona. Leo kila baada ya uchaguzi kuna kuwa na vita kwa sababu Uraisi umekuwa wa kushindaniwa sana Mheshimiwa Mwenyekiti, lakini ikiwa tutaunga mkono hoja hii tuseme miaka saba *wallahi* hiki Kiti kinazunguka na kitakuwa hakina bashasha vile kama ilivyokuwa sasa Mheshimiwa Mwenyekiti.

Kwa hivyo Mheshimiwa mimi nimeiangazia hoja hii kwa shilingi upande wa pili Mheshimiwa Mwenyekiti. Nikiangalia swala lengine la uongozi...

(*Interruption*)

The Speaker (Hon. Khatri): Yes Hon. Milka, are you on a point of order?

Hon. Ngare: Point of information!

Hon. Athuman Shebe: Mheshimiwa Mwenyekiti nimesema elimisho, elimisho litabakia kwako Mheshimiwa.

(*Interruption*)

The Speaker (Hon. Khatri): Yes what is your point of order?

Hon. Ngare: Point of information i said.

The Speaker (Hon. Khatri): Point of information.

Hon. Ngare: Yes, I have overheard my colleague said that and I put it in quote that, *ma-nominated wanakula mshahara wa bure* I want to inform him that we are in this House legally elected by our parties and Article 177 allows us that right to be in this House and we are here because we represent special groups and we are doing that rightful.

We are here to champion for the special groups that we represent. So we are not earning salaries for nothing. In fact some of us are taking our roles more seriously than those who were...

(Interruption)

The Speaker (Hon. Khatri): Thank you Hon. Milka. Hon. Shebe please.

(Interruption)

Hon. Athuman Shebe: Ahsante Mheshimiwa Mwenyekiti labda kwa kutu...

(Interruption)

The Speaker (Hon. Khatri): If that is what you have said just...

(Interruption)

Hon. Athuman Shebe: Sikudhamiria kutumia lugha ambayo imeweza kumuudhi Mheshimiwa mwenza Kwa hivyo nasema samahani Mheshimiwa Mwenyekiti. Lakini...

(Interruption)

The Speaker (Hon. Khatri): Thank you, you may continue.

Hon. Athuman Shebe: Ahsante! Ahsante lakini Mheshimiwa Mwenyekiti na mimi pia nitarudisha mpira huu kwa Waheshimiwa wenza; malengo ya Ekuru Aukot Mheshimiwa Mwenyekiti yamekuwa mazuri katika maslahi ya wananchi na Wakenya kwa jumla. Kwa hivyo ningependa tukiangalia mada hii tusiangalie kwa mitazamo mingi, tuiangalie na turuhusu hekma iweze kutuongoza katika mpango mzima wa kujadili huu Mswada.

Leo sisi tunalia Mheshimiwa Mwenyekiti Gatuzi zinapata changamoto nyingi ukiangalia MCA ambaye ndiye mwananchi; ndiye mwakilishi ambaye yuko chini mashinani Mheshimiwa na ana majukumu makubwa. Leo sisi Ma MCA, mambo mengi ni sisi; matanga, harusi, maendeleo, vifo Mheshimiwa Mwenyekiti sitaki kuyataja ni kidogo tu kati ya maelfu ya matatizo ya MCA mashinani. Lakini ukiangalia Mswada huu Mheshimiwa umemuwezesha huyu mwakilishi wa Wodi akatengewa mgao ambao sisi tunalia nao tuweze kufikiriwa Mheshimiwa na mimi nina imani malengo yake yamekuwa mazuri Bwana Aukot. Leo ikiwa MCA watawezesha wale waliochaguliwa na wale walioteuliwa waangalie kwa saa hii kwa muktadha wa saa hii yale mabadiliko wangukuwa mashinani Mheshimiwa Mwenyekiti yangukuwa makubwa.

Mimi nasema Mheshimiwa Aukot nikimalizia ni mwanaadamu Mheshimiwa Mwenyekiti ana upungufu wake; nawaomba Waheshimiwa wenza huu Mswada muuungalie kimapungufu ya kibinaadamu aliyekamilika peke yake ni Mungu. Kwa hivyo ikiwa kuna hoja mimi ninawasihi tuweze kuunga mkono hoja hii ya Bwana Ekuru Aukot halafu tutaikalia chini tuangalie wapi pamekoseka tukaweza kubadilisha. Ahsante sana Mheshimiwa Mwenyekiti.

The Speaker (Hon. Khatri): Thank you Hon. Shebe. Yes Hon. Athuman Mwamwiri?

Hon. Athman Mwamwiri: Ahsante Mheshimiwa Spika. Mheshimiwa Spika kwanza nikupe kongole kwa juhudi zako za kuliendesha Bunge hili katika mazingira ya kimapenduzi...

(Applause)

Ya kwamba kila Mwakilishi Wodi katika Bunge hili ana uhuru wa kuchangia maoni na kuchangia au kuunga yale aliyonayo kongole kwa hilo na Mwenyezi Mungu akuzidishie hekima na busara Mheshimiwa Spika...

(Applause)

Mheshimiwa Spika kwanza naanza walakini wa ripoti wa Kamati ya masuala ya sheria. Mheshimiwa Spika Mswada huu wa Bwana Aukot ametumia kipengele cha 257 *popular initiative* ya kwamba maoni ya wananchi ndio yalipewa kipao mbele na Kamati yetu kutoa matangazo kuanzia tarehe 9 hadi 14 kusema hawajapata hata *memorandum* moja ni hujuma, kuitisha *memorandum* kwa wananchi wachochole, wananchi wa chini sio mwafaka katika suala nyeti kama hili. Ingewalazimu Kamati husika kushuka mashinani kusikiliza moja kwa moja maoni ya wananchi na si kuitisha *memorandums* kana kwamba tunataka ku *vet* mtu anatafuta kazi ndio tuseme watu walete kama wana dukuduku kwa sababu itakuwa kwa usiri wao ama kama mashahidi umefichika. Mheshimiwa Spika hili ni suala bayana, suala nyeti ambalo mashinani lingesikizwa zaidi wananchi ama Waheshimiwa leo wangechangia kwa mapendekezo ya kule wanakotoka. Mheshimiwa Spika mimi nitachangia kwa mapendekezo ya Wodi ninayotoka wananchi; wangu wa Likoni Wodi wamenituma ya kwamba niunge mkono Hoja hii ya Kupunguza Mizigo...

(Applause)

Mheshimiwa Spika wamekubali na kunituma niunge kwanza na suala zima la hatamu moja ya Rais, suala la hatamu ya miaka saba hili liko bayana kwa yoyote mwenye mapenzi na huba na taifa lake ndani ya miaka saba atajukumika kutekeleza mema ili aache historia, tofauti Mheshimiwa Spika na hatamu mbili za uongozi kila inapofika uchaguzi wa hatamu ya pili tumeshuhudia ghasia, vita na vifo kwa sababu ya kung'ang'ania na kubakia katika mamlaka ambapo kwamba ingekuwa ni hatamu moja sote tushakubaliana hatamu moja ya Marais wote wa Mwaka 2012 wamewajibika kutekeleza mema kushinda kwa hatamu ya pili wakiwemo katika uongozi.

Mheshimiwa Spika suala lengine ambalo nitachangia ni suala la watu kutajwa katika masuala ya ukiukaji wa haki na ufisadi; Bwana Aukot amesema mtu akitajwa akae nje ya ofisi kupeana uhuru na nafasi ya upekuzi. Pili kesi iendeshwe ndani ya siku 30 ili asidhulumike ndani ya siku 30 kama yuko safi kama pamba ataendelea na majukumu yake na kama amepatikana na hatia Mheshimiwa Mwenyekiti amepewa siku 15 za kukata rufaa kabla kufungwa kifungo cha maisha ambayo hii itajenga tamaduni katika taifa letu kwetu sisi na vizazi vijavyo ya kwamba ni jukumu la kuwa wazalendo na kutumikia taifa hili kwa mahaba, mapenzi na uadilifu kuchelea masuala kama haya kutuungama.

Mheshimiwa Mwenyekiti suala la uakilishi ni kweli ni mzigo na hii iko bayana kwa wasomi wa uchumi watakubaliana ya kwamba wahitaji ama *consumers* wakiwa wengi kushinda *suppliers* hiyo inakuwa ni *crisis*.

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Na ndio inafikia mahali serikali zinashindwa kujitegemea mpaka ziombe msaada kwa sababu wahitaji ni wengi na ni kweli ni wengi ikiwemo suala zima ambalo serikali Bunge kuu wameshindwa kuitekeleza *Article* 100 ambapo ukiruhusu nisome Mheshimiwa Spika, ibara ya 100 ya Katiba ya Jamhuri ya Kenya,

Parliament shall enact legislation to promote the representation in Parliament of-

- (a) Women;*
- (b) Persons with disabilities;*
- (c) Youth;*
- (d) Ethnic and other minorities; and,*
- (e) Marginalized communities.*

Kulipaswa kuwe na kanuni na sio suala la kuteuliwa almaarufu *nomination*. Bunge la kitaifa limeshindwa kutekeleza hili si tu ibara ya 91 kadhalika vyama vya kisiasa vimepewa nguvu na mamlaka katika kusimamia uchaguzi wao na wagombezi wako wahakikishe wameli...

(Silence)

Vyama Mheshimiwa Spika vya kisiasa vimepewa jukumu katika Katiba hii katika ibara ya 91 ya kwamba katika kuendesha uchaguzi au kuwakilisha wagombezi wa vyama katika uchaguzi mkuu wahakikishe ya kwamba wamelinda na wamezingatia uakilishaji ikiwemo kujali sehemu ya 91 (1) (e) *respect the right of all persons to participate in the political process, including minorities and marginalized groups* ambazo liko bayana Mheshimiwa Spika kama vyama vingekuwa na nia njema katika suala hili pia wao katika kulinda ishuru nzima ya *two third gender rule* ingekuwa wamelizingatia hilo.

Kadhalika Bunge la kitaifa wangukuwa waungwana na wastaarabu wangukuwa wameshapitisha sheria ya *gender parity* ambao mzigo huu wa *nominated* usingekuwepo kwa sababu ungekuwa na mfumo mahsusi na wa kufahamika ambapo watu wanachaguliwa kisahihi kuwakilisha watu pasipo na jinsia moja kuzidi jinsia nyengine Mheshimiwa Spika. Mheshimiwa Spika suala lengine ambalo Punguza Mzigo limezingatia kuleta rasilmali mashinani ya kwamba Kaunti ziongezewe mgao wa kutosha na hali kadhalika sehemu ama kata ndogo ama Wodi wakilishi ziwe kama *(??) development* ambapo mgao ule ambao sasa hivi unasimamiliwa na CDF uwe moja kwa moja katika Wodi kwa sababu eneo Bunge Mheshimiwa Spika ni kubwa na unapokosana na Mbunge wako uende akakuhujumu akakunyima maendeleo kama vile tunavyoshuhudia baadhi ya Gatuzi walio na utata na Magavana wao pia katika Wodi zao maendeleo hayafiki lakini mgao huu ukiwekwa moja kwa moja katika kata ni fursa mwafaka kwa Mheshimiwa na watu wake wachache katika hali ya kukabaliana na kupangiliana na kuhakikisha wanatengeneza maendeleo yao na kupeleka uchumi mbele.

Kwa hviyo Mheshimiwa Spika na rai tu Bunge hili tuweni waungwana, wastaarabu kwa fikra za kimapinduzi na si ushabiki wa watu binafsi ama ushabiki wa kivyama kupinga suala hili bali tuliunge mkono kwa sababu yapo umuhimu ambayo yanajenga taifa letu na kuacha historia na muelekeo mwema. Ahsante Mheshimiwa Spika.

The Speaker (Hon. Khatri): Thank you Hon. Athman Mwamwiri. Yes Hon. Ibrahim Oyugi?

Hon. Omondi: Yes this is okay for me. Yes Mr. Speaker Sir, I want to organize myself emotionally and psychologically so that I can be able to give my points clearly. Mr. Speaker Sir first and foremost as Ekuru Aukot comes with this particular Bill, first of all I want to inform Ekuru Aukot that this Bill first it lacks public participation and this Bill is done in hurry, this Bill lacks consultation Mr. Speaker Sir...

(Interruption)

The Speaker (Hon. Khatri): Yes Hon. Athman?

Hon. Omondi: Mr. Speaker Sir I need to be protected.

The Speaker (Hon. Khatri): Yes Hon. Ibrahim?

Hon. Athman Mwamwiri: Naomba kumtaarifu na kutaarifu Jumba hili ya kwamba Mswada huu umekuja chini ya kipengele cha 257 ambacho sahihi za Wakenya milioni mia moja waliweka sahihi zao na kuweza kumpa ruhusa Bwana Dkt. Ekuru Aukot kuendesha zoezi hili. Kwa hivyo Mheshimiwa kusema ya kwamba halina *public participation* ni kupotosha Jumba hili na kupeana taarifa ambayo sio sahihi.

The Speaker (Hon. Khatri): Thank you. Yes Hon. Ibrahim Oyugi?

Hon. Omondi: Mr. Speaker Sir I do not want to dwell so much on side shows today but I want just to inform the Member who was on the floor when somebody sits down and pick names of 100 people, a million people, 1000 people...

(Applause)

And put signature there that one does not justify public participation...

(Applause)

And as am saying as an elected Member of Airport Ward Mr. Speaker Sir none of (??) not even me...

(Applause)

None of any constituents of my Ward was consulted on this particular Bill and that is why I stand firm by saying it lacks public participation. Mr. Speaker Sir it was also done in hurry and again Mr. Speaker Sir it is more of political is like somebody wants to sneak himself into a political arena without following the right channel. Mr. Speaker Sir if you need to be a politician in this country you need to go along way and there are so many things you need to go through for you to be known politically but you do not use these short cuts and side shows that is what I can confirm. So Mr. Ekuru Aukot should have waited and taken his time before he came up with this Bill because he has made a lot of blunders and almost every article the he proposed in this particular Bill he has made a mistake.

Mr. Speaker Sir, and that is why am saying he was doing it in a hurry or he would have taken his time before he comes up with it Mr. Speaker Sir. Number One Mr. Speaker Sir Ekuru Aukot in his Bill is talking about the amendment of Article 142 of the Constitution which talks about the terms of the presidency in this country and he purports to tell us that a president should go for one term which is seven years.

Mr. Speaker Sir first of all I want to thwart that and thwarting that with points; number one in the Kenya we have today our country is not well developed, it is not well informed on the growth of political environment, we are still below where one person will be given the mandate of the country for seven years and remember in this country corruption is eating up almost everybody in this particular country and if one person is going to be entrusted for seven good years to lead this particular country I am telling you we are going to have a big problem in this Country therefore that one automatically tells me that am not going to accept this Bill.

Number two Mr. Speaker Article 157 if it is amended let me be clear on this it's destroying or its against the rule of natural justice that is why one should remain innocent until he is proven guilty and today if we hurry without taking enough time, without following the channels that are supposed to be followed as stated in this Constitution we are going to make many and very big mistakes because an innocent person will find himself in a corner where he is not supposed to be there and that is why I am opposing this particular Bill.

Mr. Speaker Sir Article 179 which provides for the Deputy Governor in the County let me be clear on this if today with amending this particular Article 179 and say that we should not have the position of the Deputy Governor in the office of the County government we will have made a very grave mistake that is why because it is under anybody even a fool I will tell you that in this world that we live there must be somebody who can support you, even I as an MCA and elected Member of Airport Ward I have my wife who supports me Mr. Speaker Sir...

(Applause)

I cannot do it alone...

(Applause)

And therefore this particular Article purport to tell us that the Governor should run the County alone without a helper, without a Deputy Governor, the Governor may fall sick, what becomes of that...

(Applause)

The Governor may die Mr. Speaker Sir, God forbid what becomes to the County Mr. Speaker Sir...

(Applause)

Those are things even a fool will tell you and that is why am telling you that this man did not consult well, he need to go back again and consult well on this Bill...

(Applause)

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Mr. Speaker Sir am almost finishing and I want to say this as I summarize that Article 73 which is talking about leadership and integrity Article 73 which gives a person mandate if he has done a mistake to be well investigated until proven guilty but this man is telling once this person has been suspected then he should be barred from holding a public office forever. Mr. Speaker Sir that is too much for that person...

(Applause)

And therefore I summarized by saying that I and these Hon. Members both elected and nominated Members of this House are flying the hopes of the people who elected us back at our Wards Mr. Speaker Sir...

(Applause)

And we must say the truth, we must stand firm and speak the truth to our people, we cannot allow such a very hopeful Bill to come in our House and pass it and therefore if I say no, no, no to this particular Bill of Punguza Mzigo and so on. Thank you Mr. Speaker Sir.

(Applause)

The Speaker (Hon. Khatri): Thank you Hon. Ibrahim. Yes Hon. Mwaka Mwalundonda?

Hon. Mwaka Bakari: Ahsante Mwenyekiti. Mimi nasimama hapa kuipinga na kuipinga Punguza Mzigo na naipinga kwa sababu zangu; kwa sababu ya kwanza mimi naona huyu Dkt. Ekuru Aukot angekuwa labda ni Mary Okoth asingepinga kina mama kwa sababu mimi naona hapa kitengo ambacho kimenisimamisha mimi hapa zaidi ni kupunguza huu mzigo; naona mzigo wenyewe umelelea kina mama kwa kitengo cha kuondosha kitengo cha *Women Representative* ama uakilishaji wa kina mama kwa hivyo ndiposa nasimama hapa kulikemea na kusema kwamba hii *Bill* yake ninaipinga.

Jengine pia vile vile ni kusema kwamba kitengo cha Uteuzi au uakilishaji wa vyama ambao ni *nominated MCAs* mimi nataka kusema *nominated MCAs* ni wanadamu ama wengi wao vile wanasema kupinga kwa sababu wengi wao nafasi hizi nafikiri huwa zinakuja kwa kina mama sisi tumepatiwa nafasi hizi ili *ku* empower kina mama ambao kwamba wengineo hawajawahi kusimama. Mimi hapa nilipo nasimama kujivunia kwamba nimelelewa ndani ya siasa ambayo siasa hii nimefundishwa na mama ambaye ni Mbumge wangu Mheshimiwa Mishi Mboko amenifundisha siasa hii leo hii niko hapa ambao kwamba leo ni *elected* wa Timbwani Wodi kwa hiyo mimi nasema ninaipinga, na ninaipinga Punguza Mzigo na mizigo iende uko ilikotoka. Ahsanteni.

The Speaker (Hon. Khatri): Yes Hon. Fatuma Mote?

Hon. Fatuma Swaleh: Ahsante sana Mheshimiwa Spika. Mimi pia nimesimama leo kupinga Hoja ilioletwa na Ekuru Aukot Mheshimiwa Spika. Mimi leo hapa pia nataka kufungua jamvi falsafa ya Fatuma Kushe, kila siku tunasikia falsafa ya *Mukono* na leo kuna falsafa ya Fatuma Kushe.

Mheshimiwa Spika huyu Bwana Ekuru Aukot ni katika wale ambao *Diploma* zao ama kama ni shahada zao ni feki zile zilionekana na Matiangi kwa sababu kama angekuwa amesoma yeye kwanza anasema kwamba *nominated Members* waweze kupunguzwa. Kwa hivyo Mheshimiwa Spika nataka kusema Rais wetu Bwana Uhuru Muigai Kenyatta alikuwa *nominated* na yuaiongoza nchi yetu na Bwana mwengine kama sijakosea ni *super* Seneta Sakaja. Kwa hivyo Mheshimiwa Spika hii ni hujuma hususan kwa sisi kina mama, ikifika wakati wa siasa au wakati wa kupiga kura ama wakati wa kufanya uchaguzi kina mama ndio huwa wanaumia sana manake wanaume huwa wanatumia mabavu na njia zengine ambazo hazieleweki ndio pale Katiba ikatuamuru ikatutetea ikasema kwamba lazima kuwe na *nominated Members* na *nominated* huwa wengi ni kina mama Mheshimiwa Spika.

Kwa hivyo ikiwa Bwana Ekuru Oukot ataka kupunguza mzigo akampunguze mkewe nyumbani Mheshimiwa Spika lakini sisi tuko na *In shaa Allah* Mwenyezi Mungu atatujaalia sisi tutakuwa *elected* na wengine watakuwa *nominated*. Mimi kama Kushe *In shaa Allah* najua Mwenyezi Mungu akinijaalia kwa rehema zake, kwa nguvu zake, kama Rais alikuwa *nominated* na akawa *elected* mimi pia InshaAllah nitakuwako *elected* kwa hivyo mzigo Bwana Ekuru Oukot akampunguze nyumbani kwake. Ahsante sana Mheshimiwa Spika.

The Speaker (Hon. Khatri): Thank you. Yes Hon. Prischilla Mumba.

Hon. Mumba: Ahsante sana Mheshimiwa Spika. Nimesimama hapa kwanza kushukuru wenzangu waliokuwa mbele yangu na wakapinga vikali hoja hii na mimi ninazidi kuongeza sauti yangu kupinga vikali hoja hii iliyoletwa katika Jumba letu tukufu hili. Kwanza kabisa nikinukuu kama vile wenzangu wanavyo nukuu, itakuwaje kuwa ukiwa umeshtakiwa ama umeshukiwa una kesi dhidi ya jambo lolote alafu uwe utakuwa umezuiwa usisimame kwa vile umewahi kuwa na kesi na tunavyoelewa hata Kenya yetu hii unaweza kuwa katika kesi, unaweza kuwa katika mashtaka na pengine lile kosa hukulifanya lakini kwa sababu ya ile sheria ishakuwa imewekwa pale inakuwa unajulikana kuwa wewe ni muhalifu na pengine haukuwa muhalifu, ikuharibie uso wako wa mbeleni katika siasa na usiweze kusimama na pengine haukuwa na uhalifu wowote.

Kwa hivyo ninaona hapo tayari kuna hujuma ya kwanza ambayo tunaiona. Kwa upande mwengine kadiri wenzangu wanavyoipinga na kusema kuwa tunaona amekiuka hujuma za kina mama, walemavu na vijana. Ni kweli tunajua sisi Kenya yetu waliokaa na kupitisha Katiba mwaka wa elfu mbili na kumi waliangalia wakaona kuna tatizo katika nchi yetu ya kuwa hakuna uwakilishaji bora wa walemavu katika Mabunge yetu, hakuna uwakilishaji bora wa vijana katika Mabunge yetu, hakuna uwakilishaji bora wa kina mama katika Mabunge yetu ndio maana ikapitishwa kuwa ni lazima tuwapatie nafasi ili theluthi moja kwa tatu iingie upande wowote. Ikiwa leo Jumba hili tungelikuwa kina mama ni wengi basi uteuzi ule ungekuwa umeenda kwa wanaume, hivyo basi uteuzi kivyovyote hauendi kwa kina mama peke yake tunataka hata ikijaaliwa uteuzi pia uende kwa wanaume.

Kwa hivyo ile ni kitu iko kwa pande zote mbili tusiilenge tu kwa upande wa kina mama peke yake, tunajua itasaidia pande zote mbili na haitasaidia pande moja, kwa hivyo ikiwa ataweza kuiua hii *nomination* ni kusema kijaaliwa kina mama wakichaguliwa hapa wengi alafu wanaume hapa hawata teuliwa? Kwa hivyo ni lazima tuangalie kwa upeo wa mbali. Pili tunajua walemavu katika Kenya yetu tuna idadi kubwa sana na tunajua tumekuwa na baadhi katika sisi hapa Kaunti ya Mombasa ya walemavu ambao wamejitolea kusimama, nafikiri hata tulikuwa na mmoja Likoni ambaye alipita nasikia lakini aliwahi kusimama akijaribu kupigania kiti lakini ile nafasi hakupata.

Lakini leo hii ana mwakilishi wake hapa ndani ya hili Jumba na tunashukuru kwa sababu ya Katiba iliyopitishwa kwa sababu kama si hiyo Katiba leo hii huyu mlemavu angekuwa hayuko hapa ndani na hangekuwa na nafasi yeyote ya kuwa mmoja wetu baina yetu hapa ndani na si kuwa hatukuwa na matatizo kama haya. Bunge kuu sasa hivi nafikiri munajua; kuna Mswada wa kina mama mpaka wa leo wameshindwa kuupitisha kwa sababu hawataki kutimiza Katiba vile inavyotaka, kwa nini? Kuna uwoga wa kuwa kila saa kunapotajwa katika mambo ya urekebishaji anayetajwa huwa mwanamke, kwani hawa wengine huwa hawako? Kwa nini tuwe tunaonewa tu upande mmoja kuona kina mama peke yake ndio punguza mzigo na hali mama huyu ndio amezaa huyo mwanamume, mama huyu ndio amezaa huyu kijana na mama huyu huyu ndio alie zaa huyo Raisi wa Kenya, mama huyu huyu ndio aliyezaa hata Spika tulie nae hapa leo na mama huyu huyu ndie aliekuzaa wewe Ekuru Oukot...

(Applause)

Leo umekuwa watulenga ukitulenga. Kwa hivyo mimi nasimama Mheshimiwa Spika nikipinga vikali hoja hii na nikitoka hata nikishamaliza kuibwaga leo nitamtafuta huyu Ekuru Oukot ni mwambie asijaribu tena Kenya hii kutuletea kitu cha kuhujumu uongozi wa kina mama, kwa sababu tunaona anaenda kinyume na Katiba iliyopitishwa na watu wa Kenya kwa sababu hiyo ni Katiba ilipitishwa si mimi peke yangu, ilipitishwa na yeye sasa anajaribu kufanya *panya route* lakini hatafanya *panya route* na Kaunti ya Mombasa na Waheshimiwa wenzangu ambao muko hapa ambao hamujaangalia hichi kipengele kwa undani ningewaomba muangalie hichi kipengee kwa undani mukisome vizuri ambao munaona ati mwaunga mkono; hapa kuna nini cha kuunga mkono isipokuwa madhambi matupu yaliyoko hapa! Fungua macho ya ndani ya kiini cha ndani uangalie, kama una usomi wa hali ya juu utaona haya makosa tunayo yazungumza.

Mheshimiwa Spika nakushukuru sana kwa kukubali huu Mswada utembe ndani ya Nyumba ndio sisi tuweze kutoa hisia zetu, tusije kuambiwa tuliugopa; hapa hakuna cha kupitishwa hapa, sisi twaubwaga asubuhi sasa hivi, hata tulikuwa twaona twachelewa. Kwa hivyo hapa ni tumalize haya maneno tufunge jamvi tukaangalie mambo mengine ya maana, maana haya hata sioni umuhimu wake wa kutukalisha. Mheshimiwa Spika tunataka sasa hivi tuubwage kama si sasa ni sasa hivi, weka hilo jawabu mimi mara moja mimi nitoe sauti yangu. Ahsante Mheshimiwa Spika.

The Speaker (Hon. Khatri): Thank you Hon. Mumba Prischila. Yes Hon. Samba.

Hon. Samba: Thank you Hon. Speaker. The debate is charged! Hon. Speaker i stand to support the recommendation of the Committee that which am also a Member and that is what most of the Members do not understand here, we are discussing about the recommendation of the Committee and that is why am standing to support. Hon. Speaker, most of the issues that have been raised in the proposed Bill here, some of them make sense and some of them will be a little bit tricky, I will support the recommendation on a sober note and i will not take much of the time. Hon. Speaker if you look at the recommendation by the Ekuru Oukot, that Article 90 to be deleted completely, if you look at Section 12 of this Bill, Article 98 of the Constitution is amended to abolish nomination of women, youths and persons with disability. Hon. Speaker again if you look at his recommendation I have got my own document here, the title of the Bill is Punguza mzigo and most of Hon. Members here will agree with me that the only disease that is eating Kenya is corruption!

All these other *shenanigans* are just side shows, not until the day there is a person who will declare that any corruption charges will lead to death penalties that is the day I will see that whoever will come with that Bill will be serious by bringing changes in our country but for now Hon. Speaker this document lacks goodwill of most of the Kenyans. Hon. Speaker I thought that Dr. Ekuru Oukot just took advantage, he just found a new way that there is a loophole somewhere and he wanted to capitalize on it and I would also wish to remind Members here, there are most of the Bills that will come here, amendments that will come and we should be very careful when we are trying to defend this Bill. We might not need this one but tomorrow we will have a similar copy and Hansard has captured us, I being a Member of the said Committee I stand with the Committee resolution and I reject the Punguza Mzigo Bill. Thank you Hon. Speaker.

The Speaker (Hon. Khatri): Thank you Hon. Samba. Yes Hon. Mohamed Mohamed Hatimy.

Hon. Mohamed Hatimy: Ahsante Mheshimiwa Spika na mimi kunipatia nafasi kuweza kutoa sauti yangu juu ya hii *Bill* iliyoko mbele yetu. Mheshimiwa Spika nikianzia mwanzo kusema kuwa sijui *Bill* hii imefika vipi ndani ya hii Nyumba bila kufuata sheria! Mheshimiwa Spika nikikupeleka kwenye Kanuni za Bunge nambari 142 iko wazi ya kusema kuwa yeyote yule atakaleta *Bill* ndani ya hii Nyumba mwanzo ni lazima awe ataweka *deposit* ya zile gharama za kupitisha ile *Bill*. Naona hii imekuja kama *photocopy*, kupigwa *photocopy* na sisi kuweka ndani ya hii Nyumba Mheshimiwa Spika na pia ukienda kwenye Kanuni za Bunge nambari 146, gharama za kupigisha chapa pia utakuta pia ni vile vile ni juu ya mambo ya kuisimamia hii *Bill* lakini isionekane kuwa sisi tunaipinga ati kwa sababu ya kupinga. Mheshimiwa Spika nitakuwa mchache wa maneno ambapo nataka kutoa tu vifungu viwili, vitatu ambacho kifungu cha kwanza alisema anataka kurekebisha *Article 73* na kurekebisha *Article 73* atakuwa ameenda kinyume cha *Article 27* ya Katiba ambayo ni *quality* na *freedom from discrimination*. Ameenda kinyume cha *Article 47* ambayo inazungumza juu ya *fair administration* na pia ameenda kinyume na *Article 50* ambayo ni *fair hearing* Mheshimiwa Spika. Sina haja ya kuelezea kwa urefu kwani wenzangu washaweza kuzungumza mambo haya.

Mheshimiwa Spika ukiangalia *section 3* na *section 4* yake ambayo ametaka kurekebisha *Article 79* kama tunavyojua muda wa mahakama umewekwa ni wakati wa kusikiza kesi ya Raisi, wakati wa Raisi pekee yake imewekwa kusikiza. Lakini hapo hapo ukiangalia kuna sheria na kuna uamuzi ambao ulitoka ya kuwa mtu anaweza kupatiwa muda zaidi wa kusikizwa kesi ile na kuwa sasa hapa itakuwa kuwaambia Majaji ndani ya siku 30 ni kama kusema kuwa kumuachilia huyu mtu huyu aliyefanya uwizi wa pesa au alioweza kuchukua pesa za wananchi kuwa huru kwa sababu Mheshimiwa Spika kesi ni ushahidi na huwezi kusema ndani ya siku 30 ati mtu atakuwa ameshtakiwa na kesi itakuwa imesikizwa na imemalizika. Na pia Mheshimiwa Spika itakuwa imeingilia Majaji haki zao na Mahakama haki zao za kusema kuwa kwa sababu Jaji baada ya kuwa ashasikiza anakaa anaangalia ule ukweli wa ile kesi alafu yeye ndio anakuja kutoa uamuzi wa ile kesi. Kwa hio Mheshimiwa Spika itakuwa imeingilia mambo ya Majaji na mahakama.

Tukiangalia *section 31* ya hii *Bill* anazungumzia juu ya kutumiwa ripoti ya *Auditor General* ambapo ushahidi kuwa mtu ametajwa kwenye *Auditor General* atakuwa ni kuchukuliwa hatua moja kwa moja; itakuwa ni makosa kutokamana na vifungu nimeweza kuvitaja mbele 47 na 50.

Kwa hivyo Mheshimiwa Spika mimi nasimama hapa kuipinga hii *Bill* na kuomba hii *Bill* haikuleta manufaa yeyote kwenye Kaunti yetu ya Mombasa, hatuangalii Kaunti nyingine zimefanya nini lakini twaangalia Kaunti ya Mombasa na sisi hatuna manufaa yoyote ndani ya hii *Bill*. Kwa hivyo Mheshimiwa Spika napinga hii *Bill* na naomba Waheshimiwa wenzangu wapinge hii *Bill* ili maisha yapate kuendelea.

The Speaker (Hon. Khatri): Thank you Hon. Mohamed Hatimy. Yes Hon. Mwaka Zahoro.

Hon. Mwaka Zahoro: Thank you Mr. Speaker Sir for giving me this chance. I stand to support the report of the Committee which reject the draft of the Punguza Mzigo Bill; being the Member of that Committee I recommend the whole team did a wonderful job on coming up with the resolution and their recommendation of this report. Mr. Speaker Sir I want to say that this Bill is a private Bill so Dr. Ekuro Oukot could have sponsored the Counties in conducting first, the public participation and second for the Bill to be here in the House. One Member was saying that the Committee published about collecting memorandum, I would like to say that is the cost that the County incurred which we had not planned for, that means it is a negative on our side considering the fact that the Member of the Bill did not give support for his Bill to be in the County to be debated.

(Interruption)

The Speaker (Hon. Khatri): Yes Hon. Athumani.

Hon. Athmani Mwamwiri: Ahsante Mheshimiwa Spika. Mheshimiwa Spika Mwanachama anaemkusudia ni mimi; si kusema kwamba Kamati iliweka matangazo kwenye gazeti kwa sababu haikufanya hivyo na kama walifanya atoe ushahidi ya kwamba aliweka matangazo kwa gazeti kwa gharama wanayoisema wao wameitumia; haikuwa kwa gazeti kwa hivyo wasisingizie gharama ambazo haziko Mheshimiwa Spika, ahsante.

The Speaker (Hon. Khatri): Thank you. Yes?

Hon. Mwaka Zahoro: Hon. Speaker I was not requesting or i wanted the Member to clarify; this Bill is a private Bill, Mr. Okuru Oukot should have sponsored the County to perform all the necessary work that should have been done...

(Applause)

Mr. Speaker Sir, the gains that the Constitution of Kenya has made since 2010 up to now, those are things which should be maintained, the law is supposed to be progressive and not retrogressive ...

(Applause)

Issues of about what the gender has gained so far; the issue of two third rule Mr. Speaker, the issue about affirmative action, those are things as a country we should maintain.

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A law is supposed to be progressive and not taking us back Mr. Speaker so with that thing of Mr. Ekuru Oukot saying the gender rule should be left aside i do not know the issue of fifty fifty, that as a Member of the Committee and as a woman am rejecting the Bill.

The Speaker (Hon. Khatri): Thank you.

Hon. Mwaka Zahoro: Mr. Speaker Sir on another issue, you find that the sustainable development law also recognizes the gender equity and equality that is role number 5, if global wise people recognize gender issues and gender equity why can't we as a country go back try to feed things which have given us gain? With issue of affirmative action you find that various gains and achievements have been made, with this Mr. Speaker as a country we cannot afford to lose them. Mr. Speaker women are not mizigo which should be *punguzwad*; with that we are saying that affirmative takes action and it is supposed to take time for women and men to be at per, with that we reject the Punguza Mzigo Bill. Thank you Hon. Speaker.

The Speaker (Hon. Khatri): Thank you Hon. Yes Hon. Nzai.

Hon. Nzai: Thank you Mr. Speaker to have given me this chance also to have air my views. First and foremost I stand to oppose this Bill; in fact Mr. Speaker i want to give a question, this tendency of people who stand for Presidential... hundreds of laws coming up with the amendments should be stopped, we shall never be used to be stamped or rather pet balls to pass Motions for people to excel on top. Mr. Speaker Sir, this Bill lacks merit; how can the County operate without the Deputy Governor? How can a whole President operate for seven years, have you ever heard in the whole world? Mr. Ekuru Oukot should be made asleep by coming up with this Bill which did not consult others, I remember him to have lost in the last general election and i think he was doing the same so that to make clauses which can make him to be the next President in the next election, with these few remarks Hon. Speaker, I stand to oppose this Bill.

The Speaker (Hon. Khatri): Thank you. Yes Hon. Leila.

Hon. Nyache: Ahsante Mheshimiwa Spika na mimi pia kunipa nafasi hii ya kuweza kuchangia. Mimi pia nimesimama kupinga Mswada huu uliokuja na Ekuru Oukot; mimi pia napinga na mimi nataka kusema sababu zangu za kupinga. Napinga kupitia kipengele hichi cha kina mama cha 93 pamoja na 142; vipengele hivyo viwili Mheshimiwa Spika nimesimama pia mimi kupinga vikali sana. Mimi hapa nilipo kwanza ni Mbunge mteule, najivunia...

(Interruption)

The Speaker (Hon. Khatri): Yes Hon. Athmani.

Hon. Athmani Mwamwiri: Ahsante Mheshimiwa Spika. Mheshimiwa Spika, Mheshimiwa ambaye amekuwa katika jukwaa la maongezi anapotosha Bunge hili kwa kunukuu kipengele 93 cha Katiba ambacho ukinihusu nikisome kinasema; *There is established a Parliament of Kenya which shall consist of National Assembly and Senate* na yeye anasema inazungumzia Kipengele cha kina mama ama atusomee Katiba yake.

Hon. Nyache: Samahani Mheshimiwa Spika nimepitiliwa lakini ni Kipengele cha 177, ndio ilikua namaanisha hiki.

The Speaker (Hon. Khatri): Yes continue.

Hon. Nyache: Naam, nimesimama kujivunia kama Mbunge Mteule wa Kaunti ya Mombasa na sio kwamba ati nimeuza sura ama nimecheka nimetoa meno ndio nikapata huu Ubunge Uteule. Niliwajibika vilivyo katika chama cha ODM ndio maana najivunia kuwa Mbunge Mteule. Nataka kumwambia Dkt. Ekuru Aukot, yeye ni nani ambaye anaweza kuingilia kina mama kiasi hicho?! Na kina mama wenyewe wakati wa kura ndio wana wahitaji, wakati wa kuwatumikia ndani ya Nyumba ndio wanao wahitaji, yeye mwenyewe ana mama ndani ya nyumba anambebesha mzigo...

(Interruption)

The Speaker (Hon. Khatri): Yes, are you on a point of information?

Hon. Bwire: Thank you Mr. Speaker. I just want the Hon. Member who is on the floor to read Article 177 that she has just referred to it does not speak on what she is addressing the House...

(Interruption)

The Speaker (Hon. Khatri): She was referring to Article 100 of the Constitution, I think...

(Interruption)

Hon. Bwire: No, she mentioned Article 175, kindly read out.

Hon. Nyache: Bwana Spika naomba unilinde.

The Speaker (Hon. Khatri): Yes you can continue Hon. Leyla.

Hon. Nyache: Maana yake hawa vijana nikisimama tu, wakimuona mama tu amesimama basi...

(Applause)

Wanaanza kuniandama! Hon. Mwamwiri na Hon. Bwire mumezidi...

(Applause and laughter)

Munanihujumu nikiwa Bungeni, niko na haki zangu pia mimi...

(Interruption)

The Speaker (Hon. Khatri): Yes, continue Hon. Leyla.

Hon. Nyache: Ahsante Mheshimiwa Spika. Mimi naomba tu unilinde na mimi nataka niwaambie...

(Interruption)

The Speaker (Hon. Khatri): Yes Hon. Renson are you on a point of information?

Hon. Thoya: I wanted to inform the Speaker who is on air that we do not have youths here but Hon. Members. Thank you.

(Applause)

The Speaker (Hon. Khatri): Thank you. Yes Hon. Leyla you may continue.

Hon. Nyache: Ni Waheshimiwa vijana lakini kwangu naona kama ni vijana tu, lakini kwa hapa ni Waheshimiwa, hata kama mutanitatiza tuende nalo hivyo hivyo. Kwa hivyo Mheshimiwa Spika nataka kumwambia Dkt. Ekuru Aukot awachane na kina mama, kina mama ndio jamii, kina mama ndio kila kitu katika dunia. Kwa hivyo mimi nataka nimwambie hata yeye mwenyewe amezidi kumbebesha bibi yake mzigo ndani ya nyumba, kila siku anambeba na yeye apunguze mzigo huko ndani ya nyumba, ajipunguze mwenyewe.

The Speaker (Hon. Khatri): Thank you very much Hon. Leyla. Yes Hon. Lucy Chizi?

Hon. Chireri: Ahsante sana Mheshimiwa Spika kwa kuniona. Naona mimi nitakunja hili jamvi. Mheshimiwa Spika ningependa kumpongeza na kumshukuru Mheshimiwa Amriya ambaye ni Mwenyekiti, Kamati ya Mahakama na Maswala ya Kisheria. Mheshimiwa Spika Mwenyekiti amefanya kazi nzuri sana, niko hapa nikiungana na Mwenyekiti wa Kamati ya Mahakama na Maswala ya Kisheria nikipinga Mswada ulioletwa mbele yetu vikali sana.

Mheshimiwa Spika yaliyozungumzwa ni mengi na ni mazuri ninayaunga mkono; kitu ambacho ningependa salamu zimfikie Dkt. Ekuru Aukot naona kama anatafuta kazi hajaipata, bado yuko na Urais hataupata kama mambo ni haya ya kudanganya mwananchi. Amechukua Katiba yetu ameivuruga vuruga akidhani ya kuwa kuna wengine ambao watakua hawana adabu kama yeye wamuunge mkono. Kaunti ya Mombasa tumesema Mheshimiwa Spika hatuko kwa hio mada yake ambayo yuko nayo; ninaipinga Hoja hii na ajue kazi bado yuko nayo asijaribu kuvuruga wananchi, wananchi wanataka kusaidiwa Mheshimiwa Spika yeye anawaondoa vibarua. Watu wanasimama wakitafula kazi leo hii anawaondoa wananchi kwenye nyadhifa nyengine ambazo watu huwa wanazipigania Mheshimiwa Spika na kupata uongozi leo hii anaziondoa, kina mama waende wapi? Huyu sijui ni nani aliyemzaa! Maana yake yaonyesha pia hakuzaliwa na mama Dkt. Ekuru Aukot; kuna mtu aliyemzaa na anamjua yeye na Mungu wake, waachane na kina mama. Ahsante sana Mheshimiwa Spika.

The Speaker (Hon. Khatri): Thank you Hon. Member. Yes Hon. Bwire?

Hon. Bwire: Thank you Mr. Speaker. Mr. Speaker first I wish to declare my interest; I am a Member of Committee of Justice and Legal Affairs but indeed I disagree with the Report on so many grounds but due to time I would just be as brief as possible.

(Interruption)

The Speaker (Hon. Khatri): Yes Hon. Hatimy?

Hon. Mohamed Hatimy: Mheshimiwa Spika nimesimama chini ya kifungu cha Kanuni za Bunge nambari 177 (4). Mheshimiwa Spika Mwanachama aliyesimama sasa hivi hapa ame *declare interest* kuwa yeye ni Mwanachama wa Kamati ya *Justice*. *Justice* Mheshimiwa Spika imeweza kukaa na ilipokuwa inazungumzia hii Ripoti hakusimama na kusema kuwa yeye anaipinga hii Ripoti, kwa hivyo sidhani kama ni sawa kukubali maneno yake anayoyazungumza kuwa amejitoa yeye mwenyewe. Mheshimiwa Spika, tukiangalia Kanuni za Bunge nambari 177 (4) inasema...

(Silence)

The Speaker (Hon. Khatri): Yes, you can continue Hon. Hatimy.

Hon. Mohamed Hatimy: Mheshimiwa tulipokuwa tumekaa, na kama unavyojua gharama imeingilia hii Kaunti watu kwenda kukaa na kufanya mikutano ni kuwa *Sub-Section 4* inasema, *'Where a vote on a question is not unanimous, the names of the Members voting for and against the question and those abstaining from voting, respectively, shall be recorded in the minutes.* Mheshimiwa Spika kumbukumbu ziko, hakuna mahali mtu aliyesema kuwa yeye amepinga hii Ripoti ambayo imeletwa hapa leo Mheshimiwa Spika. Kwa hivyo Mheshimiwa Spika naomba Bunge hili chini ya Uwenyekiti wako ni sheria ifanye kazi yake Mheshimiwa Spika.

The Speaker (Hon. Khatri): Thank you Hon. Hatimy. Yes Hon. Bwire?

Hon. Bwire: Mr. Speaker I only fear God and I want to be so specific. Mr. Speaker during the training when we were going through the Bill I disagreed with Members on various occasions. I had my own grounds as to why I support the Bill, the majority of the membership of our Committee had their own grounds as to why they rejected the Bill and if the Hansard is to be brought here, I am on record for having supported this Bill. So if the Clerk did not take it into consideration of writing my opinion as a person who accepted the Bill then it is the Clerk it is not my mistake. Mr. Speaker but as far as I am concerned and I am on record Mr. Speaker I supported the Bill and that is why I am supporting it today.

The Speaker (Hon. Khatri): Ok, you can continue but as far as I can see the minutes whereby they have been signed by the Chairperson, if I can read the minutes; *'Adoption of the Report on the Draft of Punguza Mizigo Constitution of Kenya Bill, 2019 the Chairperson tabled the aforementioned report on the Draft Punguza Mizigo Constitution of Kenya Amendment Bill, 2019 after discussion Member unanimously resolve to adopt the Report in its entirety and;* 2. *To table the Report in the County Assembly for consideration.*

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But Hon. Member, you can continue and give your views.

Hon. Bwire: Thank you. Just like I said Mr. Speaker I will not take much of your time. There are so many factors that we were to consider as a House if at all we were in agreement to pass this Bill. Mr. Speaker just to mention the removal of the nominations; the taxpayer is overburdened and it also has to be considered that we are in bad timings of the economy. The taxpayer is overburdened to pay the salaries to the leaders both elected and nominated and I think in the wisdom of the author of this Bill is that we scrap those nominations and use those monies that were being channeled to salaries and some other issues to development which according to me and the people I represent it makes a lot of sense.

Mr. Speaker there is an issue to do with matters of corruption; when we impose a tough sanction it does not mean that you welcome people or you are condemning people to be jailed. The tough sanctions Mr. Speaker are meant to scare people from doing that vice; so when we talk of life imprisonment we simply mean that people will be scared to involve themselves in corruption and that is why through his own wisdom Dr. Aukot suggested that we implement the life imprisonment to those people who are adversely mentioned in matters to do with corruption and that is why I support it. Mr. Speaker the issue that is eating the economy of this Country is corruption; people are looting left, right and center, day and night, and the monies that are being looted are meant for development. So you can imagine Hon. Speaker the taxpayer is being overburdened, the taxpayer money is not being well utilized. So personally because I am not corrupt, I would recommend that this life imprisonment is the best solution to this Country.

Mr. Speaker again there is an issue to do with time limit on hearing on cases to do with corruption. Mr. Speaker I think it is good that this country comes up with a timeline especially on cases that touches on corruption. So many people have been forced to step aside pending hearings and I will not mention because I am not allowed but Mr. Speaker till today even some have been taken back to the government without hearing of their cases. The case is still in the court, they were suspended, some were even the Cabinet Ministers Mr. Speaker but still they are now serving in the same government. So having a timeline of hearing on these corruption cases Mr. Speaker it is a plus and I think will bring some positive results out of it.

Finally Mr. Speaker the Kenya Constitution, 2010 we happened to borrow from different countries especially the US and if you look much into these States or countries the formation of the Senate was to upgrade Senate to be the Upper House and in his own wisdom Dr. Ekuru Aukot suggested that the Senate be an Upper House just like in those areas that we borrowed our Constitution, 2010. With those few remarks Mr. Speaker I beg to support the Bill's recommendation. Thank you.

The Speaker (Hon. Khatri): Thank you Hon. Bwire. Yes Hon. Amriya?

Hon. Amriya Juma: Thank you very much Mr. Speaker. Indeed this Bill has elicited a lot of (??) but I would limit my responses Mr. Speaker to just two. Mr. Speaker at this juncture the *Draft Punguza Mizigo* is not a Bill, it is not a Bill yet until and unless it has been passed by 24 Counties which is half of the Counties in Kenya and gazetted and has gone to Parliament and that is when it will become a Bill. So the issue that it is a private Member Bill does not arise. At this point we are discussing a Motion to adopt a Report by the Committee, so it is important we make that clarification first Mr. Speaker.

Secondly, also I want to respond to the Hon. Member who is in my Committee that indeed if I remember during the proceedings of the Committee he had raised issues regarding some of the Clauses. But what he omitted to do if at all he had intention to have a minority report or a minority opinion then he should have asked the Committee to set aside a majority report and a minority report because this is a democratic County and that is the price of democracy that we are free to have divergence on opinion and only those with majority opinion take the day and those with minority opinion have their say Mr. Speaker. So what he ought to have done is to have recorded a minority opinion and henceforth to have a minority Report.

Lastly Mr. Speaker, I also want to respond on the issue of public participation; It is indeed that the position of the Committee that the public participation that we conducted as a Committee was adequate. Mr. Speaker Hon. Members have raised Article 196 about the right of public participation; also we have Article 10, so many Articles on the public participation and I know it is in the heart of every Member and even you Mr. Speaker that the public is always involved in matters of governance and that is exactly what the Committee did. We put up a request for Memorandum for seven days and the Memorandum did not come and so if Members had an issue with that they can look at the judicial interpretation of Article 196 from the previous precedences of the High Court Mr. Speaker whereby they mentioned that public participation needs not to be adequate, it just needs to be sufficient that is the ground we as a Committee feel that public participation was sufficient.

Because in light of the time I urge the Hon. Members who had stood up to both reject and support that in those who are supporting the Draft Bill to say nay and those who rejecting the Draft Bill, when the question is put Hon. Members you are supposed to have responded to if you are in support of the recommendation of the Committee, because these are just recommendation of the Committee on the adoption of the *Punguza Mizigo Bill*. Thank you very much.

The Speaker (Hon. Khatri): Thank you very much Hon. Amriya Juma Boy. Hon. Members I now put the question that the Motion by Hon. Amriya Juma Boy on, adoption of Committee on Justice and Legal Affairs Report to reject the *Draft Punguza Mizigo Constitution of Kenya Amendment Bill, 2019* be adopted by this Honourable House in the same terms as moved.

(Question put and agreed to)

(Applause and laughter)

Yes Clerk, next Order?

PROCEDURAL MOTION

ADJOURNMENT OF THE COUNTY ASSEMBLY

Yes Hon. Hamisi Musa Mwidani, Leader of Majority Party please move the Motion.

The Leader of Majority (Hon. Mwidani): Thank you Mr. Speaker. Let us move a Procedural Motion that;

Pursuant to Standing No.25(3) of the County Assembly, this Houses RESOLVES to adjourn today Wednesday, 16th October, 2019 for a short recess and resume its sittings on Tuesday, 29th October 2019.

And I would like Hon. Amriya to second the Motion.

Hon. Amriya Juma: I second the Motion Mr. Speaker.

The Speaker (Hon. Khatri): Thank you Hon. Hamisi Musa. Hon. Members I now propose a question that the Motion by Hon. Hamisi Musa Mwidani on the Adjournment of the County Assembly for the short recess be considered by this Honourable House in the same terms as moved.

(Question proposed)

Yes Hon. Hamisi Musa Mwidani?

The Leader of Majority (Hon. Mwidani): Thank you Mr. Speaker. I think we are still within the law because this is part of the laws which we have passed for the whole year; so Mr. Speaker I have moved this Motion because it is the time this House to go on a recess of ten days so that Members can visit their Wards in a very good time because I know we have been very busy in this House, so that is the time when Members can meet their electorate there in a very good time. Thank you Mr. Speaker.

The Speaker (Hon. Khatri): Thank you Hon. Hamisi Musa. Yes Clerk next Order?

ADJOURNMENT

Hon. Members this House stands adjourned until Tuesday, 29th October, 2019 at 10:00 a.m.

The House rose at 4:31p.m.