



**BOMET COUNTY
COUNTY ASSEMBLY OF BOMET
SECOND ASSEMBLY- THIRD SESSION**

COMMITTEE ON ADMINISTRATION, PEACE, JUSTICE AND LEGAL AFFAIRS

**REPORT
ON THE PUNGUZA MIZIGO (CONSTITUTION OF KENYA, AMENDMENT) BILL, 2019
BY
DR. EKURU AUKOT**

SEPTEMBER, 2019



*tabled on 24/9/2019
at 9.00am
Gyau*

24/9/2019.

Preface

Mr. Speaker, Sir,

The Sectoral Committee on Administration, Peace, Justice and Legal Affairs is constituted pursuant to the provisions of Standing Order No. 193(5) (f) of the Bomet County Assembly¹ and has executed its mandate in accordance with the provisions of the said Standing Order 191(5)² which mandates the Committee to, inter alia:-

- a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;*
- b) study the program and policy objectives of departments and the effectiveness of the implementation;*
- c) study and review all county legislation referred to it;*
- d) study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;*
- e) investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;*
- f) to vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 188(Committee on Appointments); and*
- g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation*

¹ Standing Order No. 193(5)(f) of the Bomet County Assembly

² Standing Order 191(5) of the Bomet County Assembly

Affirmation and approval

Mr. Speaker sir,

It is therefore my pleasant duty and privilege, on behalf of the Committee on Administration, Peace, Justice and Legal Affairs to table this Report.

Signed-----



THE HON. SAMWEL KIPROP A. KETER

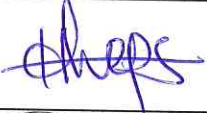
**CHAIRPERSON, ADMINISTRATION, PEACE, JUSTICE AND LEGAL AFFAIRS
COMMITTEE**

Date-----

24/09/2019

Ownership of the report

We, honorable Members of the Administration, Peace, Justice and Legal Affairs Committee, do hereby affix our signatures to this report to affirm our approval, confirm its accuracy, validity and authenticity.

No.	Name	Position	Signature
1.	Hon. Samwel Kiprop A. Keter	Chairperson	
2.	Hon. Evaline Chepkemoi	Vice Chairperson	
3.	Hon. Kiprotich Wesley	Member	
4.	Hon. Josphat Kirui	Member	
5.	Hon. Catherine Chemutai	Member	
6.	Hon. Hellen Chepkorir	Member	
7.	Hon. Robert Kiplangat Serbai	Member	

Acknowledgment

Mr. Speaker

I wish to thank the Members of the Committee for dedicating their time and energy to scrutinize the Punguza mizigo (Constitution of Kenya Amendment) Bill, 2019 and for preparing this report. The Committee is equally grateful to the office of the Speaker, the Clerk of County Assembly, the secretariat and members of the public for the support received especially during public participation fora in all the twenty-five wards. Finally, I would like to thank Dr. Ekuru Aukot and members of Third way Alliance for finding time to attend a meeting on 9th September, 2019 at the County Assembly Grounds to clarify issues stated in the Bill.

Content

Preface.....	2
Affirmation and approval	3
Acknowledgment	5
1.0 Background and Legal Framework.	7
1.1 Legal Framework	7
1.2 Overview of the Punguza Mizigo (Constitution of Kenya Amendment) Bill, 2019	8
1.3 The Rationale of The Punguza Mizigo Bill.....	8
Submission from the Public	31
1.4 Committee Observations and Recommendations.....	32

1.0 Background and Legal Framework.

1.1 Legal Framework

The Constitution provides for Constitutional amendment under Articles 255, 256 and 257. Article 255 provides that proposed amendment to the Constitution shall be enacted in accordance with Article 256 or 257 and approved in accordance with Article 255(2) by a referendum, if the amendment relates to *the term of office of the President, the functions of Parliament and the objects, principles and structure of devolved government* among others. There are two provision in which a Constitution can be amended;

Amendment by parliamentary Initiative

Article 256 deals with amendment through parliamentary initiative. This article provides ways and situations under which the constitution maybe amended directly by parliament.

Amendment by popular Initiative

Article 257 provides ways in which the constitution may be amended by popular initiative and it states as follows;

- (1) An amendment to this Constitution may be proposed by a popular initiative signed by at least one million registered voters.*
- (2) A popular initiative for an amendment to this Constitution may be in the form of a general suggestion or a formulated draft Bill.*
- (3) If a popular initiative is in the form of a general suggestion, the promoters of that popular initiative shall formulate it into a draft Bill.*
- (4) The promoters of a popular initiative shall deliver the draft Bill and the supporting signatures to the Independent Electoral and Boundaries Commission, which shall verify that the initiative is supported by at least one million registered voters.*
- (5) If the Independent Electoral and Boundaries Commission is satisfied that the 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.*
- (6) 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.*
- (7) If a draft Bill has been approved by a majority of the county assemblies, it shall be introduced in Parliament without delay.*

- (8) *A Bill under this Article is passed by Parliament if supported by a majority of the members of each House.*
- (9) *If Parliament passes the Bill, it shall be submitted to the President for assent in accordance with Articles 256 (4) and (5).*
- (10) *If either House of Parliament fails to pass the Bill, or the Bill relates to a matter specified in 255 (1), the proposed amendment shall be submitted to the people in a referendum.*
- (11) *Article 255 (2) applies, with any necessary modifications, to a referendum under clause (10).*

1.2 Overview of the Punguza Mizigo (Constitution of Kenya Amendment) Bill, 2019

According to the Thirdway Alliance Kenya's call for a constitutional referendum, which is dubbed Punguza Mizigo, it has one main objective: to amend the Constitution of Kenya 2010 (CoK 2010) in order to reduce the burden and cost of governance currently being borne by Kenyan taxpayers. Punguza Mizigo call adopted the popular initiative in Article 257 of CoK 2010. It argues that the approach reaffirms the sovereign authority of Kenyan people in Article 1 of Constitution of Kenya 2010 and puts people first. It further argues that it recognizes that a Constitution is the will of the majority; not a minority whether elected or not.

The memorandum of objects and reasons of the Bill explains that the first phase of Punguza Mizigo started in April 2018 with a deliberate call on Kenyans to endorse it online at <https://thirdwayalliance.com>. This phase recognized the fact that there are, at least, 15 million Kenyans who use social media. The second phase embarked on county visits, (the Punguza Mizigo team indeed visited the Bomet County Assembly on 9th September, 2019) which also acted as a catalyst to Kenyans online. By the time the Bill was forwarded to IEBC, it had gathered over 1.22 million signatures.

1.3 The Rationale of The Punguza Mizigo Bill

The promoters of the bill gave the following rationale for their proposals;

1. The need to strengthen Senate & National Assembly, and to reduce cost of running national parliament by:-

- I. Addressing concerns of over representation and to reduce number of MPs from the current 416 to 147 by:
 - a) Abolishing the 290 constituencies;
 - b) Adopting and using each of the 47 counties as a single constituency for purposes of parliamentary election to Senate and National Assembly;
 - c) Electing one man and one woman to the national assembly and to nominate only six members of parliament from special interest groups (SIGs).

- d) Electing 47 Senators using the County as a single constituency.
 - II. Use each of the 47 Counties, as a single constituency unit for purposes of Parliamentary elections to Senate and National Assembly. This abolishes the current 290 constituencies.
 - III. Elevate Senate to be an Upper House with veto powers. This ensures that National Assembly is checked and oversighted.
- 2. It Strengthen Devolution & takes the services to peoples doorsteps by:-**
- I. Increasing Counties revenue share allocation to, at least, 35% from the current 15%. The people of Kenya are in the counties, wards and villages.
 - II. Use each of the 1450 Wards of Kenya as the primary unit of accelerated development replacing CDF hence taking development to the people's doorsteps.
- 3. End gender imbalance, inequality and address the elusive 1/3 gender rule in elective positions by ensuring that Kenyans elect one man and one woman from each of the 47 Counties to the National Assembly. This abolishes the women representative position.**
- 4. Demystify the presidency & end a culture of electoral violence associated with power of incumbency by introducing a one 7-year term presidency**
- 5. Reduce public wage bill and recurrent expenditure by;**
- a) Reducing the cost of running parliament from current KES 36.8 billion to less than KES 5 billion per year. This will save tax payers KES 31.8 billion.
 - b) Abolish nominations in the National Assembly (except for 6 SIGs), County Assemblies and Senate.
 - c) Stop wastage of public funds and cap salaries of elected leaders to a maximum and consolidated pay of KES 500,000 for the President and KES 300,000 for the MP per month. All elected leaders will not be paid any other allowances (sitting allowance, car grant and Mortgage allowance). SRC to determine salaries of other elected leaders.
 - d) Abolish the position of Deputy Governor. The Governor to nominate from among the duly vetted and appointed County Executive Officers, one of them to be his principal Assistant for purposes of administration. In the unlikely event of the position of Governor falling vacant, the Governor to be elected in a fresh by-election.
 - e) Constitutional commissions to comprise of not more than 5-part time members who will be sitting on a necessity basis and shall be paid a sitting allowance per sitting as will be set by the SRC

6. Enforce integrity, end corruption & theft of public money by;

- a) Amending Chapter 6 of the Constitution to automatically adopt recommendations of public inquiry and audit reports and bar all adversely mentioned individuals from holding any public or state office. This will end both impunity and corruption and instill a culture of accountability for those serving in the public service.
 - b) Corruption and theft of public resources cases to be tried within 30 days and all appeals to be exhaustively concluded within 15 days.
 - c) Impose a life sentence for suspects convicted of corruption and theft of public funds. No presidential pardon and amnesty will be applicable in those cases.
7. Reduce the cost of running elections & registration of voters by ensuring that every Kenyan at the age of 18 and acquires a national identity card shall be deemed to be a fully registered voter for purposes of elections and referenda.

**Proposed Amendments in the Constitution of Kenya, 2010 Vs The Punguza Mizigo
(Constitution of Kenya Amendment) Bill, 2019**

	THE CONSTITUTION OF KENYA 2010	THE PUNGUZA MIZIGO (CONSTITUTION OF KENYA AMENDMENT) BILL, 2019
1.	73 Responsibilities of leadership (1) Authority assigned to a State officer— (a) is a public trust to be exercised in a manner that— (i) is consistent with the purposes and objects of this Constitution; (ii) demonstrates respect for the people; (iii) brings honour to the nation and dignity to the office; and (iv) promotes public confidence in the integrity of the office; and (b) vests in the State officer the responsibility to serve the people, rather than the power to rule them. (2) The guiding principles of leadership and integrity include— (a) selection on the basis of personal integrity, competence and suitability, or election in free and fair elections; (b) objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices; selfless service based solely on the public interest, demonstrated by — (i) honesty in the execution of public duties; and (ii) the declaration of any personal interest that may conflict with public duties; (d) accountability to the public for decisions and actions; and (e) discipline and commitment in service to the people.	Article 73 of the Constitution is amended by inserting the following new sub-articles immediately after sub-article 2 - (3) The recommendations of past and present public inquiry and audit reports shall automatically be adopted to bar all adversely mentioned individuals from seeking and holding any public or state office. (4) An accounting officer or state officer whose department is cited in the annual Auditor-General report having not accounted public money or fails to prove value for money, shall be required to immediately vacate office.
2.	79. Legislation to establish the ethics and anti-corruption commission Parliament shall enact legislation to establish an independent ethics and anticorruption commission, which shall be and have the status and powers of a commission under Chapter Fifteen, for purposes of ensuring compliance with, and enforcement of, the provisions of this Chapter.	The Constitution is amended by inserting the following new article immediately after Article 79- 4. 79A (1) A Corruption or theft of public resources case shall be tried within thirty days of arraignment before a court of competent jurisdiction and an appeal be concluded within twenty-one days. (2) A person convicted and found guilty of corruption or theft of public resources or money shall serve a life sentence. (3) Notwithstanding the provisions of Article 133, no presidential pardon or amnesty shall be applicable for those found guilty of corruption or theft of public resources”

		The Constitution is amended by inserting the following new article immediately after Article 79- 4. 79A (1) A Corruption or theft of public resources case shall be tried within thirty days of arraignment before a court of competent jurisdiction and an appeal be concluded within twenty-one days. (2) A person convicted and found guilty of corruption or theft of public resources or money shall serve a life sentence. (3) Notwithstanding the provisions of Article 133, no presidential pardon or amnesty shall be applicable for those found guilty of corruption or theft of public resources.”
3.	83 Registration as a voter (1) A person qualifies for registration as a voter at elections or referenda if the person— (a) is an adult citizen; (b) is not declared to be of unsound mind; and (c) has not been convicted of an election offence during the preceding five years. (2) A citizen who qualifies for registration as a voter shall be registered at only one registration centre. (3) Administrative arrangements for the registration of voters and the conduct of elections shall be designed to facilitate, and shall not deny, an eligible citizen the right to vote or stand for election.	Article 83 of the Constitution is amended- (a) by deleting sub-article (1)(a); and (b) in sub-article (1) by inserting the following words...(where) “Every person who attains the age of eighteen and who acquires a national identity card shall be deemed to be a fully registered voter for purposes of elections and referenda”
4.	88 Independent Electoral and Boundaries Commission (1) There is established the Independent Electoral and Boundaries Commission. (2) A person is not eligible for appointment as a member of the Commission if the person— (a) has, at any time within the preceding five years, held office, or stood for election as— (i) a member of Parliament or of a county assembly; or (ii) a member of the governing body of a political party; or (b) holds any State office. (3) A member of the Commission shall not hold another public office.	Article 88 of the Constitution is amended in sub-article (4) by- (a) deleting paragraph(a); and (b) deleting the words “constituencies and” appearing immediately after the words “delimitation of” in paragraph (c).

	(4) The Commission is responsible for conducting or supervising referenda and elections to any elective body or office established by this Constitution, and any other elections as prescribed by an Act of Parliament and, in particular, for— (a) the continuous registration of citizens as voters; (b) the regular revision of the voters' roll; (c) the delimitation of constituencies and wards; (d) the regulation of the process by which parties nominate candidates for elections; (e) the settlement of electoral disputes, including disputes relating to or arising from nominations but excluding election petitions and disputes subsequent to the declaration of election results; (f) the registration of candidates for election; (g) voter education; (h) the facilitation of the observation, monitoring and evaluation of elections; (i) the regulation of the amount of money that may be spent by or on behalf of a candidate or party in respect of any election; (j) the development of a code of conduct for candidates and parties contesting elections; and (k) the monitoring of compliance with the legislation required by Article 82(1)(b) relating to nomination of candidates by parties. (5) The Commission shall exercise its powers and perform its functions in accordance with this Constitution and national legislation.	
5.	89 Delimitation of electoral units (1) There shall be two hundred and ninety constituencies for the purposes of the election of the members of the National Assembly provided for in Article 97(1)(a). (2) The Independent Electoral and Boundaries Commission shall review the names and boundaries of constituencies at intervals of not less than eight years, and not more than twelve years, but any review shall be completed at least twelve months before a general election of members of Parliament.	Article 89 of the Constitution is amended - (a) in sub-article (1) by deleting the words "two hundred and ninety" appearing immediately after the words "shall be" and substituting therefor the words "forty-seven"; (b) by inserting the following new sub-article immediately after sub-article (1)-(1A) - For purposes of Parliamentary elections to the Senate and the National Assembly, the Independent Electoral and Boundaries Commission, shall use each of the 47 Counties as a single constituency unit".

(3) The Commission shall review the number, names and boundaries of wards periodically. (4) If a general election is to be held within twelve months after the completion of a review by the Commission, the new boundaries shall not take effect for purposes of that election. (5) The boundaries of each constituency shall be such that the number of inhabitants in the constituency is, as nearly as possible, equal to the population quota, but the number of inhabitants of a constituency may be greater or lesser than the population quota in the manner specified in clause (6) to take account of— (a) geographical features and urban centres; (b) community of interest, historical, economic and cultural ties; and (c) means of communication. (6) The number of inhabitants of a constituency or ward may be greater or lesser than the population quota by a margin of not more than— (a) forty per cent for cities and sparsely populated areas; and (b) thirty per cent for the other areas. (7) In reviewing constituency and ward boundaries the Commission shall— (a) consult all interested parties; and (b) progressively work towards ensuring that the number of inhabitants in each constituency and ward is, as nearly as possible, equal to the population quota. (8) If necessary, the Commission shall alter the names and boundaries of constituencies, and the number, names and boundaries of wards. (9) Subject to clauses (1), (2), (3) and (4), the names and details of the boundaries of constituencies and wards determined by the Commission shall be published in the <i>Gazette</i>, and shall come into effect on the dissolution of Parliament first following their publication. (10) A person may apply to the High Court for review of a decision of the Commission made under this Article.	(c) by deleting sub-article (2); (d) by deleting the word “constituency” in sub-article (5) and replacing with the word “ward”; (e) by deleting the words “constituency or” appearing immediately after the words “inhabitants of” in the introductory phrase to sub-article (6); (f) in sub-article (7) by deleting the words “constituency and” — (i) appearing at the beginning of the introductory phrase; and (ii) appearing immediately after the words “inhabitants in each” in paragraph (b); by deleting sub-article (8) and substituting therefor the following new sub-article — (8) If necessary, the Commission shall alter the number, names, and boundaries of wards” (h) by deleting sub-article (9) and substituting therefor the following new sub-article— (9) subject to clause (3), the names and details of the boundaries of wards determined by the Commission shall be published in the <i>Gazette</i>, and shall come into effect on the dissolution of Parliament first following their publication. (i) by deleting the words “constituencies or” appearing immediately after the words “the number of” in sub-article (12).
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	(11) An application for the review of a decision made under this Article shall be filed within thirty days of the publication of the decision in the <i>Gazette</i> and shall be heard and determined within three months of the date on which it is filed. (12) For the purposes of this Article, “population quota” means the number obtained by dividing the number of inhabitants of Kenya by the number of constituencies or wards, as applicable, into which Kenya is divided under this Article	
6	90. Allocation of party list seats (1) Elections for the seats in Parliament provided for under Articles 97(1)(c) and 98(1)(b), (c) and (d), and for the members of county assemblies under article 177(1)(b) and (c), shall be on the basis of proportional representation by use of party lists. (2) The Independent Electoral and Boundaries Commission shall be responsible for the conduct and supervision of elections for seats provided for under clause (1) and shall ensure that— (a) each political party participating in a general election nominates and submits a list of all the persons who would stand elected if the party were to be entitled to all the seats provided for under clause (1), within the time prescribed by national legislation; (b) except in the case of the seats provided for under Article 98(1)(b), each party list comprises the appropriate number of qualified candidates and alternates between male and female candidates in the priority in which they are listed; and (c) except in the case of county assembly seats, each party list reflects the regional and ethnic diversity of the people of Kenya. (3) The seats referred to in clause (1) shall be allocated to political parties in proportion to the total number of seats won by candidates of the political party at the general election.	Article 90 of the Constitution is deleted.
7.	93. Establishment of Parliament	Article 93 of the Constitution is amended by inserting the following new sub-article immediately after sub-article (2)-

	(1) There is established a Parliament of Kenya, which shall consist of the National Assembly and the Senate. (2) The National Assembly and the Senate shall perform their respective functions in accordance with this Constitution.	(3) the Senate shall be the Upper House with veto power.
8.	96 Role of the Senate (1) The Senate represents the counties, and serves to protect the interests of the counties and their governments. (2) The Senate participates in the law-making function of Parliament by considering, debating and approving Bills concerning counties, as provided in Articles 109 to 113. (3) The Senate determines the allocation of national revenue among counties, as provided in Article 217, and exercises oversight over national revenue allocated to the county governments. (4) The Senate participates in the oversight of State officers by considering and determining any resolution to remove the President or Deputy President from office in accordance with Article 145.	Article 96 of the Constitution is amended by inserting the following new sub-articles immediately after sub-article 4- (5) On its own motion or upon receiving a petition from any person, the Senate shall within twenty-one days consider and review decisions of the National Assembly and upon establishing that such decisions contravene this Constitution or goes against public interest, the Senate shall veto such decisions pursuant to Article 93(3). (6) The Senate may amend or veto a special Bill that has been passed by the National Assembly only by a resolution supported by at least two-thirds of the members of the Senate. (7) If a resolution in the Senate to amend or veto a special Bill fails to pass, the Speaker of the Senate shall within seven days of passing of the resolution, refer the Bill in the format adopted by the National Assembly, to the president for assent.
9	97 Membership of the National Assembly (1) The National Assembly consists of— (a) two hundred and ninety members, each elected by the registered voters of single member constituencies; (b) forty-seven women, each elected by the registered voters of the counties, each county constituting a single member constituency; (c) twelve members nominated by parliamentary political parties according to their proportion of members of the National Assembly in accordance with Article 90, to represent special interests including the youth, persons with disabilities and workers; and (d) the Speaker, who is an <i>ex officio</i> member. (2) Nothing in this Article shall be construed as excluding any person from contesting an election under clause (1) (a).	Article 97 of the Constitution is amended in sub-article (1) by- (a) deleting the words “two hundred and ninety members” appearing at the beginning of paragraph (a) and substituting therefor the words “ninety-four members consisting of one man and one woman from each of the 47 constituencies” ; (b) deleting paragraph (b) and substituting therefor the following new paragraph- (b) six members nominated from special interest groups taking into account the gender balance of one man and one woman in each of the categories under Article 100. (c) deleting paragraph(c).
10	98 Membership of the Senate (1) The Senate consists of— (a) forty-seven members each elected by the registered voters of the	Article 98 of the Constitution is amended- (a) in sub-article (1) by deleting –

	counties, each county constituting a single member constituency; (b) sixteen women members who shall be nominated by political parties according to their proportion of members of the Senate elected under clause (a) in accordance with Article 90; (c) two members, being one man and one woman, representing the youth; (d) two members, being one man and one woman, representing persons with disabilities; and (e) the Speaker, who shall be an <i>ex officio</i> member. (2) The members referred to in clause (1)(c) and (d) shall be elected in accordance with Article 90. (3) Nothing in this Article shall be construed as excluding any person from contesting an election under clause (1)(a).	(i) paragraph (b); (ii) paragraph (c); and (iii) paragraph (d) (b) by deleting sub-article (2)
11	100 Promotion of representation of marginalized groups 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.	Article 100 of the Constitution is amended by deleting— (a) paragraph (a); and (b) paragraph (e)
12.	101 Election of members of Parliament (1) A general election of members of Parliament shall be held on the second Tuesday in August in every fifth year. (2) Whenever a vacancy occurs in the office of a member of the National Assembly under Article 97(1)(c), or of the Senate under Article 98(1)(b), (c) or (d), the respective Speaker shall, within twenty-one days of the occurrence of the vacancy, give notice in writing of the vacancy to— (a) the Independent Electoral and Boundaries Commission; and (b) the political party on whose party list the member was elected or nominated. (3) A vacancy referred to in clause (2) shall, subject to clause (5), be filled in the manner prescribed by an Act of Parliament within twenty-one days of the notification by the respective Speaker.	Article 101 of the Constitution is amended— (a) by deleting sub-article (2) and substituting therefor the following new sub-article— (2) Whenever a vacancy occurs in the office of a member of the National Assembly under Article 97 (1) (b), the Speaker of the National Assembly shall, within twenty-one days of the occurrence of the vacancy, give notice in writing of the vacancy to the Independent Electoral and Boundaries Commission which shall in turn write to the respective nominating statutory bodies.

	(4) Whenever a vacancy occurs in the office of a member of the National Assembly elected under Article 97(1)(a) or (b), or of the Senate elected under Article 98(1)(a)— (a) the respective Speaker shall, within twenty-one days after the occurrence of the vacancy, give notice in writing of the vacancy to the Independent Electoral and Boundaries Commission; and (b) a by-election shall be held within ninety days of the occurrence of the vacancy, subject to clause (5). (5) A vacancy referred to in clause (4) shall not be filled within the three months immediately before a general election.	
13	111 Special Bills concerning county governments (1) A special Bill concerning a county government shall proceed in the same manner as an ordinary Bill concerning county government, subject to clauses (2) and (3). (2) The National Assembly may amend or veto a special Bill that has been passed by the Senate only by a resolution supported by at least two-thirds of the members of the Assembly. (3) If a resolution in the National Assembly to amend or veto a special Bill fails to pass, the Speaker of the Assembly shall, within seven days, refer the Bill, in the form adopted by the Senate, to the President for assent.	Article 111 of the Constitution is amended by deleting — (a) sub-article (2); and (b) sub-article (3).
14	115 Presidential assent and referral (1) Within fourteen days after receipt of a Bill, the President shall— (a) assent to the Bill; or (b) refer the Bill back to Parliament for reconsideration by Parliament, noting any reservations that the President has concerning the Bill. (2) If the President refers a Bill back for reconsideration, Parliament may, following the appropriate procedures under this Part— (a) amend the Bill in light of the President's reservations; or (b) pass the Bill a second time without amendment.	Article 115 of the Constitution is amended in sub-article (3) by deleting the letter "s" in the word "amended", and in sub-article 4 (b) by deleting the words "delegations in" appearing immediately after the words "of the" and substituting therefor the words "members of".

	(3) If Parliament amends the Bill fully accommodating the President's reservations, the appropriate Speaker shall re-submit it to the President for assent. (4) Parliament, after considering the President's reservations, may pass the Bill a second time, without amendment, or with amendments that do not fully accommodate the President's reservations, by a vote supported— (a) by two-thirds of members of the National Assembly; and (b) two-thirds of the delegations in the Senate, if it is a Bill that requires the approval of the Senate. (5) If Parliament has passed a Bill under clause (4)— (a) the appropriate Speaker shall within seven days re-submit it to the President; and (b) the President shall within seven days assent to the Bill. (6) If the President does not assent to a Bill or refer it back within the period prescribed in clause (1), or assent to it under clause (5)(b), the Bill shall be taken to have been assented to on the expiry of that period.	
15	121 Quorum The quorum of Parliament shall be— (a) fifty members, in the case of the National Assembly; or (b) fifteen members, in the case of the Senate.	Article 121 of the Constitution is amended in paragraph (b) by deleting the word "fifteen" appearing at the beginning of the paragraph and substituting therefor the word "twenty-four".
16	123 Decisions of Senate (1) On election, all the members of the Senate who were registered as voters in a particular county shall collectively constitute a single delegation for purposes of clause (4) and the member elected under Article 98(1)(a) shall be the head of the delegation. (2) When the Senate is to vote on any matter other than a Bill, the Speaker shall rule on whether the matter affects or does not affect counties. (3) When the Senate votes on a matter that does not affect counties, each senator has one vote. (4) Except as provided otherwise in this Constitution, in any matter in the Senate	Article 123 of the Constitution is deleted.

	affecting counties— (a) each county delegation shall have one vote to be cast on behalf of the county by the head of the county delegation or, in the absence of the head of the delegation, by another member of the delegation designated by the head of the delegation; (b) the person who votes on behalf of a delegation shall determine whether or not to vote in support of, or against, the matter, after consulting the other members of the delegation; and (c) the matter is carried only if it is supported by a majority of all the delegations.	
17	136 Election of the President (1) The President shall be elected by registered voters in a national election conducted in accordance with this Constitution and any Act of Parliament regulating presidential elections. (2) An election of the President shall be held— (a) on the same day as a general election of Members of Parliament, being the second Tuesday in August, in every fifth year; or (b) in the circumstances contemplated in Article 146.	Article 136 of the Constitution is amended by deleting sub-article (2) (a) and substituting therefor the following new paragraph (a) on the second Tuesday in August, in every seventh year; or
18	142 Term of office of President (1) The President shall hold office for a term beginning on the date on which the President was sworn in, and ending when the person next elected President in accordance with Article 136(2) (a) is sworn in. (2) A person shall not hold office as President for more than two terms.	Article 142 of the Constitution is amended by deleting sub-article (2) and substituting therefor the following new paragraph— (2) A person shall hold office as President for a single seven-year term.
19	146 Vacancy in the office of President (1) The office of President shall become vacant if the holder of the office— (a) dies; (b) resigns, in writing, addressed to the Speaker of the National Assembly; or (c) otherwise ceases to hold office under Article 144 or 145 or under any other provision of this Constitution. (2) When a vacancy occurs in the office of President— (a) the Deputy President shall assume office as President for the remainder of the term of the President; or (b) if the office of Deputy President is vacant, or the Deputy President is	Article 146 of the Constitution is amended in sub-article (2)(b) by deleting the words “National Assembly” appearing immediately after the words “Speaker of the” and substituting therefor the word “Senate”

	unable to assume the office of President, the Speaker of the National Assembly shall act as President and an election to the office of President shall be held within sixty days after the vacancy arose in the office of President. (3) A person who assumes the office of President under clause (2)(a), or following an election required by clause (2)(b), shall, unless otherwise removed from office under this Constitution, hold office until a newly elected President is sworn in following the next regularly scheduled election under Article 136 (2)(a). (4) If the Deputy President assumes office as President under clause (2)(a), or a person is elected to the office of President under clause (2)(b), the Deputy President, or the person elected, shall be deemed for the purposes of Article 142(2)— (a) to have served a full term as President if, at the date on which the person assumed office, more than two and a half years remain before the date of the next regularly scheduled election under Article 136 (2) (a); or (b) not to have served a term of office as President, in any other case.	
20	157 Director of Public Prosecutions (1) There is established the office of Director of Public Prosecutions. (2) The Director of Public Prosecutions shall be nominated and, with the approval of the National Assembly, appointed by the President. (3) The qualifications for appointment as Director of Public Prosecutions are the same as for the appointment as a judge of the High Court. (4) The Director of Public Prosecutions shall have power to direct the Inspector-General of the National Police Service to investigate any information or allegation of criminal conduct and the Inspector-General shall comply with any such direction. (5) The Director of Public Prosecutions shall hold office for a term of eight years and shall not be eligible for re-appointment. (6) The Director of Public Prosecutions shall exercise State powers of prosecution and may— (a) institute and undertake criminal proceedings against any person	Article 157 of the Constitution is amended by inserting the following new sub-article immediately after sub-article 10- (10A) The Director of Public Prosecutions shall- (a) use both general financial audit findings and forensic reports from the Auditor-General as the first piece of evidence in all theft of public resources cases and in no value for money cases; (b) prosecute all public and state officers together with their private sector accomplices who are responsible for all adverse audit findings within sixty days of audit completion; (c) write to all officers responsible for adverse audit findings demanding that they leave office within thirty days in compliance with Chapter 6 on receiving audit and forensic audit reports; and (d) publish in a public website and widely circulated media the action taken on each single issue raised in the audit and forensic reports within sixty days of receiving the reports.

	before any court (other than a court martial) in respect of any offence alleged to have been committed; (b) take over and continue any criminal proceedings commenced in any court (other than a court martial) that have been instituted or undertaken by another person or authority, with the permission of the person or authority; and (c) subject to clauses (7) and (8), discontinue at any stage before judgment is delivered any criminal proceedings instituted by the Director of Public Prosecutions or taken over by the Director of Public Prosecutions under paragraph (b). (7) If the discontinuance of any proceedings under clause (6)(c) takes place after the close of the prosecution's case, the defendant shall be acquitted. (8) The Director of Public Prosecutions may not discontinue a prosecution without the permission of the court. (9) The powers of the Director of Public Prosecutions may be exercised in person or by subordinate officers acting in accordance with general or special instructions. (10) The Director of Public Prosecutions shall not require the consent of any person or authority for the commencement of criminal proceedings and in the exercise of his or her powers or functions, shall not be under the direction or control of any person or authority. (11) In exercising the powers conferred by this Article, the Director of Public Prosecutions shall have regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse of the legal process. (12) Parliament may enact legislation conferring powers of prosecution on authorities other than the Director of Public Prosecutions.	
21	177 Membership of county assembly (1) A county assembly consists of— (a) members elected by the registered voters of the wards, each ward constituting a single member constituency, on the same day as a general election of Members of Parliament, being the second Tuesday	Article 177 of the Constitution is amended— (a) in sub-article (1) by deleting— (i) paragraph (b); and (ii) paragraph (c)

	in August, in every fifth year; (b) the number of special seat members necessary to ensure that no more than two-thirds of the membership of the assembly are of the same gender; (c) the number of members of marginalized groups, including persons with disabilities and the youth, prescribed by an Act of Parliament; and (d) the Speaker, who is an <i>ex officio</i> member. (2) The members contemplated in clause (1)(b) and (c) shall, in each case, be nominated by political parties in proportion to the seats received in that election in that county by each political party under paragraph (a) in accordance with Article 90. (3) The filling of special seats under clause (1)(b) shall be determined after declaration of elected members from each ward. (4) A county assembly is elected for a term of five years.	(b) by deleting sub-article (2); and (c) by deleting sub-article (3)
22.	179 County executive committees (1) The executive authority of the county is vested in, and exercised by, a county executive committee. (2) The county executive committee consists of— (a) the county governor and the deputy county governor; and (b) members appointed by the county governor, with the approval of the assembly, from among persons who are not members of the assembly. (3) The number of members appointed under clause (2)(b) shall not exceed— (a) one-third of the number of members of the county assembly, if the assembly has less than thirty members; or (b) ten, if the assembly has thirty or more members. (4) The county governor and the deputy county governor are the chief executive and deputy chief executive of the county, respectively. (5) When the county governor is absent, the deputy county governor shall act as the county governor. (6) Members of a county executive committee are accountable to the county governor for the performance of their functions and exercise of their powers.	Article 179 of the Constitution is amended— (a) in sub-article (2) (a) by deleting the words “and the deputy county governor; and (b) by deleting sub-article (4) and substituting therefor the following new sub-article— (4) The County governor shall be the Chief Executive of the County. (c) by deleting sub-article (5)

(7) If a vacancy arises in the office of the county governor, the members of the county executive committee appointed under clause (2)(b) cease to hold office.	180 Election of county governor and deputy county governor (1) The county governor shall be directly elected by the voters registered in the county, on the same day as a general election of Members of Parliament, being the second Tuesday in August, in every fifth year. (2) To be eligible for election as county governor, a person must be eligible for election as a member of the county assembly. (3) If only one candidate for county governor is nominated, that candidate shall be declared elected. (4) If two or more candidates are nominated, an election shall be held in the county and the candidate who receives the greatest number of votes shall be declared elected. (5) Each candidate for election as county governor shall nominate a person who is qualified for nomination for election as county governor as a candidate for deputy governor. (6) The Independent Electoral and Boundaries Commission shall not conduct a separate election for the deputy governor but shall declare the candidate nominated by the person who is elected county governor to have been elected as the deputy governor. (7) A person shall not hold office— (a) as a county governor for more than two terms; or (b) as a deputy county governor for more than two terms. (8) For the purposes of clause (7), a person who has assumed the office of county governor shall be deemed to have served a full term, subject only to Article 182 (3)(b).
23	Article 180 of the Constitution is amended— (a) in the sub-title by deleting the words “and deputy county governor” (b) by deleting sub-article (5); (c) by deleting sub-article (6); and (d) by deleting sub-article (7) (b) (e) by inserting the following new sub-article immediately after sub-article (7)— (7A) The Governor shall nominate one person from among the duly vetted, approved and appointed County Executive Officers, to be the Governor’s Principal Assistant for purposes of administration in the county.

182 Vacancy in the office of county governor

- (1) The office of the county governor shall become vacant if the holder of the office—
- (a) dies;
 - (b) resigns, in writing, addressed to the speaker of the county assembly;
 - (c) ceases to be eligible to be elected county governor under Article 180(2);
 - (d) is convicted of an offence punishable by imprisonment for at least twelve months; or
 - (e) is removed from office under this Constitution.
- (2) If a vacancy occurs in the office of county governor, the deputy county governor shall assume office as county governor for the remainder of the term of the county governor.
- (3) If a person assumes office as county governor under clause (2), the person shall be deemed for the purposes of Article 180(7)—
- (a) to have served a full term as county governor if, at the date on which the person assumed office, more than two and a half years remain before the date of the next regularly scheduled election under Article 180(1); or
 - (b) not to have served a term of office as county governor, in any other case.
- (4) If a vacancy occurs in the office of county governor and that of deputy county governor, or if the deputy county governor is unable to act, the speaker of the county assembly shall act as county governor.
- (5) If a vacancy occurs in the circumstances contemplated by clause (4), an election to the office of county governor shall be held within sixty days after the Speaker assumes the office of county governor.
- (6) A person who assumes the office of county governor under this Article shall, unless otherwise removed from office under this Constitution, hold office until the newly elected county governor assumes office following the next election held

Article 182 of the Constitution is amended by—

- (a) deleting sub-article (2);
- (b) deleting sub-article (3);
- (c) deleting sub-article (4);; and
- (d) inserting the following new sub-article immediately after sub-article (5)—

(5A) If a vacancy occurs in the office of a governor, a fresh election shall be conducted pursuant to provisions of sub-article (5).

25	under Article 180(1). 188 Boundaries of counties (1) The boundaries of a county may be altered only by a resolution— (a) recommended by an independent commission set up for that purpose by Parliament; and (b) passed by— (i) the National Assembly, with the support of at least two-thirds of all of the members of the Assembly; and (ii) the Senate, with the support of at least two-thirds of all of the county delegations. (2) The boundaries of a county may be altered to take into account— (a) population density and demographic trends; (b) physical and human infrastructure; (c) historical and cultural ties; (d) the cost of administration; (e) the views of the communities affected; (f) the objects of devolution of government; and (g) geographical features.	Article 188 of the Constitution is amended in sub-article (1) (b) (ii) by deleting the words “the county delegations” and substituting therefor the words “the members of the Senate”
26	201 Principles of public finance The following principles shall guide all aspects of public finance in the Republic — (a) there shall be openness and accountability, including public participation in financial matters; (b) the public finance system shall promote an equitable society, and in particular— (i) the burden of taxation shall be shared fairly; (ii) revenue raised nationally shall be shared equitably among national and county governments; and (iii) expenditure shall promote the equitable development of the country, including by making special provision for marginalized groups and areas; (c) the burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations; (d) public money shall be used in a prudent and responsible way; and (e) financial management shall be responsible, and fiscal reporting shall be clear.	Article 201 of the Constitution is amended by inserting the following new paragraphs immediately after paragraphs (e) — (e) the national budget of Parliament shall not be more than point three five percent of the most recent audited accounts revenue approved by the National Assembly as read together with Article 203 (3). (f) Not more than twenty percent of parliament’s total annual budget shall be expended on salaries and allowances to members of Parliament. (g) The highest paid public servant or state officer shall be paid a salary and allowances not exceeding fifty times that of the lowest paid public servant or state officer.
27	203 Equitable share and other financial laws	Article 203 sub-article (1) of the Constitution is amended - (a) by deleting paragraph (f) and substituting therefor the following new paragraph—

	(1) The following criteria shall be taken into account in determining the equitable shares provided for under Article 202 and in all national legislation concerning county government enacted in terms of this Chapter— (a) the national interest; (b) any provision that must be made in respect of the public debt and other national obligations; (c) the needs of the national government, determined by objective criteria; (d) the need to ensure that county governments are able to perform the functions allocated to them; (e) the fiscal capacity and efficiency of county governments; (f) developmental and other needs of counties; (g) economic disparities within and among counties and the need to remedy them; (h) the need for affirmative action in respect of disadvantaged areas and groups; (i) the need for economic optimisation of each county and to provide incentives for each county to optimise its capacity to raise revenue; (j) the desirability of stable and predictable allocations of revenue; and (k) the need for flexibility in responding to emergencies and other temporary needs, based on similar objective criteria. (2) For every financial year, the equitable share of the revenue raised nationally that is allocated to county governments shall be not less than fifteen per cent of all revenue collected by the national government. (3) The amount referred to in clause (2) shall be calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.	(f) development and other needs of wards in the counties; (b) deleting paragraph (g) and substituting therefor the following new paragraph— (g) economic disparities within and among wards in the counties and the need to remedy them. (c) in sub-article (2) by deleting the word “fifteen” appearing immediately after the words “not less than” and substituting therefor the word “thirty-five”. (d) by inserting the following new sub-article immediately after sub-article (3)— (4) To attain optimal development and to take services to the peoples’ doorsteps, counties shall adopt and use the Ward as the primary unit of accelerated development.
28	204 Equalisation Fund (1) There is established an Equalisation Fund into which shall be paid one half per cent of all the revenue collected by the national government each year calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.	Article 204 of the Constitution is amended – (a) in sub-article (2) by inserting the words “at ward level” immediately after the words “basic services” (b) by deleting the word “may” in the introductory phrase to sub-article (3) and substituting therefor the word “shall”; (c) by deleting the words “county delegations in” and substituting therefor the words “members of” in sub-article (8).

	(2) The national government shall use the Equalisation Fund only to provide basic services including water, roads, health facilities and electricity to marginalised areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible. (3) The national government may use the Equalisation Fund— (a) only to the extent that the expenditure of those funds has been approved in an Appropriation Bill enacted by Parliament; and (b) either directly, or indirectly through conditional grants to counties in which marginalised communities exist. (4) The Commission on Revenue Allocation shall be consulted and its recommendations considered before Parliament passes any Bill appropriating money out of the Equalisation Fund. (5) Any unexpended money in the Equalisation Fund at the end of a particular financial year shall remain in that Fund for use in accordance with clauses (2) and (3) during any subsequent financial year. (6) This Article lapses twenty years after the effective date, subject to clause (7). (7) Parliament may enact legislation suspending the effect of clause (6) for a further fixed period of years, subject to clause (8). (8) Legislation under clause (7) shall be supported by more than half of all the members of the National Assembly, and more than half of all the county delegations in the Senate. (9) Money shall not be withdrawn from the Equalisation Fund unless the Controller of Budget has approved the withdrawal.	
29.	229 Auditor-General (1) There shall be an Auditor-General who shall be nominated by the President and, with the approval of the National Assembly, appointed by the President. (2) To be qualified to be the Auditor-General, a person shall have extensive knowledge of public finance or at least ten years' experience in auditing or public finance management.	Article 229 of the Constitution is amended by inserting the following new sub-articles immediately after sub-article (8)- (9) There is established a forensic accounting department in the office of the Auditor-General to enhance capacity to produce credible evidence for purposes of prosecuting theft or failure to account for public resources including but not limited to money expended by government departments, as well as by other state organs.

Submissions from the members of the public.

Issues that the public sought to be guided for further interpretation were;

1. Article 89 on delimitation of electoral Units particularly on Boundaries of Wards-Here residents wanted affirmation and assurance that the Wards' boundaries as currently constituted will not be interfered with by reducing the current number of Wards. They were also cautious so as for the Wards not take the size of the current Constituencies.

Key issues that were commonly supported by members of the public

1. The members agreed to the reduction of the National Assembly budget to less than 5 billion to save the tax payers a sum of 31.8 billion. That would promote the development because the money would be allocated for development at the ward levels.
2. Members agreed with the elimination of the nominated MCAs and the reduction of the nominated MPs as that would greatly increase the amount of funds used for development.
3. Elevating Senate as an Upper House with veto powers in Article 93 of the CoK under the Punguza Mizigo Bill, 2019. This was due to the fact that Senate role in protecting interest of Counties like the equitable share of revenues and laws affecting the Counties
4. Members were agreeable with Article 83 of the Punguza Mizigo Amendment Bill 2019. Every person who have attained the age of 18 years and have acquired an ID is deemed to be a fully registered voter. That would save a huge amount of fund for development rather than a continuous voter registration.
5. Proposal to increase County allocation from 15% to 35% was overwhelmingly supported. This was due to the fact that increased allocation will spur economic growth, development and improved service delivery at residents' doorsteps.

The members of the public supported the Punguza Mizigo Bill 2019. They believed that it would greatly promote the development since the public funds will be distributed at the ward levels. They however received the following issues with mixed reaction and proposed changes as follows;

1. Presidential term limit of five years. One 7-year term presidency was likely to make the president abuse power/office and choose not to deliver since he/she would not be contesting for another term in office again.
2. Members requested that the guidelines on how the National Resources would be shared among the counties should be indicated in the Punguza Mizigo Bill 2019.
3. Life sentence to persons convicted of corruption and theft of public resources did not augur well with the residents and proposed that instead those found guilty of corruption and theft of public resources be compelled to repatriate back to the State the lost resources. In addition, they also proposed that their properties be confiscated.
4. Though they were in support of the scrapping of nomination seats for special interest groups at County Assembly, they proposed that at least there should be one seat for those representing PWDs

Observations

The Committee made the following observation;

- That the Punguza Mizigo (Constitution of Kenya amendment) Bill, 2019 was positively received by the members of the public. This was evidenced by their positive views during public participation
- That the Punguza Mizigo (Constitution of Kenya amendment) Bill, 2019 will be subjected to a referendum if approved by a majority of the County Assemblies because it relates to the term of office of the president, functions of parliament and the structure of devolved government as stated in Article 255(1) of the constitution
- That there is no room for amendment of the Bill and that the County Assembly can either approve it as it is or reject the Bill in its entirety
- That the Bill seeks to strengthen devolution by allocating more resources to the devolved units.
- That the Bill if approved will strengthen the offices of the Directorate of Public Prosecution and Auditor General in dealing with corruption menace in the Country.
- That the Punguza Mizigo (Constitution of Kenya amendment) Bill, 2019 if approved will strengthen the wards as they will become the primary units of accelerated development.

Committee Recommendations

Based on the aforementioned observations, the committee recommends that the County Assembly approves the Punguza Mizigo (Constitution of Kenya amendment) Bill, 2019.