

MACHAKOS COUNTY ASSEMBLY**OFFICIAL REPORT****Wednesday, 5th August, 2015**

The House met at 2.37 p.m.

*[The Temporary Deputy Speaker (Ms. Jacqueline Nziva) in the Chair]***PRAYERS****Hon. Temporary Deputy Speaker:** Good afternoon Members. Clerk, proceed.**PAPER LAID****REPORT ON PETITION BY MAU MAU WAR VETERANS**

Hon. (Ms.) V. Mbithe: Madam Speaker, I beg to lay the following paper on the table of the Assembly today, Wednesday, 5th August 2015: Tourism and Culture committee report on petition by Mau Mau war veterans. Thank you Madam Speaker.

Hon. Temporary Deputy Speaker: Paper properly laid. Proceed Clerk.**NOTICE OF MOTION****REPORT ON PETITION BY MAU MAU WAR VETERANS**

Hon. (Ms.) V. Mbithe: Madam Speaker, I wish to give notice of the following motion: that this Hon. House discusses and approves the report on petition by Mau Mau war veterans. Thank you Madam Speaker.

MOTION**REPORT ON PETITION BY MAU MAU WAR VETERANS**

Hon. (Ms.) V. Mbithe: Madam Speaker, aware that on 5th May, 2015 a public petition from the Mau Mau War veterans to Machakos County Assembly was received in the office of the Clerk; further aware that on 30th June 2015 the matter was referred to the committee on Tourism and Culture for investigation; informed that in Machakos County, we have distinguished personalities who themselves or through their parents fought and defended the freedom of the people of Kenya; cognizant of the fact that the level of patriotism and sacrifice demands some degree of recognition by the County Government of Machakos, considering that there is need for a framework for the recognition of persons who have made significant

contributions to the county and to the country Madam Speaker, I wish to move the motion that this Hon. House discusses and approves the report on public petition by Mau Mau liberation war veterans. Thank you Madam, Speaker. I call upon Madam Hon. Benedette Mueni to second.

Hon. (Ms.) Mueni: Thank you Madam Speaker. I stand to support the motion that we discuss about the Mau Mau people that they can be recognized by Machakos County because they did a good work to our country. Thank you Madam Speaker.

Hon. Temporary Deputy Speaker: The mover of the motion. Can we have the point of order? You are not sure but Clerk confirm. I think we can proceed. Clerk has confirmed that there is quorum so the mover of the motion, can you proceed. Can the mover of the motion proceed then we have your point of order. Can we have the document circulated, Clerk?

Hon. (Ms.) V. Mbithe: Thank you Madam Speaker. I proceed to read the report on the committee on Culture and Tourism on public petition by Machakos Mau Mau Liberation War Veterans.

Preamble

Madam Speaker, the struggle for independence in this country involved communities, individuals and movements. They took part in the uprising against the colonial government and some were tortured, detained and even killed in the effort to search for freedom which we all enjoy today.

Mandate of Tourism and Culture Committee

Madam Speaker, pursuant to the Second Schedule of the Standing Orders, this committee is mandated to deal with all matters related to cultural activities, public entertainment and public amenities including betting, lotteries, casinos and other forms of gambling, racing, liquor licensing, cinemas, video shows and hiring, libraries, national heritage, museums and cultural activities and facilities and county parks, beaches and recreation facilities and local tourism, culture, control of drugs and pornography, annual animal control and welfare, including licensing of dogs and facilities for the accommodation, care and burial of animals.

Background Information

Madam Speaker, on 5th May, 2015, a public petition from County of Machakos Mau Mau Liberation War Veterans to the Machakos County Assembly was received in the Office of the Clerk pursuant to Standing Order 194 (1a) and it was later scrutinized to verify its admissibility as per the provisions of Standing Order 194(3).

Madam Speaker, on 30th June, 2015, the petition was presented in the Assembly and committed to the committee on Tourism and Culture pursuant to Standing Order 201 (1).

Petitioners

Madam Speaker, names, full address, National ID Number and signatures of sixteen (16) petitioners who represented over 6000 Mau Mau War Veterans in Machakos County were received. See the attached petition document.

POINT OF ORDER

Hon. Maitha: Madam Speaker, I am standing on a point of order. If Hon. Members can move to page number 7, is it in order Madam Speaker, for a report of such a matter to be presented in this House and it is not signed?

Temporary Deputy Speaker: The one in front of my desk is signed.

Hon. Maitha: Madam Speaker I am speaking of what I have and what Hon. Members have. It is not signed. We are discussing a report which is not signed. Can you guide us Madam Speaker? Is it in order? I need to be guided Madam Speaker.

Temporary Deputy Speaker: According to me the paper in front of me is signed. Can you proceed.

Hon. Maitha: Madam Speaker I would then request to be furnished with a signed document because sitting here and listening to a document which is not signed contravenes my rights to have a document which is duly signed.

Temporary Deputy Speaker: It is okay. Hon. Veronica can you continue; your matter will be dealt with by the Clerk. Proceed.

Hon. (Ms.) V. Mbithe: Thank you Madam Speaker. I was on the prayers of the petitioners.

Prayer of the Petitioners

1. To consider, appreciate and recognize all wars of resistance waged by their ancestors and those who followed their footsteps.
2. Recognize the Mau Mau armed struggle through an Act of Machakos County Assembly.
3. Facilitate the writing of the history of freedom struggle.
4. To offer monetary and material compensation to all heroes and heroines of freedom struggles.
5. Set up a freedom and unity university in the county to promote research and nationalism.

6. Land confiscated be returned or alternative land be compensated.
7. This petition be subjected to public debate.

Committee's Action on the Petition

Mr. Speaker, the document was subjected to thorough scrutiny pursuant to Standing Order 197 and the First Schedule, in addition to interviewing all the petitioners and found out that: -

1. The document was well presented and the format was up to the required standard.
2. Four out of the sixteen petitioners suffered and participated in freedom fight i.e. Mau Mau. They include: -
 - a) Gitu wa Kahengeri who was born in 1929 and hails from Thika.
 - b) Musembi Mutia Kungu who was born in 1925 and hails from Misakwani in Machakos.
 - c) Nthenge Kathiaka who was born in 1933 and hails from Kithimani in Yatta sub-county.
 - d) Johnson Munguti Kiiti who was born in 1935 and hails from Mwala.
3. The rest of the petitioners were either son/daughter or grandchild of a freedom fighter.

National Parliament View on the Matter

Madam Speaker, on 11th February 2015, a notice of motion to ensure that the British government compensates all the victims of Mau Mau who were alive from all over the country were introduced in Parliament by Hon. Patrick Wangamati and seconded by Hon. Richard Tongi. The motion was discussed on 25th February 2015 and again on 4th March 2015 and it was adopted in Parliament.

Madam Speaker, with your permission, I can read the motion that *'Aware that in 2013, the British government agreed to pay Kenyans who were abused, tortured, maimed and detained by the colonial forces during Mau Mau uprising in 1952 and onwards compensation of Kshs. 2.5 billion as an out of court settlement; further aware that the compensation was only paid to a section of Mau Mau victims from Kiambu and Nyeri counties, leaving out victims from Murang'a, Kirinyaga, Meru, Embu, Kajiado and other parts of Kenya; cognizant of the fact that the leaders from the two counties initiated a court process claim for compensation to the victims who were eventually compensated; noting that the struggle for independence in this country involved various communities and individuals like the followers of Diniya Musambwa movement who took part in the uprising against the colonial government and were also killed, tortured and*

detained and therefore also deserve equal compensation from the British government; also aware that the British government has accepted to release further compensation monies on condition that only the victims who are still alive and can prove that they were tortured will be compensated from these monies, this House resolves that the government ensures that compensations from the British government goes to all affected homes and families of victims who are still alive all over the country.'

The Senate View on Similar Matters

Madam Speaker, with reference to Kenya Gazette Supplement No. 136, Senate Bill No. 33, this is County Hall of Fame Bill, 2014. The long title of the Bill is An Act of Parliament to establish a County Hall of Fame in each County as an avenue through which the County government shall bestow honour on individuals within their respective counties as claimed as being outstanding, exceptional or illustrious in any profession or activity and for connected purposes.

Madam Speaker, the object and purposes of the Act are to: -

- a) Provide a framework for the recognition by counties of persons who have made significant contributions to the county or to the country
- b) Provide a framework for the presentation of the history, heritage and culture of the county and a basis of education of members of the public on the history, heritage and culture of the county.

Madam Speaker, this Bill is before the Senate at the first reading stage.

Committee Recommendations as per the Prayer of the Petitioners

Madam Speaker, the committee recommends the following:-

1. The County Government of Machakos to petition the National Government, through the Senate, to effect the contents of the motion of 4th March 2015 by Hon. Patrick Wangamati so that the victims of Machakos are compensated.
2. The County Government should come up with a plan seeking for recognition of victims of freedom fighting by registering them and documenting their stories.
3. During National holidays like Madaraka and Jamhuri days, should involve these victims because of the tough struggle and suffering witnessed by them.
4. The County government should plan for the collection of artifacts and the erection of monuments to commemorate the armed freedom fighters.

5. Since the County Government does not have a kitty to finance this group in order to empower them financially, the members of the Mau Mau Veterans Association should be advised to form a self-help group from where the county government should finance them and also give them tenders.
6. Concerning the setting up of a freedom and unity university and since the university education is not devolved, the Machakos county government can only recommend a course to be included in the curriculum of the universities in Machakos.

However, the committee found it difficult and impractical to accommodate the petitioners' second prayer of recognizing the veterans through an Act of Machakos County Assembly on the basis that an Act cannot be approved in favour of just a small section of people; instead it is supposed to be holistic whereby it touches the interests of all citizens. After all, the Constitution treats all citizens equally.

Madam Speaker, Article 1 Section 2 of the Constitution provides that people may exercise their sovereign power either directly or through their democratically elected representatives. On the basis of this Article, the committee members found it unrealistic to subject this petition to public debate as per the seventh prayer of the petitioners. This is because the petition is already before the Assembly of Machakos where the elected representatives of the petitioners sit to debate matters of their electorates. Hence the Hon. House will do the debate on their behalf.

Conclusion

Madam Speaker, Machakos County is proud to be associated with patriotic people, who sacrificed their lives and property to seek for freedom of Kenyan citizens and it pains those who imagine the scenario; hence it is a great sin to have those efforts going unrecognized. It is therefore my humble request to this Hon. House to consider the cries of their electorates and grant them good services as they vowed to. Thank you Madam Speaker.

Hon. Temporary Deputy Speaker: Thank you very much. Can we have contributions? Those in support of the motion? Yes.

Hon. (Ms.) Mueni: Thank you Madam Speaker. I stand to support the motion because the Mau Mau people have the *waheshimiwas* representing them where they are from; some are very old and even they cannot put food on their table. So *waheshimiwas* who are here, you take care of those people, and even we can discuss those counties which are paid, also Machakos people to be paid. Wakambas are the ones who suffered very much because of taking care of this Kenya. So Madam Speaker, I beg this House to pass this motion so that those people can be taken care of. Thank you Madam Speaker.

Hon. Temporary Deputy Speaker: In absence of any other contribution can I put the question that; those in support of the motion... okay because you had not raised your hands.

Majority Leader (Hon. Mwonga): Thank you. Madam Speaker, first and foremost I want to start by thanking Hon. Veronica Mbithe for standing in for the Chair, Culture that is Hon. Winston Kanui who is not in the House, and Madam Speaker, I also want to thank the Speaker of this Hon. House for referring this matter, this petition, to this committee.

Madam Speaker, I was very much attentive when Hon. Veronica was walking us through the document and I realized that we may be discussing an issue which is in the two National Houses, that is the Senate and the National Assembly. Madam Speaker, I wonder how we are going to discuss this because it is not just an isolated issue of Machakos County; because it is an issue of veterans who were Mau Mau members and one of the petitioners here is somebody by the name Gitu wa Kahengeri who hails from Thika, that is Kiambu County.

Madam Speaker, I think the committee had to sit and come up with a report just because it had been referred to them. I think this is a matter we should not be discussing; if the British Government gave Kshs.2.5 billion to be shared among the veterans, it is upon the veterans who did not benefit from these monies to petition the National Government so that they can get their share and I think that is why Wangamati moved a motion on 11th February this year on the same issue, Madam Speaker.

Madam Speaker, on recommendations by the committee whose some members are sitting next to me and they have been conversing, I hear them say it as if they are not privy to the document because they have not signed but Madam Speaker, the document is signed by the Chairman and our Standing Orders do not say a report of a committee has to be signed by all the other members.

On recommendation number 3, *'during National Holidays like Madaraka and Jamhuri days should involve these victims because of the tough struggle and suffering witnessed by them.'* Madam Speaker, we cannot do this in isolation in Machakos County. If they are not involved, at the national arena Madam Speaker, I do not think we can do this in Machakos.

Also recommendation number 5, Madam Speaker, I think we will be flouting the procurement law; we cannot have a special self of group being given tenders because they purport to have fought for the independence of this country. Madam Speaker, they were fighting for a noble cause and Madam Speaker, even the members who are here, We are not here because we get paid at the end of the day or the end of the month; we are here to serve our country and our county.

Likewise Madam Speaker, the veterans were doing the same and that is why we are calling them Mau Mau veterans and that is a history, Madam Speaker. None of us will be called a Mau Mau Veteran. I think they should enjoy that title and rest. Thank you, Madam Speaker.

(Applause)

Hon. Temporary Deputy Speaker: Okay, thank you. Hon. Katela

Hon. Katela: Thank you Madam Speaker. As much as I support this report just due to the fact that my grandfather was part of it, I'm also reading mischief and fraud and I think the best recommendation these people should have done, my committee could have done which I was not part of the recommendations and I am a key member of that committee, they should have advised the Mau Mau Veterans who are alive now to take Kiambu and Nyeri counties to court and share the money with them because I remember one time sometime last year around October, those from Machakos County were given around Kshs.30,000 each and each family of the victim and if that is the cut they got from the counties of Nyeri and Kiambu, they should go to court and seek redress and look for their money.

I believe, to support the Majority Leader, this is a National issue; they were not fighting for Machakos County and after all they were not even fighting from Mbooni, they were fighting from Kiambu forest. So I think it's a national issue...there are even women who were cooking for them and they also call them Mau Mau Veterans and they were cooking from home and taking food to Kiambu. Will they also be paid?

We should not reload our County Government because it is only this morning in this House where we had another motion to overload the County Government by paying the elderly and the less fortunate. I mean, if we do like this, we will never see good roads in our counties, we will never recognize the shower water in our wards, our children will never go to school... protect me, I know she might think that I am deviating but you see I have to give an example. Please...okay to finish, this is a national issue and should not be dragged to our county Government. Thankyou. After all we don't have this money in our budget.

Hon. Temporary Deputy Speaker: Can we get the point of information from the motion mover.

POINT OF INFORMATION

Hon. (Ms.) V. Mbithe: The point of information is that the money being paid to the Mau Mau Veterans does not come from Machakos County; the prayer is that they be involved because you see, when the money came I think you were talking Hon. Member; the Hon. Member Madam Speaker, was not concentrating, neither does he even attend the committees. That's why he is not even...he is out of order. Madam Speaker, the Mau Mau Veterans are seeking to be involved when the disbursement of the monies is being done. You remember now I have just read... Madam Speaker, protect me---

Hon. Temporary Deputy Speaker: Proceed.

Hon. (Ms.) V. Mbithe: I have just read the report that... it is good you concentrate Hon. Member. Madam Speaker, the Hon. Member is not concentrating, that's why he is complicating issues. Madam Speaker, these veterans wanted to be involved and it is only through the members who have been elected by the veterans and the electorates to bring their agenda

because you see, when these other counties from Kikuyu land were compensated, they were left out. I am not misleading the House---

POINT OF INFORMATION

Hon. Temporary Deputy Speaker: Okay, granted.

Majority Leader (Hon.Mwonga): Madam Speaker, I want to inform the Hon. Member, Veronica Mbithe that this is not the only House of representation; we have the Senate and in Machakos County we have the Senator who sits in the Senate. We also have the National Assembly; all these members have representatives in the National Assemblies where the matter can be well dealt with. So this is a national issue and one of the recommendations should have been, they be advised to talk to their Senators and members of the National Assembly because this is a matter of national importance. It is a national issue, Madam Speaker. Thank you.

Hon. Temporary Speaker: Hon.Nzeki.

Hon. Nzeki: Thank you Madam Speaker. I think members, especially our Majority Leader, is misleading the House. We Machakos County Assembly is just like the Senate of this Country and it is just like the National Assembly of this Country so if they petitioned the National Assembly then they went to the Senate, they can also come down to the County Assembly. It is only we who can go further and advice the Senate and the National Assembly.

So Madam Speaker,I do not see why we should not handle their case. Most of them are not present, most of them are dead; others are very old and they cannot even present their views to Senate as they are saying. It is only we who are representing them and we can talk on their behalf. So Madam Speaker, what I can say is that most of the recommendations which were put here---

(Loud consultations)

Hon. Nzeki: So Madam I Speaker just advise my friend Katela; he should not be talking as if he doesn't know where to move. He is a member like me, and he can even, he is just elected like any other member in this Assembly. So Madam Speaker, I am saying thatI can see there are some recommendations which have been left and I can add: the county Government should come up with a plan seeking for the recognition of these veterans by giving them, if it is in Machakos Town they are given lanes; you see one is written Kavulu, Elijah Kavulu Lane, who is my grandfather----yes. So, Madam Speaker, it is only that they came to the Assembly where they can reach. Theycan't go to the National Assembly and Senate. Thank you Madam Speaker.

Hon. Temporary Deputy Speaker: Can I direct Hon. Veronica to...just say something because you can see what the members are saying.

Hon. (Ms.) V. Mbithe: Thank you Madam Speaker. Reading the mood of the House, remember I was reading the report on behalf of the Chair, Culture and I do not want to be crucified on behalf of somebody. Madam Speaker, I wish to propose that I withdraw this report and give it time maybe in two weeks time, we present it again. Thank you Madam Speaker.

Hon. Temporary Deputy Speaker: Okay, point of order. Is it point of order?

POINT OF ORDER

Majority Leader (Hon. Mwonga): Madam Speaker, the report before the House is a property of this House. Is it in order for a mover of this motion to decide on whether to withdraw the motion or it is the duty of this Hon. House because immediately she tabled the motion and you declared that the motion is properly before the House, it became the property of the House? It does not belong to her but to come to her rescue, for she says that she is not the Chair, I want to propose that we defer this motion, we give members time so that they can go through the report and consult more on the same. Thank you, if I get a seconder, I think that will be the way to go. Thank you.

Hon. Temporary Deputy Speaker: Hon. Veronica.

Hon. (Ms.) V. Mbithe: I think Hon. Majority Leader is on my case because the same words he has spoken I have spoken; I proposed, I did not decide. Thank you Madam Speaker.

Hon. Temporary Deputy Speaker: I think it has been proposed and seconded that we defer. Okay can you contribute and second then, Hon. Muinde?

Hon. Muinde: Madam Chair, I think it is only fair that I just give my contributions without being directed to second because perhaps it was not my intention. Madam Chair, the motion is properly before the House but as I followed it, it clearly indicates that the petition was first presented in the National Assembly and when you look at page 4, the National Assembly's view was to have all the victims of Mau Mau compensated and that is the proper House that should discuss compensation for Mau Mau victims, not County Assemblies. The money that we get here as a County Government, is too little to compensate victims of Mau Mau.

Madam Speaker, on page 5, there is the Senate view on the same petition because this petition went to the two Houses of Parliament and in Senate, the objects of the petitions as I read and I quote *'the objects and the purposes of the Act are provide a framework for the recognition by Counties of persons who have made significant contributions to the County or to the Country'* and b) *'provide a framework for the preservation of the history, heritage and culture of the County and a basis for the education of members of the public on the history, heritage and*

culture of the County. Madam Speaker, when you look at the two objects, now that is under the Senate's view, that is now where as county assemblies we are coming in.

Therefore Madam Speaker, when you look at page 3 on the prayer of the petitioners, I want to agree with the seven prayers except number four which says '*to offer monetary and material compensation to all heroes and heroines of freedom struggles.*' That we cannot afford, but in terms of recognizing them, it is very important.

We have streets that are not named, we can name them after our local freedom heroes; we can have monuments, even local universities around we can pass a motion here, a separate motion, to have a certain course taught on the Mau Mau struggle but on petition number 6 that is prayer 6, '*land confiscated be returned or alternative land be compensated,*' Madam Chair, that can only be done by the National Government so I support this petition but with amendments that we expunge prayer number 4 and prayer number 6 because it is not feasible, it is not affordable, by this County Government. Thank you Madam Chair.

Hon. Temporary Deputy Speaker: Thank you so much. Hon. Veronica you have no seconder to defer the motion. Then---

Hon. (Ms.) V. Mbithe: Madam Speaker, I call upon the Majority Leader to second me.

Majority Leader (Hon. Mwonga): Madam Speaker, I do second.

Hon. Temporary Deputy Speaker: Okay. Those in support that the motion be deferred in oneness can you say 'ayes'

(Question put and agreed to)

Proceed.

Majority Leader (Hon. Mwonga): Madam Speaker, I am standing here on Standing Order number 227. Madam Speaker, aware that this Hon. House approved the annual calendar of business pursuant to Standing Order number 25 (1), and aware that second short recess for this year commences on 14th August 2015, Madam Speaker, pursuant to Standing Order number 25 (4), the Assembly may by resolution alter its calendar or the adjournment date.

Aware that the public participation exercise for the Machakos County Finance Bill, 2015 will be conducted tomorrow by the Department of Finance; further aware that there is need for members to be present during this noble task of engaging the public in legislation; aware that the third edition KICOSCA games are due in a week's time and there is need for the members to adequately practice for the games, Madam Speaker I wish to move the motion that this Hon. House adjourns today, the 5th day of August, 2015 to resume on 1st September, 2015. Thank you Madam Speaker. I call upon my deputy to second the adjournment.

Hon. Kasimu: I stand to second the motion that this Hon. House adjourns today the 5th day of August, 2015 and resumes on 1st September, 2015. Thank you Madam Speaker.

Hon. Temporary Speaker: Any contributions on the same? Hon. Alice.

Hon. (Ms.) Nzioka: Asante sana Bi. Spika kwa kunipa hii nafasi. Nimesimama kuunga mkono kwamba sisi kama bunge tuhairishe bunge kama vile ambavyo kiongozi wa walio wengi katika bunge letu amependekeza. Bi. Spika, sisi kama bunge tuna kazi ambayo iko mbele yetu na tunapaswa kuifanya hiyo kazi. Kesho kuna mswaada wa kuangalia juu ya fedha yetu vile ambavyo mwaka wa 2015/2016, tutaendesha mwongozo wa ukusanyaji wa kodi katika kaunti yetu.

Ni jambo muhimu sisi kama wabunge kuhudhuria na kuona kwamba wale amboa tumewakilisha hapa wameleta maoni yao na kufanya mambo yawe mazuri katika kaunti yetu. Pia Bi. Spika kama unavyojua, kuna michezo ambayo iko mbele yetu. Sisi kama wabunge wa kaunti ya Machakos tunataka kuonyesha ushujaa wetu na kazi nzuri ambayo tunapaswa kufanya. Kwa hivyo sisi kama bunge tukisikizana ili kupata pumziko, tutafanya kazi nzuri ambayo iko mbele yetu. Nimesimama kuunga mkono kwamba twende likizo kama vile ambavyo kiongozi wa walio wengi amependekeza. Asante Bi. Spika.

Hon. Temporary Deputy Speaker: In the absence of any other contributions, can I put the question that those in support of the motion.

(Question put and agreed to)

ADJOURNMENT

Hon. Temporary Deputy Speaker: Now the house adjourns till 1st September 2015.

The House rose at 3.25 p.m.