

MACHAKOS COUNTY ASSEMBLY**OFFICIAL REPORT****Thursday, 1st October, 2015**

The House met at 2.40p.m.

*[The Deputy Speaker (Mr. Nathaniel Nganga) in the Chair]***PRAYERS****Hon. Deputy Speaker:** Proceed Clerk.**COMMUNICATION FROM THE CHAIR
DE-WHIPPING OF MEMBERS**

Hon. Members, there is a communication from the Chair. We have received some communication from the majority whip, de-whipping the following members from the committee of Devolution: Jacqueline Nziva and Phoebe Mawa. Proceed.

PAPER LAID**MAU MAU WAR VETERANS REPORT**

Hon. (Ms.) V. Mbithe: Thank you Mr. Speaker, Sir; I am standing on behalf of the Chairman, Culture, Hon. Winston Kanui since he is unwell.

Mr. Speaker, pursuant to Standing Order 201 (2), I beg to lay the following paper on the floor of this House, today 1st October, 2015: report of culture and tourism committee on petition by Mau Mau war veterans. Thank you, Mr. Speaker.

(Hon. (Ms.) V. Mbithe laid the report on the Table)

NOTICE OF MOTION**MAU MAU WAR VETERANS REPORT**

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

Hon. Deputy Speaker: Proceed.

STATEMENT

BUSINESS COMING BEFORE THE HOUSE IN THE FOLLOWING WEEK

Majority Leader (Hon. Mwonga): Mr. Speaker, I stand under Standing Order 41 (2a) where during statement hour, a member of the House Business Committee designated by the committee for that purpose shall every Thursday or on the last sitting day for not more than ten minutes, present and lay on the table a statement informing the House of the business coming before the house in the following week.

Mr. Speaker, Sir, the House Business committee met today, 1st October, 2015, and balloted business for the following week as follows:-

- Tuesday, 6th October 2015- Continuation of debate on the report of Finance and Revenue collection on income and expenditure 2013/2014 financial year and also statement on the status of projects implementation in the county and preparedness for El-Nino rains.
- Wednesday (Morning) 7th October 2015- Machakos County Ward Development Fund Amendment Bill, 2015 second reading and Machakos County Designated Parking Places Bill, 2015 second reading reporting stage.
- Wednesday (Afternoon) 7th October 2015 - report of Liaison Committee on Committee Progress Reports.
- Thursday 8th October 2015 - report of Labour, Public Service and ICT Committee on CCTV installation and integration and also motion of adjournment for recess which will be tabled by the Leader of Majority, Joshua Mwonga.

Thank you, Mr. Speaker.

Hon. Deputy Speaker: Before we proceed, members we are privileged to have in our gallery pupils from St. Andrews Mwingi Primary School. Can we appreciate them with a round of applause?

(Applause)

We wish they become future leaders. Proceed

MOTION

MAU MAU WAR VETERANS REPORT

Hon. (Ms.) V. Mbithe: Thank you Mr. Speaker, Sir. Pursuant to Standing Order 201 (2), I wish to move the motion that this Hon. House discusses and approves the report of Culture and Tourism committee on the petition by Mau Mau war veterans. Thank you, Mr. Speaker.

Mr. Speaker, Sir, 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 their level of patriotism and sacrifice demands some degree of recognition by the County Government of Machakos; considering that there is a need for a framework for the recognition of persons who have made significant contribution to the contributions to the county and the country, Mr. 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 Mr. Speaker, Sir. I call upon Hon. Benedette Mueni to second the motion.

Hon. (Ms.) Mueni: Thank you Mr. Speaker, Sir. I stand to second the motion of the Mau Mau, asking the National government to check and see if they can pay the Mau Mau people. Thank you Mr. Speaker, Sir.

Hon. Deputy Speaker: Proceed.

Hon. (Ms.) V. Mbithe: I hereby read the report of the Committee of Tourism and Culture.

Public Petition by Machakos Mau Mau War Veterans

Preamble

Mr. Speaker, Sir, 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

Mr. 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, local tourism, culture, control of drugs and pornography and annual animal control and welfare, including licensing of dogs and facilities for the accommodation, care and burial of animals.

Background Information

Mr. Speaker, Sir, 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 (1) (a) and it was later scrutinized to verify its admissibility as per the provisions of Standing Order 194 (3). Mr. 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

Mr. Speaker, names, full address, National ID Numbers and signatures of sixteen petitioners who represented over 6000 Mau Mau War Veterans in Machakos County were received. You can see the annexed petition document.

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 the 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 to 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 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 (4) out of the sixteen petitioners suffered and participated in the freedom fight, that is Mau Mau. They include:

- a. Gitu wa Kahengeri who was born in 1929 and hails from Thika. He is the Secretary General of the movement.
 - 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 son, daughter or grandchild of a freedom fighter.

Committee's Recommendations As Per The Prayer Of The Petitioners

Mr. Speaker, the committee recommends the following:

1. In the Bill of Rights, Article 25 of the Constitution provides for freedom from torture and cruel, inhuman or degrading treatment or punishment, freedom from slavery and the right to fair trial. It is in view of the above that the committee, putting into consideration that this matter also affects citizens from other counties, the National Government is well placed to deal with monetary and material compensation such as land as requested by the petitioners.
2. The Constitution of Kenya in Article 11 (2a) provides for promotion of national and cultural expression through literature, hence the County Government should come up with a plan seeking for recognition of victims of the freedom struggle by registering them and documenting their stories.
3. During national holidays like *Madaraka* and *Jamhuri* days, it will be good to involve these victims because of the tough struggle and suffering witnessed by them. This will strengthen the spirit of patriotism as provided in Article 10 (2a) of the Constitution.
4. In Article 11(2a) also, matters dealing with promotion of all forms of national and cultural expressions through art works is provided for. The County Government should plan for collection of artifacts and erection of monuments to commemorate the armed freedom fighters. It is very important to preserve our national heritage.

However, the committee found it difficult and unpractical 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.

Mr. Speaker, the committee also declined to adhere to the fourth prayer of the petitioners regarding monetary and material compensation. This is based on the fact that this matter was not factored in the 2015/2016 financial year.

Mr. Speakers, in the sixth prayer, the petitioners are requesting to have land confiscated returned to them or be given alternative land compensation. The committee did not honour this request since land matters can best be addressed by the National Lands Board.

Mr. Speaker, Article 1(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.

Mr. Speaker, the committee also found it difficult to accommodate the fifth cry of the petitioners concerning setting up of a freedom university. This is based on the fact that university education is not devolved and therefore the request is beyond the mandate of Machakos County Government.

Conclusion

Mr. 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 Mr. Speaker, Sir.

Hon. Deputy Speaker: Thank you for the report as well laid. According to Standing Order No. 199 (2). It says that when the Order 'Petitions' is read, the speaker shall:-

- a) In case of a petition presented by a member, direct that the member present the petition to the Assembly or;
 - b) In case of a petition presented through the clerk, report the petition to the Assembly.
3. The Member reading the Petition shall read such Petition but shall confine himself or herself to the subject of the prayer, the material allegations therein and the number of signatures attached.
 4. A Member having presented such a petition shall without question put, lay the petition on the table of the Assembly.

Standing Order 200 states that the Speaker may allow comments, observations or clarifications in relation to a Petition presented or reported and such total time shall not exceed thirty minutes. With that regard and in guidance with that Order, then we will allow comments, observations or points of clarifications from members so I invite members for their submissions in those lines. Yes Hon. Kitheka.

Hon. Kitheka: Thank you Mr. Speaker. First and foremost, I wish to thank the people who came up with this Petition. Majority of the people who have petitioned this document come from my ward and I know them and I know majority of the people who have signed here. However, Mr. Speaker, it seems that in page 3 of the document, those who were in the real action were only three or five people amongst many who petitioned.

In the near future we would like to have majority of the petitioners being those who might have participated in the struggle for our independence not the people who are inheriting. In short, rewards are not inherited. We want to deal with the people who participated fully in the action. Secondly Mr. Speaker, there is something going on in the National government---

Hon. Deputy Speaker: Hon. Kitheka, just before you move on, you are saying that you would want to deal with those that participated in the real act?

Hon. Kitheka: I said my issue was the people who have signed the document. It seems majority are not said to have participated; those who have signed the document among the sixteen or more might not have even known what was happening. They were children, daughters and what have you. So in the near future, because those old people are there, we would like them to sign in person. That was my issue.

Hon. Deputy Speaker: But I believe it has been indicated that these people are deceased and that is why their sons participated in the exercise. Did you not go through that part?

Hon. Kitheka: That is why I have put a clause saying that rewards are not inherited in one way or another. So Mr. Speaker, the other issue is that in the National government, this one can be treated similarly in the whole government; we cannot treat it as Machakos only and I think there is something in place which is being dealt with in the national government pertaining the freedom fighters in Kenya. So I think that can be checked on how we can do it.

On the issue of number seven where they are arguing about putting it into the public scrutiny, the public debate is in this Assembly because we represent them and it is our work to represent them and if we take it out there, it will seem like we are not doing our job very well, we are taking the work back to them. So it is my request that we omit the issue of a public scrutiny because we are doing it in the Assembly. Thank you very much Mr. Speaker.

Hon. Deputy Speaker: Hon. Kalunde.

Hon. Kalunde: Mr. Speaker, Sir, it is true that we should try and consider what the Mau Mau people did for this country but this should not be taken as a county issue because the Mau Mau veterans have got a union which claimed what they did to the British government and they were paid. Most of them were paid Kshs. 300, 000 per person and still their national union is still

claiming for more from the British government and the Kenya government is helping them. So there is no reason why we should also be subjected to something which has already been taken by the National government. I would say and recommend that this issue should be forwarded to the National Assembly but not to Machakos County because it is for Kenya, not for Machakos County. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you. Hon. Muinde.

Hon. Muinde: Thank you Mr. Speaker. First I want to applaud the committee of culture for a job well done and Mr. Speaker, on the recommendations of this committee, in their wisdom they found it impossible for this Assembly to offer or to answer prayer number four all the way to prayer number seven; some of the requests made do not fall under our devolved functions.

The issue of land confiscated cannot be handled by this Assembly and by extension this government and prayer number five on establishing a university that is clearly not under our mandate. However Mr. Speaker, prayer number one, two and three are attainable where we first appreciate the war, the resistance that they waged against the colonial master and through an Act of this Assembly, we can recognize those wars and three, writing of the history.

Mr. Speaker, when you look at prayer number one to three, it is majorly about recognizing and appreciating the role that our ancestors played in liberating this country. Mr. Speaker, this can be done by naming some of our streets in Machakos town and other upcoming peri-urban areas after some of these well known freedom fighters; our playgrounds can also be named after them and during national celebrations, Mr. Speaker, we can have those existing being given time to say hello to wananchi and explain the kind of struggle they had to undergo to liberate us from the white colonial master.

However Mr. Speaker, issues of compensating the Mau Mau in monetary terms is clearly not feasible; it is clearly not within our mandate and we cannot even attain it. Mr. Speaker, this reminds me of the money that these Mau Mau veterans got from the British government a year ago. There was a story that went through the dailies in the country that one woman in Nyeri - an 83-year old lady - got some Kshs. 300,000 and above and she actually divorced because she had money. That is something that went round the dailies and the amounts that were given Mr. Speaker, it shows that the national government needs to do something but before they award this money, perhaps train them on cash management, Mr. Speaker, and you know this is something we as a county are not able to do.

So Mr. Speaker, as I continue to applaud this committee, I plead with them that they do more research; they break down into an *ad-hoc* committee and even involve the department of culture and tourism so that they can do more research and go down to the rural areas where they will be able to interview those existing or those still surviving freedom fighters so that they can

document for us and have a book of remembrance like the one we have in this chamber so that we can also be part of this struggle by ensuring that history is not forgotten. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Yes Hon. Nzoka.

Hon. Nzoka: Thank you Mr. Speaker, Sir. While still applauding this committee, they did well, they have explained well; as it has been said by my colleague Hon. Muinde, this is a national government issue. Even by last month, all Mau Mau in Kenya were at Uhuru Park on 12th. They have received some little money from Britain, but they are still pushing for more; their lawyers are Paul Muite who are pushing for that money and as I can see, one veteran here is my neighbor, that is Gitu Kahengeri.

They are talking of land here; he has tracts of land which he can even share to others. He has even leased about 1000 acres to Delmonte Kenya Limited. So when we are talking of this issue of Mau Mau, this is a national government issue. It cannot come to the counties because if it comes to Machakos County, it will now move to Makueni County, Kitui, Kirinyaga, and it will be something tedious.

They know they have their union, it is still going on well, they have received money and they are still looking for more money which is being pushed through the Kenyan government to the British government. So what I can say is comment number three on facilitating the writing of the history of freedom fighters, if you go to Kenya National Archives, you will get all the history there and on recognizing them we have Mulu gardens, we have Ngei road. That is the much we can do. So what I can say is the issue here is for the national government, not the county governments. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Alice.

Hon. (Ms.) Nzioka: Asante Bw. Spika kwa kunipa nafasi. Nimesimama kumshukuru aliyewasilisha ripoti ya Kamati ya Utalii na Utamaduni. Bw. Spika, mashujaa wa Mau Mau waliokoa nchi ya Kenya walipigana vita na ndiposa tuna uhuru ambao tunao. Walifanya kazi ambayo ni ya kukumbukwa, wengi wakauawa wakaacha jamii zao na wengi wamepata taabu mpaka sasa.

Bw. Spika tunashukuru na tunawapa heko. Bw. Spika hili jambo la mashujaa waliopigania uhuru wetu ni jambo limepelekwa katika serikali kuu. Bw. Spika, serikali ya Uingereza ilitoa fidia kwa mashujaa wa Mau Mau ambao walipigana vita. Sisi tunawapenda lakini jukumu la mashujaa wa Mau Mau iko juu yetu kidogo. Wahusika wa serikali kuu wameona kwamba mashujaa walifanya kazi nzuri na ndio maana wakawapeleka katika serikali ya Uingereza na wakafidiwa.

Bw. Spika katika siku kuu ambazo ni za kitaifa kama siku ya Jamhuri, siku ya Mashujaa, serikali ilifanya jambo muhimu kuwatambua na ndio maana tukawa na sikukuu ya mashujaa. Mimi nimekuwa nikihudhuria sikukuu ya mashujaa katika wadi ya Kithimani. Bw. Spika nimeona hao mashujaa wakati mwingi wanapatiwa kipao mbele waeleze vile waliokoa nchi yetu. Bw. Spika, sisi mashujaa tunawapenda zaidi na tuna watambua lakini vile ambavyo tulivyo sasa, ni jambo ambalo liko kwa serikali kuu.

Sisi hatuna pingamizi kama bunge tukipitisha vichochoro ama manjia Fulani madogo madogo katika kaunti yetu yaitwe na majina ya waliopigania uhuru ili kuwatambua kama mashujaa.

Tunaishukuru kamati ya Utalii na Utamaduni kwa kazi nzuri ambayo ilifanya. Kwa hivyo Bw. Spika ni jambo tungependa kufanya mengi lakini limepita uwezo wetu, kwa hivyo tutaendelea kuona kwamba serikali kuu imetoa fidia kwa wale ambao wamebaki na pia kuwatambua. Ukienda Nairobi utapata kuna sehemu moja imewekwa kwa ajili ya shujaa mmoja ambaye alipigania uhuru. Pia sisi kama Kaunti tunakumbuka waliofanya hiyo kazi.

Bw. Spika, kwa mfano waliopigania uhuru, wengi ukiwaona ni watoto ambao wamechukua jukumu kwamba wanataka wafidiwe. Imekuwa shida na hata kama Kaunti tungesema tuwafidie, kwetu ingekuwa vigumu maana wahusika hawako. Kumeingia ufiisadi ndani; wengi walitaka kulipwa na wengi wakapita mbele kuchukua hizo pesa, na wengi hawakuwa mashujaa.

Kwa hivyo Bw. Spika, natoa ushauri wetu kama bunge, kwamba bunge kuu, bunge la Seneti, wahusike na waendeleo na kuwajali mashujaa wa uhuru. Asante.

Hon. Deputy Speaker: Thank you Hon. Members for your observations over this and going by Standing Order 201 (3), I order that now the Clerk forwards responses to the petitioners over the decision of the House. Proceed.... Yes, what is your point of order, Hon. Kitheka?

POINT OF ORDER

Hon. Kitheka: Mr. Speaker, I wish to notify you that you are chairing an empty house. No quorum.

Hon. Deputy Speaker: Is it empty or there is no quorum because the House is full.

Hon. Kitheka: No quorum, Mr. Speaker.

Hon. Deputy Speaker: Clerk, confirm whether we have quorum. On the aspect of the motion before the House, is the member, Hon. Kyalo Kyuli, present to refresh the House in regard to that motion? Hon. Members, the motion is for the final time deferred to next week

Tuesday after which the motion will be thrown out of the House if the member will not be able to make sure that the matter is exhausted. So next week Tuesday afternoon, the motion should be the first one to be dealt with, otherwise if the member will not be present to push for the motion then it will stand thrown out of the House.

ADJOURNMENT

Hon. Deputy Speaker: The House adjourns and good afternoon.

The House rose at 3.28 p.m.