

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF MACHAKOS

OFFICIAL REPORT

Wednesday, 22nd December, 2021

The House met at 10.38 a.m.

[The Deputy Speaker (Hon. Museku) in the Chair]

PRAYERS

(Quorum Bell rung)

COMMUNICATION FROM THE CHAIR

MACHAKOS COUNTY CLIMATE CHANGE (AMENDMENT) BILL, 2021

Hon. Deputy Speaker: There is one communication regarding the Machakos County Climate Change (Amendment) Bill, 2021. The office of the Speaker is in receipt of a letter from the Chairperson Environment, Lands, Energy and Natural Resources Committee, Hon. Robert Kisini, dated 21st December, 2021 on the Machakos County Climate Change (Amendment) Bill, 2021.

In the said letter, it notes that the Bill has been scheduled for second reading, committee of the whole House and third reading today, 22nd December, 2021. The Committee felt that there is need to add more information to the already filed report and requested to be given time to finalize on the proposed amendments which had been made on the floor of the House. The letter was tabled in the House Business Committee today and was approved by the HBC.

The Environment, Lands, Energy and Natural Resources Committee, is hereby directed to ensure that this matter be finalized and the second reading, committee of the whole House of that Bill be tabled on 25th January, 2022 when the House resumes as the first business of the day. Further, the committee is directed to have a meeting immediately after this morning session to draw a work-plan on how they are going to execute this noble task.

It is important to note that the Bill is an important Bill for this County and the changes and recommendations which had been made by the Hon. Members, must be carried forward and all inclusivity must be seen to be done even as you look at the further changes which are being made.

So my urge will be that you look at incremental not decremental in to the amendments and not adjustments into the already existing proposals made by the committee. Thank you, Hon. Members.

STATEMENT
BUSINESS FOR THE HOUSE FOR 22ND DECEMBER, 2021

Hon. Deputy Speaker: Hon. Members, we have one business to be transacted by Hon. Kamitu, the Minority Leader.

Hon. Kamitu: Thank you very much, Hon. Speaker. Hon. Speaker, the House Business Committee met today, Wednesday, 22nd December, 2021 to prioritize business for the House pursuant to the provisions of the Standing Order 151(5). The Committee balloted business as follows:

Wednesday, 22nd December, 2021

Morning at 10.00 a.m.

Report of Justice and Legal Affairs Committee on Petition by the Former Machakos Cooperative Union Workers by Hon. Moffat Maitha, Chairperson, Justice and Legal Affairs; Continuation debate interrupted on Tuesday, 21st December, 2021 at 2.30 p.m.

Afternoon at 2.30 p.m.

- Petition by Machakos Level V Hospital Cleaners on non-payment of their salaries by Diana King Investments, the firm contracted to undertake cleaning services. To be reported by Hon. Speaker.
- Statement by Hon. Moses Mitaa on utilization of health funds in FY 2021/2022.
- Motion on Adjournment for long recess pursuant to the Assembly Calendar, approved on 10th March, 2021 and amended on 26th May, 2021, 8th December, 2021 and 15th December, 2021 to go on recess from 22nd December, 2021 up to 24th January, 2022 by Hon. Mark Muendo, Majority Leader.

Thank you, Hon. Speaker

Hon. Deputy Speaker: Thank you, Hon. Kamitu.

MOTION
REPORT ON PUBLIC PETITION BY THE FORMER
MACHAKOS DISTRICT COOPERATIVE UNION (BANKING SECTION)
(*Hon. Maitha on 21.12.2021 Morning sitting*)
(*Resumption of debate interrupted on 21.12.2021 Morning sitting*)

Hon. Deputy Speaker: Hon. Members, we have one business which is to be transacted by Hon. Moffat Maitha; he moved the motion yesterday and he will go ahead and read the report of the Committee and from there we will continue with the debate.

Hon. Maitha: Thank you, Hon. Speaker. Report of Justice and Legal Affairs Committee on public Petition by the former Machakos District Cooperative Union (Banking Section) regarding their terminal benefits. Hon. Speaker, I seek your guidance to continue with the most relevant sections. Thank you, Hon. Speaker,

Committee Membership

The Membership of the committee of composed of the following:

1. Hon. Moffat Maitha- Chairperson
2. Hon. Jane Nyawira- was the Vice chairperson
3. Hon. Eric Musembi- Member
4. Hon. Alice Nzioka
5. Hon. Dominic Ndambuki
6. Hon. Francis Kalumu
7. Hon.. Abdirahman Ali
8. Hon. Margaret Mwikali
9. Hon. Robert Kisini
10. Hon. Jacqueline Nziva
11. Hon. Stephen Mwanthi
12. Hon. Jacinta Luka
13. Hon. Angela Munyasya

Committee secretariat

1. Sarah Mwanja - Clerk Assistant
2. Mercy Ndambuki - Clerk Assistant
3. Mwikali Mwaniki - Hansard Reporter

Prayers to the Assembly

In their prayers, the Petitioners requested the Assembly to ensure that:

1. All former banking union staff workers---

Hon. Deputy Speaker: I think it is important to read the background because it is a Petition so that we can be able to capture a bit the history, then a summary of the issues then from there you continue.

Hon. Maitha: Thank you, Hon. Speaker.

Background to the inquiry

The mandate of the County Assembly to consider any Petition from members of the public is vested in Article 119 of the Constitution as read together with Section 15(1) of the County Governments Act which provides that, "a person has a right to Petition the County Assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation."

The Petition by former employees of Machakos District Co-operative Union (Banking Section) was tabled before this Hon. House as per the Standing Order 194 and it was referred to the Sectoral Committee on Justice and Legal Affairs pursuant to the Standing Order 201 of the Machakos County Assembly Standing Orders.

The Petition was related to the terminal benefits which were not paid to the former employees of Machakos District Co-operative Union (Banking Section) after being sent on compulsory leave on 22nd January, 1993.

Summary of issues raised in the Petition

A summary of issues raised by the Petitioners in regards to the matters of their terminal benefits are:

- Why they were sent on leave without notice on 22nd January, 1993 to date without any specified duration on when they would remain on leave.
- Why the employer promised them to either reinstate them back or pay their terminal benefits after getting funds a situation which never happened.
- Why staff from other sections like transport, import and export and stores were retained to benefit from the organization and yet the sections borrowed funds from the banking section which led to its collapse.
- Why other sections staff were fully compensated when going for their retirement unlike the staff from the banking section.
- Why the General Manager despite receiving funds from the Central Government to pay the Union Banking staff members declined to do so.
- Why the General Manager and his Management sold quite a lot of assets belonging to the union Banking Section promising to pay the staff and channeled the funds somewhere else.
- That no lump sum amount was given to staff as from 1993 to date since the organization had no funds.

Prayers to the Assembly

In their prayers, the Petitioners requested the Assembly to ensure that:

- All former banking union staff workers sent on leave on 22nd January, 1993 are fully paid their dues;
- Compensation for wrongful dismissal and discrimination by the employer, Machakos Co-operative Union Ltd.
- Payment of salaries accrued as from 1993 to 2017 since the letter given to proceed on leave still stands and puts the staff technically on leave until the staff are paid their dues and sign the delivery book as a proof of payment.
- Proper procedures are followed when suspending staff members.
- Payment of pension provident funds to the staff sent on leave without a notice.
- Retirement benefits be also paid to the Petitioners.

Acknowledgement

I wish to thank the Justice and Legal Affairs Committee Members for dedicating their time and energy to scrutinize the Petition and in preparation of this report. The Committee is equally grateful to the office of the Speaker and the Clerk of County Assembly for the support accorded as it discharged its mandate. Finally, I would like to thank the Petitioners and other key parties for finding time to attend to committee meeting to clarify issues stated in the Petition.

Hon. Deputy Speaker: You can go to No. 4 invitation of witnesses.

Hon. Maitha: Hon. Chair, I wanted to talk about committee hearings and evidence taken.

Hon. Deputy Speaker: Go ahead.

Hon. Maitha:

COMMITTEE HEARINGS AND EVIDENCE TAKING EXERCISE

Hon. Speaker, the hearing of the witnesses was conducted in compliance with the provisions of Section 4(4)(a) of the Fair Administrative Action Act, 2015. The witnesses testified as follows:

The Petitioners indicated as follows:

1. That the Machakos District Co-operative Union was formed in 1972 by Coffee, Macadamia, Cotton and Dairy farmers of the greater Machakos District by then. The Co-operative union formed a Banking Section which had five branches in Machakos, Tala, Makunei and Kikima, Mbooni.
2. That the banking section faced financial crisis and the workers were requested to proceed on annual leave as from 22nd January, 1993 with a promise to be recalled once the banking section stabilizes financially.

I cannot read that date.

Hon. Deputy Speaker: I think the page I am having page 8, you have read that is No. 2, No. 3 that I have reads that that on 18th July, 2012 representatives of employees.....is that what is there Hon. Maitha?

Hon. Maitha: Newspaper cuttings from county newspapers dated 31st December---

Hon. Deputy Speaker: Page?

Hon. Maitha: 12 on state releases Ksh. 75 billion---

Hon. Deputy Speaker: Just a minute. I think where he is continuing, he finished this No. 7 of 14; it should be No. 3. There is a No. 3 somewhere; can you check?

Hon. Maitha: The No. 3 is talking about a statement from newspaper cuttings which said that Ksh. 75 billion.

Hon. Deputy Speaker: Just a minute Hon. Moffat there is something I am looking at. No. 1 on submission by the Petitioners, that the banking section faced financial crisis and the workers were asked to proceed on annual leave as from 22nd January, 1993 with a promise to be recalled once the banking section stabilized financially. Then there are No. 3 that on that on 18th July, 2012, representatives of the employees met the General Manager; there is that information that I have on my report which you do not seem to have on your report. Could you...just a minute we finalize with the Table Clerks.

Hon. Maitha: There is a date...what date is December there?

Hon. Deputy Speaker: Just a minute Hon. Member. I think you are missing one page which---

Hon. Maitha: Page what? Page 8.

Hon. Deputy Speaker: You are missing page 8.

Hon. Maitha: I do not have page 8. Can I get page eight please?

Hon. Deputy Speaker: Continue with this one then when you reach there you give it back to me. From number three at the top.

3. That on 18th July, 2012, representatives of the employees met the General Manager of the Co-operative Union together with the human rights representative to deliberate on the issues relating to their terminal benefits but instead, he referred them to the Union's lawyer Mr. Orina whose efforts were turned down.
4. That the Petitioners approached experts in 2013 to help them calculate their dues dating back to 1993 and the amount realized was Ksh. 88 million. They further engaged Mr. George Mutuku to help them meet the management on issues relating to their compensation.
5. That between 1993 and 2011, the union disposed key assets worth Ksh. 640,300,000 in an attempt to settle the union debts and all staff dues. Some of the key assets included; a piece of land in Machakos town where the new Naivas Supermarket is located.

Hon. Deputy Speaker: Just a minute Hon. Member. Hon. Members, you can access it on the wall? That report is posted on the wall. You can follow it there. Go ahead Hon. Member.

Hon. Maitha: A go-down in Machakos industrial area, Msafiri maize mill in Athi River, plots in Kangundo, Tala and Kikima.

6. That in 2013, the National Government through National Debt Waiver Programme funded cooperatives to clear debts owed to coffee farmers. The Petitioners were optimistic that part of the funds advanced to the cooperative union would be used to clear their dues.
7. That in 2014, they presented the Petition to Machakos County Assembly through the Labour Committee which compelled the Union to pay them. The same has never been done.
8. That in 2019, the same matter was presented at Makueni County Assembly through the Sectoral Committee on Trade, Industry, Tourism and Cooperatives, but the Union failed to paid out their dues.

3.2.2 Documents presented by the Petitioners

The Petitioners presented the following documents in Support of their Petition

1. Newspaper cutting for 4th October, 2017 on "Ruling offers relief to farmers in savings row."

2. Newspaper cutting from the Counties newspaper dated 31st December, 2012 on “State releases Ksh. 75 billion to offset coffee farmers’ dues.
3. A copy of a letter dated 7th November, 2016 from the Commissioner for Co-operatives, Mr. P. M. Gichuki requesting for coffee debt waiver disbursement information.
4. A copy of a letter from the Permanent Secretary/Treasury Mr. Joseph K. Kinyua dated 3rd February, 2011 to the Permanent Secretary, Ministry of Cooperative Development and Marketing on “Waiver of coffee debts owed to rural savings and credit cooperatives (Saccos) by coffee farmers.
5. A copy of a letter dated 17th July, 2012 by Pioneer Paralegal Network (PIPANE) to the Manager, Machakos District Cooperative Union Ltd on “Presentation of claims from illegally suspended staff.”

3.3 Submissions by Machakos Co-operative Union

A representative from Machakos Co-operative Union Ms. Elizabeth Nzilani Peter, HR and Administration Manager appeared before the Committee on 5th July, 2021 at 3.00 p.m. and submitted as follows in regards to the Petition.

1. That the Union Banking Section was closed in 1993 due to financial constraints and the employees sent on leave on 22nd January, 1993.
2. That the employees were given termination letters to leave service with effect from 7th April, 1993.
3. That as per the union terms of service, the employees were to be paid one month’s salary in lieu of notice. The employee’s terminal benefits were computed. The benefits included leave allowances, provident funds and house allowances.
4. That the employees were paid through the Ministry of Labour, Machakos Office. The payments were done in installments. Copies of payment schedule amounting to Ksh. 2.3 million was availed for perusal.
5. That the union was included in a debt relief to coffee farmers for outstanding loan amounting to Ksh. 176,250,584. The amount did not include compensation to the union banking staff.
6. That the matter before the Committee was previously ruled in favor of Machakos Co-operative Union by the Machakos and Makueni County Assemblies in a sitting held on 2nd November, 2015 and 9th April, 2019 respectively with the same verdict that stated that “the former Union Banking workers had been duly paid their terminal dues and no further compensation was expected.”

3.1 Documents presented by the Machakos Cooperative Union

1. Copies of monies paid through the Labour Office.
2. Copies of payment tabulations.
3. Copies of Appointment and termination letters for some of the former banking union workers.
4. Copies of terminal benefits.
5. Probationary appointment letters.
6. Leave letters.
7. Copies of certificate of service.

8. Resignation letters for those who had earlier resigned.
9. Payment Vouchers for some members.
10. A copy of an affidavit for one member.
11. Copies of salary review and scaling.

3.1.2 Verification of Documents presented by the Machakos Cooperative Union in regards to the payment of the Petitioners

a) Paul Kimeu Kyunguti

The Petitioner was dismissed by the institution vide a letter Ref MCU/PF: 616 dated July 24, 1991. The Petitioner was dismissed on grounds of misappropriating of funds amounting to Ksh. 63,200. By the time of his dismissal, Mr. Kimeu had an outstanding amount of Ksh. 6,908.85 which was fully paid on 23rd December, 1994 through sheet No. 1

Committee Findings

The Petitioner was fully paid his dues.

b) Winfred Mbeke Mutisya

The Petitioner resigned for further studies vide a letter dated 23rd February, 1987. The letter stated that "I would like to terminate my service as a Savings Clerk as from 1st April, 1987. The reason being that, I would like to go for further studies as from 1st May, 1987. Having been with the organization since 1985 and I have appreciated its kindness. Thank you." By the time the Petitioner was leaving the organization, she had arrears of Ksh. 2,089.40, which were paid vide a voucher No. 02697. This was evidenced through the signature which the Petitioner appended in the above stated voucher.

Committee Findings

The Petitioner was fully paid her dues.

c) Gregory Muinde

The Petitioner's employment was terminated vide a letter dated 7th April, 1993 and by that time, he had arrears of Ksh. 19,825.50 where the first payment of Ksh. 13,021.05 was made on 23rd December, 1994 according to Sheet No. 1 and the second and final payment of Ksh. 6,804.45 was made on 19th December, 1995 through sheet No.2.

Committee Findings

The Petitioner was fully paid his dues.

d) Joseph Musango

Mr. Musango was terminated on 7th April, 1993 and by the time he was terminated, he had arrears of Ksh. 6,955.80 which was paid on 23rd December, 1994 through Sheet No. 1

Committee Findings

The Petitioner was fully paid his dues.

e) Bernard Mutuku

The Petitioner received his termination letter on 7th April, 1993 and by the time he was terminated; he had arrears of Ksh. 9,309.15 which was paid on 23rd December, 1994 through Sheet No. 1)

Committee Findings

The Petitioner was fully paid his dues

f) *Jane Kimongo*

The Petitioner was terminated on the 7th April, 1993 and by the time she was terminated; she had arrears of Ksh. 12,107.00 which was paid on the 23rd December, 1994 through sheet No. 1.

Committee Findings

The Petitioner was fully paid her dues

g) *Reuben Mutisya*

The Petitioner was terminated on 7th April, 1993 and by the time he was terminated, he had arrears of Ksh. 5,306.15 which was paid on 23rd December, 1994 via a voucher dated 18th December, 1994. This was evidenced through the signature which the Petitioner appended in the above stated voucher.

Committee Findings

The Petitioner was fully paid his dues

4.0 COMMITTEE OBSERVATIONS

Hon. Speaker, in respect to the above grievances, prayers and findings, the Committee on Justice and Legal Affairs made the following general observations:

1. On the allegation by the Petitioners that Machakos Co-operative Union contravened employment Act vide letter dated 19th January, 1993 which directed them to proceed on annual leave from 22nd January, 1993 without termination letters, upon perusal of the personal files availed, the Committee found out that the Petitioners were issued with letters terminating their service with effect from 7th April, 1993 in line with provisions of Section 35 of the Employment Act, 2007 which sets out the procedure for notice of termination in employment.

This includes issuance of termination letters to the employees clearly highlighting the reason for the termination as well as the certificates of service which were issued to various employees on various dates as required under Section 51 of the Employment Act, 2007.

2. On the allegation that the Petitioners still consider themselves employees of the union to date, and demand accrued salaries, their terminal dues as well as compensation for wrongful dismissal, the Committee noted that the terminal benefits for the employees were tabulated taking into account the notice pursuant to Section 35 of the employment Act, 2007 that requires the payments to be made in lieu of notice. Under the terminal dues, Members reviewed Petitioners files and found out that the staff members were paid their final dues.

3. On the allegation that the Cooperative Union was financed by the government through World Bank initiative to offset coffee farmers dues among other key areas, the Committee noted that the Cooperative union was a beneficiary of the debt relief to coffee farmers for outstanding loans amounting to Ksh. 176,250,584 from the Ministry of Industry, Trade and Cooperatives. The newspaper excerpts presented by the Petitioners did not state that the money would be used to revive the union banking section.

5.0 Committee Recommendations

On the basis of the findings and other evidence adduced from documentary analysis, this committee recommends that this Hon. House discuss and resolve that the employees of Machakos Cooperative Union (Banking Section) were dully paid their terminal dues.

6.0 Affirmation and Approval

Hon. Speaker, it is therefore my pleasant duty and privilege, on behalf of the sectoral Committee on Justice and Legal Affairs to table this report on Petition by former Machakos District Co-operative Union (banking section) in this Hon. House for consideration and approval. Thank you, Hon. Speaker.

(Applause)

Hon. Deputy Speaker: Thank you, very much Hon. Moffat Maitha chairperson for that report you have read.

(Question proposed)

Hon. Judas Ndawa.

Hon. Ndawa: Thank you, Mr. Speaker. I will start by congratulating the committee and our most able Chair, Moffat Maitha for coming up with this elaborate and self-explanatory report. Mr. Speaker, Since we came to this House, we have handled so many Petitions and out of the Petitions that we have handled, the one before the House, the committee has done marvelous because it is not going to consume a lot of time for this Hon. House. Mr. Speaker from what we have read, the issues emanating from 1993 up to date even when we go to court way, there are specified times that you are supposed to lodge your claim. If a claim is over six years you may not be able to institute that matter before any court of law.

Calculating from date today, 2021 going back to 1993, that means there are so many years in between; why were these people quiet? Mr. Speaker, from the report we are getting this Petitioners are not good people; these are people who are trying to con; they want to get money from where they are not supposed to get. If you are given a suspension, it is supposed to be specified either one month or six month suspension and from the report we are getting that these people were paid one month in lieu of the notice.

So, when it comes to the issue of law of contract, the employer is not in breach of contract because engagement contract says if the employee want to leave service is supposed to give notice and if the employer want to terminate the contract he or she is also obliged to give notice and incase he is not ready to give notice, he pays one month notice in lieu of notice and

that is confirmed by the report which is before the House. So Mr. Speaker, I want to agree with the report and say that these people were fully paid and they are not supposed to continue spending time for this Hon.. House because we have other urgent matters that the House is supposed to be handling.

Mr. Speaker we have now seven months to go to the electorates and when we are campaigning there, we will never tell electorates that we handled a matter of 1993 that is not going to add us any point to the electorates. So Mr. Speaker, I am saying the House should not allow any person or any group of people to misuse the House so that they can have money which they have not worked for. So Mr. Speaker, I hundred percent agree with the report and support it a hundred percent. Thank you, Sir.

(Applause)

Hon. Deputy Speaker: Thank you, Hon. Moses Mitaa.

Hon. Mitaa: Thank you, Hon. Speaker. I also want to join my colleague in thanking the committee justice and legal affairs led by Hon.. Moffat Maitha. Hon. Speaker, I also want to agree with the committee recommendations even though if I can state something outside, I would like to remind my senior colleague Hon. Ndawa that we are at work, we are paid to work and we have to handle matters up to the end. So the Petitioners thought they would get relief from this Hon. House and it is good even when we are making judgement we make fair judgement. We don't need to curse them; they have not wasted my time personally because I am earning and I came here to work for the electorates of Machakos.

Hon. Speaker, the committee has gone into depth and I am happy that they called the HR department which I think it is in charge of matters relating to employees and from what I have read, documents were provided and I believe also the committee invited the Petitioners maybe to go through together the documents which were provided by the cooperative union. For the committee to come up with such a recommendation, I believe they gave both sides fair hearing so I have faith on the findings of this committee.

However, Mr. Speaker, there is a request which maybe I would want you give a guidance because matters related to cooperatives fall under agriculture and I have seen that there are some monies which were received and the committee observations No. 3; on the allegations that the cooperative union was financed by the government through World Bank initiative to offset coffee farmers dues among other key areas.

Hon. Speaker the amount stated here is a lot; Ksh. 176, 250,584. Hon. Speaker maybe you can make a ruling maybe to the department of agriculture to the committee of agriculture which I believe we need now to scrutinize how this money was spent. I have a feeling that we need to go back to that amount and maybe investigate how these funds were spent because now we can confirm some funds were received by the union. So, Hon. Speaker, I want to thank the committee once more and I am approving the report as it is. Thank you, Hon. Speaker.

Hon. Deputy Speaker: Thank you. Hon. Kieti.

Hon. Kieti: Thank you, Hon. Speaker, for giving me this chance. Hon. Speaker, I want to concur with the committee on the findings that they came up with and thank the chairman for the work that they did. In fact, as Hon. Ndawa has stated, the committee went far ahead to exhaust

all happenings and to extract any information that could have assisted to help them arrive at an area where they could assist these Petitioners. But it is unfortunate that these Petitioners never knew that all documents were in place and I want to thank the committee for extracting these documents which have acted as evidence that these members are owed anything by the cooperative union.

Hon. Speaker, I had a lot of interest in this because I come from a coffee-growing area where most of my farmers lost a lot of money in that bank and I thought one of the prayers was to know whether the farmers who had banked with the bank also received their savings from that Cooperative bank. So, that was my interest but according to the evidence that is provided by the chair Hon. Moffat Maitha with his Members, it is very clear that these Petitioners got their dues and we should not waste a lot of time looking for any more information because the documents that has been provided have a lot of evidence. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Thomas Mutinda.

Hon. Mutinda: Thank you, Mr. Speaker. First I start by thanking the Chair and the committee for the good job done and Mr. Speaker, say that is good that they finalized this big task remembering that it is a task for 1993 and all those old days. Mr. Speaker, mine is just to say that we have heard the report and that I am supporting the report and I think the report of the justice and legal affairs committee, if I have heard it well, I have not heard references to statutes and legal backgrounds and it is important that in future such backgrounds are taken care of so that we also match with the view and what is in the law. So, there is employment where you find the terms of service are varying, so those are some of the areas which should have been matched to see whether justice was done to these employees.

The other thing, Mr. Speaker is the issue of the service we are doing here. We are here as the Assembly of today and we should be able to serve ant service to anybody, all the way even in the 1960s even when you were not born. So, I think it is also my view that it should not be taken as the view of this House that we cannot serve any service which was not in our time; it will reflect us in the wrong way in the eyes of the public who have sent us here. We should be able to serve and just Mr. Speaker just to mention, recently when the Mau Mau had a Petition in Britain and justice was served to those people and those were issues of 1940s and 1950s. So we are a House which should serve all the time.

So, Mr. Speaker I support and also say that much as the employees lost as they claim, I remember that time there were issues of the farmers. So I would wish your guidance is also put that the funds which are aimed at paying the farmers as at those times is also followed to ensure that also the farmers get justice because these it was a banking sector to ensure that they pay farmers their dues and ensure that everything is going well.

So if the committee has found it that they have been served justice, then also the farmers should get justice in getting their pay for those times whichever way it is done, Mr. Speaker we want your guidance and indulgence on this matter so that everybody gets his fair share of his energy. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Alex Kamitu.

Hon. Kamitu: Thank you, Hon. Speaker. I would also like to air my sentiments that the committee for legal have done their job and it is on this regard Hon. Speaker that I happen to be

in the First Assembly and this matter was also brought and was not brought to the legal committee, it was brought to labor committee and we went through this Petition, we also raised the evidence as required as an Assembly and as you can see on page 10 Hon. Speaker, that the matter before the committee was previously ruled in favor of Machakos Cooperative Union by the Machakos and Makueni County Assemblies in a sitting held in 2nd November, 2015 and 9th April, 2019, respectively with the same verdict that stated that the former union banking workers were dully paid their terminal dues and no further compensation was expected.

Hon. Speaker, also in this report, it is very clear and Hon. Speaker in evidence there are about three issues that even in a ruling that are supposed to be considered. Firstly, there is normally hearsay evidence which is not permissible in court. Now in this regard, Hon. Speaker, the committee has brought documentary evidence that were brought in this Assembly and to this committee by the managers of the Machakos cooperative union. So on that regard, documentary evidence was brought to this committee indicating dates that these banking employees were paid, and then what else do we need?

Further to what I have said, the First Assembly of Machakos and Makueni arrived on the same verdict; Hon. Speaker, I would think that we are not wasting time and as Hon. Members have said, it is work to listen to a Petition an exactly this committee took time to listen to the Petitioners, they took time for them to get documents by the managers who were the bosses of these banking employees. So, on that regard, Hon. Speaker, this is a self-explanatory verdict that these employees were paid and my feeling is that maybe there was a communication breakdown maybe from the Assembly and the former banking union managers; maybe they never wrote a letter.

So I was asking, if the same verdict of this Assembly was arrived at, letters would have been written to those Petitioners showing them that on this date, and especially like now our First Assembly, they sat down and had a verdict on 2nd November, 2015. So, I am only requesting through a guidance Hon. Speaker, if our secretariat maybe should join hands in the first verdict and this one write to those Petitioners showing them exactly what the two Assemblies of Makueni and Machakos did and also if there is anything because in law an Assembly as the same powers as like of a High Court if there is anything they want to appeal, maybe they go to Court of Appeal because looking at it in the legal terms, our Assemblies did the right thing, our committees did the right thing and Makueni.

So, likewise it is as good as I said that we have heard those Petitioners but I would request if there could be a documentary letter from our secretariat telling those Petitioners that we did ABCD so that they may understand that a ruling was done and there are documents indicating that they were fully paid. Otherwise, thank you very much Hon. Speaker.

Hon. Deputy Speaker: Thank you. Hon. Geoffrey.

Hon. Kamulu: Thank you, Hon. Speaker. Hon. Speaker, just like the other Hon. Members, I would also like to congratulate the committee of legal and justice affairs for the work which they have done particularly on fairness as far as that institution is concerned and also the Petitioners; they were not biased. Hon. Speaker, my concern is on our senior citizens who were farmers by then. Hon. Speaker, the amount which was stated from the World Bank which was supposed to pay the farmers who were members of that bank, I recall very well that those people were not compensated fully.

I remember my father was a member and I would also like to cite the Speaker who was also the Chair in Kasinga cooperative factory and I do not know whether that matter came across. So, Hon. Speaker, are you aware that after that payment, later the farmers were told to bring back the books to the cooperative people and probably get some money; that could have been a cartel that once you bring the book you get something little maybe your monies might have been withdrawn by other people and if the books were sent back then the farmers of that time do not have a basis of claiming that money.

So, Hon. Speaker, my appeal is the appeal which actually was said by the Chair Agriculture Hon. Mitaa, I would also request that we have a Statement related to that money of that time so that the committee can also investigate and see if possible those farmers of that time can also benefit. Hon. Chair, we do not know why we are existing and we are Hon. Members today; may be God wanted to use us and the Second Assembly who are there so that we can stand for those senior citizens. Most of them are deceased, most of them are very much aged, and most of them cannot remember whether there is any money which was given to that cooperative in terms of Ksh. 100 million and that was a lot of money. So Hon. Speaker I think that is something which should not be left unattended. Thank you, Hon. Speaker.

Hon. Deputy Speaker: Thank you. Hon. Mueni.

Hon. (Ms.) Mueni: Thank you, Hon. Speaker. I want to second the words of *Mheshimiwa* Kamulu because there are people who do not know what they have in the.....people are suffering who had shares there, they have not been paid. Our committee has done its work and I think you are hearing *Mheshimiwa* Minority Leader saying that this report came here last regime and that is very true and because *Mheshimiwa* for Agriculture is here, I request him to go back to the people and have them know those who are having money to those places.

I know you might say that we are dealing with the workers who are there but also because we are here because of our people, and our time is there, we can also even go to the places where we have those factories and know. That is why we were saying we need people who are educated who can be the managers to manage the places and have the reports being kept. If you are employed there you know when you are employed you do not come to tell us you want to leave and you are leaving because you have eaten the money of the people.

That is very important, we have to be careful and work for our people that is why we are here and they are looking for us. When you see them coming here they are coming here because they have not got the help from the Court and this is their Court so Mr. Speaker you talk to our Chair here and he is there for Agriculture and he can have all the lists for the Agriculture and the *nini*, and you can help them. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you. Hon. Musyimi.

Hon. Musyimi: Thank you, Hon. Speaker. Mr. Speaker, I stand to support the report from the Committee on Justice and Legal Affairs. Mr. Speaker, the members of the committee did a good report actually they scrutinized very well and they came out with a nice report but I

have a question on it whether they had the capacity to clarify the authenticity of the vouchers because in the cooperatives, there is an history of doing things in a way which I can say is fake or whether the cartels in cooperatives they have not been good to people mostly I could say more to farmers.

I could say actually there is a report also which has been given in the same report which has said the Cooperatives were given Ksh. 100 million to pay or to compensate farmers. Farmers lost their money during that time the Cooperative office or Cooperative Bank was operating. I am from Kangundo which is a coffee-growing zone and I know farmers lost, my parents being one of them, actually they lost a lot of money and---

Hon. Deputy Speaker: Yes Hon. Kamitu, you want to say something? Go ahead

Hon. Kamitu: Thank you, Hon. Speaker. It is not a point of order as I said it is just a point of information, just telling my brother Hon. Nzomo that as per the statement that was being made by Hon. Mitaa the chair Agriculture, the case in question we are not really investigating cases of how these farmers compensation; the case in question now we are talking about the banking employees because if we are going to mix things sought through your guidance Hon. Speaker I think Hon. Nzomo will reserve those reservation of dues that were not paid to our farmers to our Petition that the subject matter are employees, the Petitioners who brought this this Petition are employees working in the banking section. Thank you, Hon. Speaker.

Hon. Deputy Speaker: Hon. Kamitu, I hear your sentiments but the Hon. Member also the issues he is raising have been highlighted in the report. There are monies like you have heard other members saying which have been brought in the report which are purported to have been paid in order to resolve past issues; that is what he is concentrating on. He is picking the Ksh. 176 million which for example said was put there and is contributing on that point saying let it be further investigated whether that Ksh. 176 million reached the intended beneficiaries. He has agreed with the report but he is also now emphasizing on that and I think it is in order. Go ahead Hon. Nzomo.

Hon.. Nzomo: Thank you, Mr. Speaker.(inaudible)

Hon. Deputy Speaker: Hon. King'ori

Hon. Kingori: Thank you, Mr. Speaker. As I agree with the committee of justice, Mr. Speaker, I have a few reservations to make because as you see in Kenya we have officers who know how to evade justice and I am on opinion that those people are not paid. Why? I think even mad man cannot go twice to ask for justice if he knows very well he was paid for it. What we need to scrutinize more, those monies which were used to pay them, can we have all the records for that years so we that we now can scrutinize them very well so that we know this money was the one that paid this people and this one because they have records Mr. Speaker.

Secondly, the money which was given to settle things we need also to know whether the money was used properly. In another words, Mr. Speaker, I do not doubt the works of the committee but we also need to scrutinize more by demanding for more documents from the cooperative so that we know how they used their money all that time the one which was used to

pay salaries, the one which was used to pay farmers, the others which were used to pay the other expenses so that to have a balance sheet so that we can come to a clear indication that this people really they were paid but we cannot say that because the cooperative have produced documents. May be the documents are not the correct ones which they produced. So we need to know all the money they spent at that time so that we can balance now and get to the actual spending of that money because numbers never lie. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you, Hon. King'ori. May the mover of the motion respond please?

Hon. Maitha: Thank you, Mr. Speaker. First, I want to thank the Hon. Members for their contribution in support of this report. The justice and legal affairs committee took a lot of time to peruse the files which were availed to us to come to such a conclusion and to answer Hon. Musyimi, in those files there were receipts and when you look at the receipts in those files they were as old as the files were and therefore we deduced that if the files are tattered and old and the receipts are also old we came to the conclusion that they gave us the wrong documents (??).

Hon. Speaker, I also want to thank the committee members for their taking a lot of time to go through those files and coming up with this report. On the matter raised by Hon. Mitaa and seconded by Hon. Kieti I would wish if it is possible we dispense on this one of the employees and then when we come to the matter of the farmers and then possibly another Petition can be brought to now talk about the farmers because if this Petition the money which was availed, the figures which were availed by the committee was not specified that the money was to be paid to the farmers and therefore, I thank you, Hon. Speaker, for listening to the justice and legal committee.

Hon. Deputy Speaker: Thank you very much, Hon. Moffat Maitha.

(Question put and agreed)

Hon. Members, before I adjourn this sitting I would like to give guidance on the issues which were raised by Hon. Mitaa and also Hon. Kamulu and Hon. Musyimi. In the report which has been brought before the House now that you have already owned it there is mention of some Ksh. 176,250,584 which was meant to compensate losses which were incurred in the banking sector and that money was paid by the World Bank and that the union, if you look at page 10, it says that the union was included in a debt relief to all farmers for outstanding loans amounting Ksh. 176,250,584. The amount did not include compensation to the union banking staff.

We have also seen in the report that the union actually disposed off assets worth Ksh. 630 Million. So we are talking about Ksh. 176 Million coming from the World Bank and we are talking about a further Ksh. 630 Million being received from sale of assets. You would want to ask yourself a question which Hon. King'ori asked; why are these people petitioning if they were paid? Why do they keep on coming up? I believe these people, one of the things which I believe have not been handled is that issue and maybe one of the reasons why this Petition keeps on coming up is because of the issue of the compensation to the farmers and the people who owned bank accounts in that specific union were never compensated yet we are seeing huge sums of money which were received to the tune almost Ksh. 800 million and therefore I would request the Chair Agriculture to come up with a statement before this House seeking to be advised on

how the Ksh. 176,250,584 and further Ksh. 630 Million received from sale of assets was utilized by the Machakos Cooperative Union.

Also including that remember that the societies became independent, each society became independent; if for example, it is coffee each factory became independent during that transition of making them independent what it is important for you to understand what was the relationship between this money disbursement and the independence of the specific societies because one of the reasons why they were made independent is so that they are no longer attached to the cooperative union and therefore they can claim nothing from the cooperative union.

So if we find out what happened to this money then we will be able to find out the reason behind why the individual factories were told to go alone as Hon. Kamulu has said before I became an MCA I was a chairman of not Kasinga but Mung'ala coffee factory and yes most of the farmers in my area also lost a lot of money during this period both what they had saved in the bank itself and also in terms of the shares which they had bought in the cooperative union and we were not compensated after this sale of these assets. So if the Chair could prepare such a Statement and bring it before the House then we would be able to have the committee indulge in that and investigate that so that we can be able to bring this matter to a logical conclusion .

The other item since we have already discussed about it is also, we need also as Hon. King'ori has said, we would need to find out, on my side as a person I would like to find out from the committee maybe one on one whether they sat down with those Petitioners, did they give them those letters, you were given this letter of termination? Is it you who signed this letter? Is it you got this voucher? It does not make sense to me how somebody got a termination letter and also got a payment voucher paid in lieu of the termination and still goes ahead, decades down the line, and appeals a Petitions to be paid:?

When I look at some those issues like Hon. King'ori is saying there is need.....we have brought closure to this, yes, based on what committee has found they were paid and compensated but as you indulge in your findings on those other things, it will just be good to see why do they keep on raising up this issue if actually they had been compensated for and paid for, and you know what will need to be done is your file will need to be open and the letter will be there so why do they keep on appealing.

I would like maybe when they are looking at that Statement and indulging in this other things to try and come out and talk to those people and find out you know.....you have been paid, you have a letter saying that you have been terminated and you have a receipt saying you have paid your terminal dues and then 20 years 30 years down the line you saying I was not paid. That does not seem to be adding up but we have adopted the report and we will take the other Statement as it comes. Thank you very much, Hon. Members.

ADJOURNMENT

Hon. Deputy Speaker: This House stands adjourned to resume again on Wednesday, 22nd day of December, 2021 at 2.30 p.m. Thank you.

The House rose at 12.06 p.m.