

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 8th October, 2008

The House met at 9.00 a.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

### ORAL ANSWERS TO QUESTIONS

*Question No.258*

#### SACKING OF POLICE CONSTABLES

**Mr. Kapondi** asked the Minister of State for Provincial Administration and Internal Security:-

(a) what procedure is followed when removing police officer(s) from the force on prejudicial grounds; and,

(b) whether he could explain what led to the removal of police constables Bernard Kioko Kisoloki (F/No.53760), Daniel Chiwai Mwatata (F/No.88562) and Cpl. Pius Wilson Siyah (F/No.59181), and whether he could clarify whether the right procedure was followed.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): Mr. Deputy Speaker, Sir, I beg to reply.

(a) In accordance with Cap. 20, Paragraph 34 of the Force Standing Orders, an officer may be removed from the Kenya Police Force on prejudicial grounds when and if,

"the Commissioner of Police or Provincial Police Officer, as the case may be, considers that any member of the Inspectorate or subordinate officer has acted or behaved in a manner prejudicial to the peace, good order or good governance in Kenya; he or she may be, by notification in writing to the member of the Inspectorate or subordinate officer concerned, remove the said member of the Inspectorate or subordinate officer from the Force on such date as the Commissioner of Police or Provincial Police Officer, as the case may be, may specify"

(b) Between 11th and 17th February, 2008, the three officers No.59181 Ex-Cpl. Pius Wilson Siyah, No.53760 Ex-P.C. Bernard Kioko Kisoloki and No.88562 Ex-P.C. Daniel Chiwai Mwatata, who prior to their removal were attached to the Police Dog Unit, were assigned mobile patrol duties using police car Reg.No.GK A909N Nissan Double Cabin. While on duty, the officers were seen acting and behaving in a manner prejudicial to good order and discipline, and they were captured and shown on Citizen Television on the 7.00 p.m. news bulletin of Monday, 18th February, 2008, in a special report regarding illegal fuel siphoning from tanks in the Industrial Area. The officers were shown together with other persons - not police officers - in highly compromising circumstances in premises within Nairobi, which were suspected to be used for fuel smuggling. Their removal from the police force was, therefore, procedural as per Cap.20, Paragraph 34 of the Police Standing Orders.

**Mr. Kapondi:** Mr. Deputy Speaker, Sir, I wish to state that the Assistant Minister has given a very unsatisfactory answer because, for one, he has not given the procedure as per the Question. What he has done is to give generalities but he has not been very specific.

Secondly, he should tell us that the concerned officers were of clean record. They never received any warning, they had never been disciplined before for the entire period of 18 to 21 years of service. So, could he come out very clearly instead of evading the Question?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, I have just given the relevant Standing Orders governing the discipline of police officers, who act in the manner in which these three police officers acted. I think I have quoted extensively unless the hon. Member wants me to repeat it. I quoted in details the relevant chapter and the Force Standing Order. The officers were also given the opportunity to defend themselves and they were not adequately able to do so. All the processes of the Orderly Room were followed. At this stage, this case is not finalised, because the final stage is with the Police Appeals Board which is yet to sit and consider it.

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, I appreciate the Assistant Minister's answer, but given that the current Commissioner of Police is drawn from the military, where the rules of discipline and standing orders relating to discipline are vastly different from those of the police force, what measures have been taken by the Ministry to ensure that police officers are not prejudiced by the actions of a Commissioner of Police who is trained under the Armed Forces Act, and who is now enforcing a Police Act for which he has no training?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, for this particular case, the Standing Orders of the police force have not been changed with the appointment of Maj-Gen. Ali. The Police Standing Orders and disciplinary procedures are followed. So, I do not think the hon. Member is quite right in saying that the orders have been changed with the appointment of a military officer as the Commissioner of Police.

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, I do not think the Assistant Minister has understood my question. I asked him: Considering that the current Commissioner of Police is an army general, whose training was received under the Armed Forces Act, Cap.199, and whose Standing Orders relating to disciplining officers are vastly different from those dealing with police officers, who are dealt with under the Police Act, what measures have been taken to ensure that the actions of the Commissioner of Police do not prejudice the officers in the police force? The first answer to the Question by the Assistant Minister said, "where the Commissioner of Police is satisfied". So, I am asking him to tell us where, as in the current situation, the Commissioner of Police is an army general with no training in the police force or the administration of the Police Act, what steps have been taken to ensure that police officers serving under this army general are not prejudiced by measures taken by him to discipline them?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, when officers are appointed as, indeed, the case that happened recently with the Commissioner of Prisons, it is assumed that they will comply with the law and standing orders in place. The Commissioner of Police does not deal directly with police constables. The police constables are under the command of various commands. There is a chain of command in the Police Force. So, I do not think there should be any worry that the Police Commissioner will interfere directly with the cases on the ground. That is because those cases are dealt with at various levels. The final stage will be at the Appeals Board, which is yet to sit to deal with that particular situation.

**Mr. K. Kilonzo:** Mr. Deputy Speaker, Sir, justice delayed is justice denied. Why is it that it has taken so long for the police to hear that appeal? The excuse the Assistant Minister is giving is that the investigations are not complete. If they are not complete, why did the police move very fast to dismiss those people? So, could the Assistant Minister tell us when that appeal is going to be heard?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, the hon. Member will appreciate that there is a number of those funny cases. The Appeals Board is constituted when there are adequate cases to consider at the headquarters. The Appeals Board is not based at the headquarters. It consists of the Provincial Police Commanders. So, I agree with you that there is a little delay in this particular case, but the case will still be considered as soon as possible.

**Mr. Deputy Speaker:** Hon. Kapondi, the last question!

**Mr. Kapondi:** Mr. Deputy Speaker, Sir, now that the Assistant Minister has admitted very clearly that there was a delay, and given the rushed manner in which the Commissioner of Police went ahead to dismiss the police officers against the procedure - that is because the notice of one month as required under Cap 20 Paragraph 33(4) of Force Standing Orders was not adhered to--- More or less, that explains the reason why insecurity is on the rise in this country. That is because the more you churn out security officers with decent records who have never involved themselves in heinous activities, the more that gives rise to---

**Mr. Deputy Speaker:** Hon. Kapondi, ask your supplementary question!

**Mr. Kapondi:** Mr. Deputy Speaker, Sir, now that the Appeals Board has not been constituted, could he tell us when that will be done so that the officers concerned can appear and present their case so that, finally, justice can be seen to be done?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, that will be done as soon as possible.

**Mr. Deputy Speaker:** Next Question by Mr. Maina Kamau!

*Question No.291*

ASSESSMENT OF UNEXPLODED BOMBS  
IN GITURA DIVISION

**Mr. J.M. Kamau** asked the Minister of State for Defence:-

(a) whether he could confirm that there are bombs in Gitura Division, Kandara Constituency since colonial times and that, there are army officers guarding them on a daily basis; and,

(b) whether he could table the assessment report on the bombs and give assurance that they pose no threat to the public now and in the future.

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware of the presence of bombs in Gitura Division, Kandara Constituency. I, therefore, confirm to the House that there are no military personnel guarding the area.

(b) As I have stated, the Ministry of State for Defence has not received any report and cannot, therefore, table any assessment report.

Mr. Deputy Speaker, Sir, if the hon. Member has any information regarding the existence of bombs in his constituency, he should provide it to us for immediate action.

**Mr. J.M. Kamau:** Mr. Deputy Speaker, Sir, it is very disturbing to hear an Assistant Minister tell us that kind of rhetoric. I have asked this Question before. I have been to the Ministry to ask this Question but, you know, the Ministry of State for Defence is housed in a military complex where accessibility is difficult! This issue should not have come here, but I am telling the Assistant Minister that we have bombs at a place called Gitura, that is right opposite the late hon. Bildad Kaggia's home. Those bombs! We are not talking about fireworks! We are talking about live bombs! They are right in the middle of a village! If the Assistant Minister cares, it will only take us 25 minutes to leave this town and go to that place which is on tarmac. There is a small town called Kenol. I cannot just come here and tell a story that is not there! So, could he really do

something and give a report to this House?

**Maj-Gen. Nkaisserry:** Mr. Deputy Speaker, Sir, I said that if the hon. Member has information on the location of those bombs, we are ready, even tomorrow, to go and dispose of them. But the hon. Member has not provided that information!

So, Mr. Deputy Speaker, Sir---

**Mr. Deputy Speaker:** Order, Mr. Assistant Minister! The hon. Member has said that your offices are located in a protected area. He is ready to take you there. It is only a 25 minutes drive from where we are now. It is the lives of Kenyans that are involved here. Give him an undertaking that you will go with him or send officers to go and verify the information that he has!

**Maj-Gen. Nkaisserry:** Mr. Deputy Speaker, Sir, we are ready to go with the hon. Member, even tomorrow, if he is available.

**Mr. Deputy Speaker:** Hon. Kamau, the Assistant Minister is ready to go with you---

**An hon. Member:** Today!

**Mr. J.M. Kamau:** Mr. Deputy Speaker, Sir, could he agree that we go right now?

*(Applause)*

**Mr. Deputy Speaker:** Order!

**Mr. J.M. Kamau:** Mr. Deputy Speaker, Sir, I will drive him in my own car, take him to that place and we shall be back here before lunch time!

*(Applause)*

**Mr. Deputy Speaker:** Mr. Assistant Minister, could you give an undertaking to go today?

**Maj-Gen. Nkaisserry:** Mr. Deputy Speaker, Sir, first and foremost, if those are real bombs, we need bomb disposal experts. So, first and foremost, we need to go and vet the area, find out what type of bombs they are and go with the disposal kit. Therefore, I am available to go with the hon. Member to the site with the experts even tomorrow, if he is available!

**Mr. Deputy Speaker:** Order, Mr. Assistant Minister! The hon. Member has a problem accessing your office! You better give him an undertaking right now on how he is going to access your office tomorrow, so that he can go with you!

**Maj-Gen. Nkaisserry:** Mr. Deputy Speaker, Sir, after Question Time, I am going to take the hon. Member to my office and we are going to call the experts. The hon. Member is going to have a cup of tea and we are going to open the space for him to be satisfied that it is a public institution and is not, actually, inaccessible!

*(Applause)*

The Ministry of State for Defence is a Government Ministry accessible to all Kenyans and, therefore, it will be wrong for hon. Members to come and indicate that the Ministry is inaccessible.

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! Order, hon. Members! Hon. Kamau, I hope you are satisfied with that answer.

**Mr. J.M. Kamau:** Thank you very much, Mr. Deputy Speaker, Sir. He is trying to explain these things, but he is displaying total ignorance because what I am talking about are bombs in that place. There are two gentlemen who wake up and sit on top of that place during the day. But,

during the night, they sneak to somewhere underground! We do not know what they are doing! When we do our research, we are told that there are bombs that cannot be disposed! Then I wonder, with modern technology, how come we cannot dispose those bombs because they are a terrible risk to our people?

**Mr. Deputy Speaker:** Hon. Kamau, those are details that you will share with the Assistant Minister. He has given you an undertaking that, as soon as Question Time is over, you will go with him. From then on, you will do what needs to be done! He is ready and available. His office is available for that verification to be done tomorrow!

So, I think we should go to the next Question! Your Question has been ably and very well answered!

**Mr. J.M. Kamau:** Mr. Deputy Speaker, Sir, I am satisfied with the assurance the Assistant Minister has given me to see him in his office. If he asks me to go and see him and then, like another Minister did, tell me to see his Personal Assistant, then I can assure you that I will never go even near the entrance of that office.

**Mr. Deputy Speaker:** The Assistant Minister has said he will walk with you himself! Next Question, Mr. Ethuro!

*Question No.052*

CRITERIA APPLIED IN RECRUITMENT  
OF DRIVERS IN TURKANA CENTRAL

**Mr. Ethuro** asked the Minister of State for Provincial Administration and Internal Security:-

- (a) whether he could table the names and home districts of drivers employed by the Government between October-December, 2007, in Turkana Central District;
- (b) which criteria was applied in employment of these drivers; and,
- (c) how many trained drivers are from Turkana Central District.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The names and home districts of drivers employed by the Government between October-December, 2007, in Turkana Central District are as follows:-

<u>DRIVER'S NAME</u>	<u>HOME DISTRICT</u>
Nabwel Nangole	Turkana Central
Kennedy Nyaosi	Nyamira Kisii North
Ogendo George Onyango	Kisumu
Moses Ochieng	Bondo
Douglas Kichana	Nyamira Kisii North
Richard Tanui	Nakuru
Clifford Mogusu	Baringo
Nyakundi Fred	Trans Nzoia

(b) The Government has developed general standard guidelines for the recruitment of drivers as stipulated in the revised Scheme of Service for Drivers dated 11th January, 2007.

For consideration to the post of Driver III, Job Group "D", a candidate should have the following qualifications:-

- (i) Possess Kenya Certificate of Secondary Education (KCSE), mean grade D-plain or its equivalent;
- (ii) Possess a valid driving licence free from any endorsement;

- (iii) Must have attended a first aid certificate course;
- (iv) Must possess a certificate of good conduct;
- (v) Must have passed suitability test for drivers conducted by the respective Ministry;
- (vi) Must have two years' driving experience.

(c) It is not practical to ascertain the number of trained drivers in the district before employment, because the training of such drivers is undertaken privately on individual basis, and it is hard to know their numbers. However, 43 applicants were recorded at the time of the interview.

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, this Question is before the House in order to demonstrate what it means to come from northern Kenya. Out of eight drivers, only one is from Turkana. This is just because the District Commissioner (DC) and the Personnel Officer are not from Turkana. You can see that seven out of the eight employed drivers co-relate directly to where the two people come from.

*(Applause)*

Out of the 43 applicants, 24 applicants were qualified. Out of the 24 qualified applicants, who were shortlisted, 17 were from Turkana Central District. Only seven of the 24 shortlisted candidates were from outside Turkana Central District. How come all the seven shortlisted applicants from outside Turkana South District were given the jobs and only one of the 17 shortlisted candidates from Turkana Central District was given the job? Is this not a serious embarrassment? What is the Assistant Minister going to do to ensure that Turkana people who are qualified to work in their home districts get the jobs, and not people who are taken there by Government officers who are posted there and some of whom have outlived their usefulness?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, this matter has nothing to do with the DC or the Personnel Officer in Turkana South District. It is all about the scheme of service which does not favour some applicants. The scheme of service is a matter of another Ministry under which the Directorate of Personnel Management (DPM) falls.

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Lesrima:** Can I finish, Mr. Deputy Speaker, Sir?

**Mr. Deputy Speaker:** Let him finish, Mr. Ethuro!

Proceed and finish, Mr. Assistant Minister!

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, I also want to correct some factual information. First of all, the scheme of service says that an applicant must be a Form Four leaver with a mean grade "D" in KCSE or its equivalent. It is true that seven Turkanas passed the interview, and not 17. Seventeen Turkanas attended the interview, but only seven passed, but they did not have the Form Four qualification. So, it is all about the scheme of service. It has nothing to do with the DC.

**Mrs. Noor:** Mr. Deputy Speaker, Sir, this is disturbing! It is unfair for seven members of the Turkana community, who qualified to be employed as drivers, not to be given the jobs only for seven people from outside the district to be given those jobs. Does it mean that the Turkana people, as usual, are not qualified? The applicants from Turkana South District passed all the stages. Seven of them were shortlisted, and they attended the interviews in person. Does it mean that this is the usual discrimination that we see in the northern Kenya region? Are there any other affirmative actions to be put in place to particularly address issues of this nature and particularly in this case, give jobs like those of drivers to the residents of Turkana South District?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, what hon. Members need to do is to, really, push for common sense to prevail in terms of implementation of schemes of service. The pressure

should be on the DPM, and not the Ministry of State for Provincial Administration and Internal Security, to change the scheme of service to allow for people with lower qualifications than Form Four certificates to be employed as drivers, particularly in northern Kenya.

**Mr. Bahari:** Mr. Deputy Speaker, Sir, as usual, Turkana or the people from northern Kenya do not sit in the DPM. When the scheme of service was prepared, the DPM was completely inconsiderate. They continued to alienate and marginalise the people of Turkana District and other parts of northern Kenya. Can the Assistant Minister use his Ministerial powers to change that scheme of service? The scheme of service is not law. It never came to this House for us to enact. By virtue of putting together the scheme of service, the DPM has discriminated against some Kenyans. So, can he consider the scheme of service invalid and employ the seven Turkana people without wasting a lot of time? He has seen the sense, but he is handicapped by something which is not law.

**Mr. Deputy Speaker:** Yes, Mr. Assistant Minister!

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, I cannot change the scheme of service, but I will consult with the DPM to reconsider these people if opportunities come up next time. Again, I would like to state that it is not within the powers of the Ministry of State for Provincial Administration and Internal Security to change the scheme of service. We can only consult.

**Mr. Abdirahman:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** What is it, Mr. Abdirahman?

**Mr. Abdirahman:** Mr. Deputy Speaker, Sir, is the Assistant Minister in order to tell us that he cannot influence the decisions of the DPM when we know that policy formulation originates from Ministries? In case of something not being incompatible with existing policy, like the case before the House, is he in order to tell us that he cannot originate something that is affecting Kenyans from his own office, which is key to the particular problem we are talking about?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, I have not said I will not originate change. I said I will consult. We have had similar problems regarding employment of chiefs. The matter regarding recruitment of chiefs came to this House. We have since got a solution to the issue of recruitment of chiefs, which I think should also apply to the recruitment of drivers. However, as I said, it does not fall under my docket. I will consult the DPM.

**Mr. C. Kilonzo:** Mr. Deputy Speaker, Sir, unfortunately or fortunately for the Assistant Minister, he comes from an area which is as affected as Turkana South District. I would like to remind him about collective responsibility and how Parliament operates. Our role in Parliament is to question the Executive. We are telling the Assistant Minister that a similar situation arose here when we questioned the process of recruitment of chiefs. You cannot have anybody applying to be recruited as a chief, because the qualifications are very high. Can the Government reconsider the requirements for employment of chiefs and drivers instead of the Assistant Minister telling us that he cannot change the scheme of service? We see him as part of the Government. So, if tells us that he is not able to do something, he is telling us the Government is not in a position to do what they are being asked.

**Mr. Deputy Speaker:** Mr. Assistant Minister, are you in a position to give an undertaking?

**Mr. Lesrima:** Yes, Mr. Deputy Speaker, Sir. I will take a similar undertaking just like I undertook with regard to the chiefs.

**Mr. Deputy Speaker:** Final question, Dr. Monda!

**Dr. Monda:** Mr. Deputy Speaker, Sir, the Assistant Minister has told the House that the scheme of service does not allow employment of people who have not attained Form Four level of education. Yet, the Ministry went ahead and conducted interviews for these drivers from Turkana. We had seven of them qualified. But after they qualified, the issue of Form Four education comes

in. Where was the scheme of service when the interviews were being conducted?

Could this be the same situation as was the case with the Administration Police (AP) recruitment recently? Could the Assistant Minister table a list of the APs and armed forces personnel who were recruited recently? Could the list be published in the Press so that we know who was recruited and from which parts of the country they come from?

*(Applause)*

**Mr. Deputy Speaker:** Mr. Assistant Minister, there is a presumption that when you shortlist candidates to appear for interviews, that they have attained the scheme of service requirement? You said here that there were seven Turkanas who were shortlisted and appeared for interview. You have a duty to be clear on this issue.

This is the property of the House now!

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. I think this House and the nation requires absolute truth and nothing but the truth. There were 43 applicants out of which 24 qualified and were shortlisted for the interviews. Out of the 24 applicants, 17 were from Turkana Central District and seven were from outside the district. All the seven from outside the district were employed yet only one out of the 17 from Turkana Central District who qualified and were interviewed was employed. It is not a matter of qualifications or what the Assistant Minister is telling us. Those are the facts! They were not seven but 17 persons.

**Mr. Deputy Speaker:** Mr. Assistant Minister, you have to be very careful about the veracity of the answer you are giving because if you choose to mislead the House then the consequences can be very severe.

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, I think I have been more than frank. I have been very frank because I have even volunteered information on the seven persons.

I go by the minutes of the Selection Board that were presented to me. The minutes show that there was supposed to be a consideration for gender; 30 per cent were to be female. However, no female turned up.

Mr. Deputy Speaker, Sir, the qualification can only be established when the candidates have arrived before the interview panel. That is why everybody was given an opportunity for an interview, just in case they had certificates to produce.

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. This time round, I agree with the Assistant Minister. He is not in a position to answer this Question satisfactorily. Since we have the Leader of Government Business here, could we refer this issue back to the Government to put their house in order and then we get a proper answer?

*(Applause)*

**Mr. Deputy Speaker:** Mr. Deputy Speaker, Sir, the Chair is of the opinion that your answer is inadequate. This is in the sense that you said that there were 17 Turkanas who qualified or who were shortlisted. The presumption is that anybody who is shortlisted has achieved the minimum requirement. From the statement by the hon. Member of Parliament from the same area, it looks like every non-Turkana who applied for the job got it. There is a serious flaw in this.

Could you go back to your Ministry and come back with the right answer to the House?

*(Applause)*

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, I will do so because even the seven who were



presumed to be qualified were disqualified on academic grounds.

**Mr. Deputy Speaker:** Order, Mr. Assistant Minister! When will you have the answer?

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, on Tuesday next week.

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. While appreciating the ruling from the Chair, I think it is a very considered ruling, I do not want the Assistant Minister to come back with incomplete answers.

I want to point out to the Assistant Minister that the selection panel must be reconstituted. Who are the members of the selection panel? I want to prove the degree of correlation between the employed drivers and the membership and composition of the selection board. They are:-

Mr. G.M. Ayonga	-	Chairman
Mr. F. Atego	-	Secretary
Mr. G. Atinga	-	Member
Mr. G.O. Odongo	-	Member
Mr. J. Maritim	-	Member.

Is this not a wonder that it translated to what we are seeing?

Mr. Deputy Speaker, Sir, there is a law in this land known as the Public Officer Ethics Act where public officers are not supposed to employ, reward or act in a manner that exposes tribalism, nepotism and all those kinds of things. Could the Assistant Minister in his further response consider how he has invoked the Public Officer Ethics Act?

**Mr. Deputy Speaker:** The Question will appear on the Order Paper on Tuesday afternoon!

Mr. Lesrima, I think you will come with the right answer to the House. The Question is deferred!

*(Question deferred)*

Next Question by Mr. Mbai!

*Question No.232*

NON-PAYMENT OF COMPENSATION TO  
MR. MUTINDA MUASA

**Mr. Mbai** asked the Minister Forestry and Wildlife:-

(a) whether he is aware that Mr. Mutinda Muasa, the beneficiary of Mr. Mwendwa Mutinda (deceased), has not been compensated since the latter's death from an attack by a crocodile in the year 2002;

(b) whether he is further aware that although the Kenya Wildlife Services dispatched Kshs1,047,000 vide cheque No.0031 of June, 10, 2002, part of which was to benefit Mr. Mutinda, the same was never received; and,

(c) what steps he is taking to ensure that Mr. Mutinda is paid his dues.

**Mr. Deputy Speaker:** Is the Minister for Forestry and Wildlife here?

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Deputy Speaker, Sir, according to my records, Mr. Nanok, the Assistant Minister for Forestry and Wildlife is supposed to answer this Question. He had given the indication that he was set to answer it. If he is not around, I beg that the Question be deferred.

**Mr. Deputy Speaker:** The Question will be put on the Order Paper on Thursday, 9th October!

*(Question deferred)*

Next Question by Mr. Mureithi!

*Question No.239*

DELAY IN CONSTRUCTION OF NJABINI -OL'KALOU-DUNDORI ROAD

**Mr. Deputy Speaker:** Mr. Mureithi is not here? Question dropped!

*(Question dropped)*

*Question No.276*

NUMBER OF BENEFICIARIES OF  
KSB/AFC LOANS

**Mr. Washiali** asked the Minister for Agriculture:-

- (a) whether he could table the list of the beneficiaries of the Kenya Sugar Board/Agricultural Finance Corporation loans disbursement to sugar-cane farmers,
- (b) how many farmers have been targeted for loans; and,
- (c) how much money has been disbursed so far.

**The Assistant Minister for Agriculture** (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I do hereby table the list of beneficiaries of the Kenya Sugar Board (KSB) and the Agricultural Finance Corporation (AFC) loans disbursed to sugar-cane farmers.

(b) All sugar-cane farmers, who meet the conditions agreed upon by the KSB or AFC and stakeholders, are eligible.

(c) Kshs371 million has so far been disbursed.

*(Mr. Ndambuki laid the list  
on the Table)*

**Mr. Washiali:** Mr. Deputy Speaker, Sir, I thank the Assistant Minister for Agriculture for having tried to answer the Question. But part (b) of the Question has not been adequately addressed because my Question reads:-

"How many farmers have been targeted for the loans?"

His answer was, and I quote:-

"All sugar-cane farmers who meet the conditions agreed upon by the KSB, AFC and stakeholders are eligible."

The Question here is, and it is very clear: How many farmers are targeted? It is not about those who are eligible.

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, everybody who grows sugar-cane and meets the conditions is eligible to get a loan. We do not sit down and say that we are targeting 300 or so. We only give funds to those who qualify regardless of how big the number is.

**Mr. Washiali:** Mr. Deputy Speaker, Sir, now that the conditions that they give to farmers are very tough, could the Assistant Minister consider relaxing them, so that as many farmers as possible are able to access these loans?

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, everybody or every institution has its own rules and regulations. We have really made the rules and regulations for the borrowers of funds very easy. Even the interest is also very low; it is five 5 per cent only. So, the conditions are not that stringent as to prevent anybody from borrowing money.

**Mr. Deputy Speaker:** Next Question by Mr. Litole!

*Question No.310*

MEASURES TO PAY SALARIES TO KAPENGURIA DISTRICT HOSPITAL STAFF

**Mr. Litole** asked the Minister for Medical Services:-

(a) whether he is aware that staff salaries for Kapenguria District Hospital in West Pokot District amounting to Kshs394,766.90 were stolen on 12th December, 2003;

(b) what steps the Ministry has taken to ensure that the suffering officers get their salaries; and,

(c) what action the Minister has taken against the responsible officers to ensure such actions do not recur.

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that part of staff salaries for Kapenguria District Hospital for the month of November, 2003 were stolen.

(b) The officers affected have so far not been paid their salaries. This was occasioned by a combination of a non-responsive human resource division that existed in the Ministry at the time and lack of follow up by the administration of Kapenguria District Hospital. However, the Ministry has now revived the matter, and all affected staff will be paid their salaries within the month of October, 2008.

(c) To prevent the recurrence of such incidents, the Ministry has since moved away from cash payments and at present pays staff salaries through their respective bank accounts.

**Mr. Litole:** Mr. Deputy Speaker, Sir, you realise that it has taken the Ministry five years to respond and they have done so because I have asked this Question. Now that they have taken that long, could it be concluded that the Government is sort of colluding with the criminals? What action have they taken so far against those people? Saying that no action has been taken is not good, because those people have suffered enough.

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, I agree with the hon. Member that those people have suffered enough. That is why I said that there was a non-responsive attitude in the human resources department then. But once the issue was brought to our notice, we moved fast to ensure that the rights of these people are safeguarded. Following the theft of the staff salaries, the Hospital Administrator and two paying clerks were questioned by the police over their failure to ensure safe custody of the salaries. They were, however, released without being charged in court. This matter, therefore, should be addressed to the police who took a rather lacklustre attitude towards a criminal offence. We do hope that proper disciplinary proceedings will be undertaken.

**Mr. Litole:** On a point of order, Mr. Deputy Speaker, Sir. The Minister is saying that it is the work of the police. Is it not the work of the Ministry to tell the police to arrest those people?

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, yes once the Ministry has reported to the police and they have taken over the responsibility to arrest and take those people to court, the matter rests in the docket of the police force, and the Ministry does not have expertise whatsoever in that area.

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, I am a neighbour of Kapenguria. The 12th of December is Jamhuri Day; how did the money get stolen on a public holiday? In the first year of NARC Administration inflation was a single digit, but now, with the Grand Coalition Government, it is almost 30 per cent, which means that the value of that money is now very low. Could the Minister consider paying this money with interest in order to cushion the staff against the effects of inflation?

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, I agree with the hon. Member in his recommendations; however, the Office of the Attorney-General recommended that the three officers who handled the salaries be held responsible for the loss. I have the names of the three officers who were held responsible. They should be charged with paying the salaries back with interest, because they were responsible and not the Ministry .

**Mr. Deputy Speaker:** Mr. Litole, the last question!

**Mr. Litole:** Mr. Deputy Speaker, Sir, now that the Minister has agreed that the culprits are going to pay some interest, is it going to come together with this money?

**Prof. Anyang'-Nyong'o:** The Ministry is only responsible for paying the salaries that were due to the officers affected. When it comes to paying the penalties, that will have to be done by the persons held responsible by the Attorney-General for the loss. The matter should be between the Attorney-General and the parties concerned.

**Mr. Deputy Speaker:** The next Question is by Mr. Koech but he has requested that it be deferred to tomorrow afternoon. He has been out of the country and he only came back this morning.

*Question No.330*

CONSTRUCTION OF MOSOP  
DISTRICT HEADQUARTERS

*(Question deferred)*

**Mr. Deputy Speaker:** Next Question by Mr. Waititu!

*Question No.338*

MEASURES TO SPLIT EMBAKASI  
CONSTITUENCY

**Mr. Waititu** asked the Minister for Justice, National Cohesion and Constitutional Affairs what steps she has taken to split Embakasi Constituency, which has a population of about 249,000 people, to ensure fair and effective representation.

**The Minister for Justice National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Deputy Speaker, Sir, I beg to reply.

First, my Ministry does not split or alter boundaries of constituencies, but does forward proposals made by the Electoral Commission of Kenya (ECK) to Parliament. The Constitution of Kenya (Amendment) Bill, 2007 was tabled before this House by myself and the House rejected it. The Bill had provided, *inter alia*, for the review of boundaries and splitting of constituencies. We now have to wait for the constitutional review.

**Mr. Waititu:** Mr. Deputy Speaker, Sir, we all know that the development in our constituencies is from CDF and DRC funds which are distributed per constituency. Since

Embakasi people have been experiencing a lot of injustice due to their big population, it is urgent that the Minister brings back the Bill in this House without tying it to the review of the Constitution, so that our boundaries in Embakasi constituency can be reviewed and we can have more constituencies as per our population. We know very well that Section 42 of our Constitution provides that constituencies should be reviewed---

**Mr. Deputy Speaker:** Mr. Waititu, much as you are a freshman, the Chair will be inclined to give you a leeway. Ask your question!

**Mr. Waititu:** Mr. Deputy Speaker, Sir, my question is: When will the Minister re-introduce the Bill to review the constituency boundaries?

**Ms. Karua:** Mr. Deputy Speaker, Sir, as soon as there is a request from the Electoral Commission of Kenya. But I would also like to point out that, as Members are aware, the Kriegler Commission has just given its report. Among the many recommendations, is review of the constituency boundaries and splitting of the over-populated constituencies. We need to approach the review in a wholesome and holistic manner.

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, I appreciate the Minister's answer that the issue of constitutional review is the best avenue for addressing the boundaries. Could the Minister tell us when she expects the review of the Constitution to be completed?

**Ms. Karua:** Mr. Deputy Speaker, Sir, the matter is in the hands of this House. We will be coming to the Committee Stage of the Bill that is giving the road map for the review. I believe that with total commitment from every Member and all those who are participating in the review process, we expect to be through with this business by the end of next year.

**Mr. Chanzu:** Thank you, Mr. Deputy Speaker. I just want an assurance from the Minister with regard to the trends and changes that are taking place at the Ministry. It should be more proactive so that we do not keep on waiting every time for the Ministry to tell us that there are Kriegler and Cockar Commissions. We do not want to hear that. Could she assure this House that they are going to be more proactive from now?

**Ms. Karua:** I do not know what the Member means by "proactive". The Ministry is doing whatever it can. We cannot do the work of the Commission. We have done our duty to table the Bill before the House. We are doing our duty to facilitate discussions with the stakeholders. We also expect Members to do their duty collectively and pass the Bill so that we can begin the business.

**Dr. Eseli:** Thank you, Mr. Deputy Speaker, Sir. The Constitution is very clear on this. We should review constituency boundaries at intervals of not less than eight years and not more than 10 years. Now we are doing it after an interval of about 12 years. So, could it be, therefore, that the Electoral Commission of Kenya has failed to uphold the Constitution? So, actually, they should stand disbanded!

**Ms. Karua:** Actually, it is Parliament that failed to pass the proposals. But the review is actually not mandatory. The proposals were brought to the House and the House failed to pass them. So, this time round, let us sit down and do what is right. Let us pass proposals that can help the issue of equal representation. It was observed in the Kriegler Report and I hope its copies will be distributed to the House. Embakasi Constituency is 351 per cent above the average constituency. So, the disparity is unacceptable. We are saying: "Yes, it is time to review that along with the other recommendations."

**Mr. Deputy Speaker:** Mr. Waititu, last question!

**Mr. Waititu:** Mr. Deputy Speaker, Sir, when the President and the Prime Minister were signing the National Accord, they indicated that a new Constitution will be ready in one year. I am worried that, as a Member of Parliament for Embakasi, that is not achievable. I am also worried

because the Minister is now talking about the Kriegler Report. We, from Embakasi---

**Mr. Deputy Speaker:** What is your question, Mr. Waititu?

**Mr. Waititu:** Mr. Deputy Speaker, Sir, my question is: When will the Bill for the review of constituency boundaries be re-introduced without tying it to the review of the whole Constitution? I do not see why it cannot be re-introduced as soon as possible. So, why should the Minister not specifically re-introduce the Bill for the review of constituency boundaries?

**Mr. Deputy Speaker:** The Minister has already answered that. But you could proceed again and answer it.

**Ms. Karua:** Mr. Deputy Speaker, Sir, as soon as I am requested by the Electoral Commission of Kenya. No such request is on my desk.

**Mr. Deputy Speaker:** Next Question by hon. Francis Nyammo.

*Question No.343*

RECLAMATION OF DAMS IN  
TETU CONSTITUENCY

Hon. Nyammo is not here? The Question is dropped.

*(Question dropped)*

*Question No.291*

ASSESSMENT OF UNEXPLODED BOMBS  
IN GITURA DIVISION

**Mr. Deputy Speaker:** The hon. Minister of State for Defence is not here. But I think the Deputy Leader of Government Business is here. There is a Question on bombs in the constituency of hon. J.M. Kamau. That issue is the property of the House. We would require the Minister to come and report back to the House once he verifies the statement by the hon. Member for that constituency. Would you, hon. Minister, give an undertaking on when you could report back to the House?

**The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua):** Mr. Deputy Speaker, Sir, may I plead that the Ministry of State for Defence be given, at least, two weeks.

**Mr. Deputy Speaker:** Hon. Minister, that is a bit too long.

**The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua):** Mr. Deputy Speaker, Sir, would you agree on Thursday next week, just to give them a little bit of time?

**Mr. Deputy Speaker:** Thursday afternoon next week, the same Question will appear on the Order Paper.

*(Question deferred)*

Next Order!

**MOTIONS**

AMENDMENT OF CHIEFS ACT TO CREATE  
OFFICES OF VILLAGE ELDERS/HEADMEN

THAT, appreciating the critical role played by Village Elders/Headmen as the link between the Government and the people of Kenya in many villages across the country; aware that inspite of the crucial part played by these leaders in the provincial administration there is no formal, legal or remunerative recognition given to them, this House do grant leave to introduce a Bill for an Act of Parliament to amend the Chiefs' Act to create offices of Village Elders/Headmen and to provide for requirements for appointment; remuneration and related matters.

*(Mr. Wamalwa on 30.7.2008)*

*(Resumption of Debate interrupted  
on 30.7.2008)*

**Mr. Deputy Speaker:** Hon. Kingi was on the Floor. Is hon. Kingi anywhere? Any other hon. Member who is willing to contribute to this Motion. Yes, hon. Bifwoli Wakoli! you have five minutes!

**The Assistant Minister for Lands (Mr. Bifwoli):** Thank you, Mr. Deputy Speaker, Sir, for giving me this chance to contribute to this noble and gracious Motion.

Mr. Deputy Speaker, Sir, village elders are the backbone of administration in this country. They are actually the most neglected people in the world. They do the donkey jobs and they are never recognised in some parts of the world. I want to thank the Mover of the Motion, Mr. Wamalwa, for thinking so positively about the village elders in the country. Village elders are spread all over the country and work 24 hours. The chiefs, assistant chiefs, district commissioners and provincial commissioners normally get what the village elders have listened to. Even when it comes to matters of arbitration and fighting, people go to the village elders. The village elders do the work of the police, magistrates and every job that comes in this world. But they are never recognised. Even law courts make decisions following the judgements of the village elders. But they are never paid or recognised.

Mr. Deputy Sir, it is high time that this country realises the value of people who work in this country. Even when we look at councillors, they are like the village elders. They do a lot of good work. But we do not even recognise them. Even the Minister for Local Government does not think about councillors. Instead of paying councillors from the Consolidated Fund, we do not think about them. Instead, we, the MPs, only think about ourselves. We increase our salaries, but we never think about village elders and councillors. I suggest that the Office of the Deputy Prime Minister and Ministry of Local Government, now that we are going to introduce a Bill that will seek to promote village elders to become civil servants, should prepare a Bill that will seek to enact law to the effect that councillors in this country are also paid from the Consolidated Fund.

Mr. Deputy Speaker, Sir, my new Government in 2012 will definitely recognise village elders and councillors!

I beg to support the Motion.

*(Laughter)*

**Mr. Deputy Speaker:** It is now time for the Minister of State for Provincial

Administration and Internal Security to respond. Is he present? Is the Leader of Government Business present? Is the Deputy Leader of Government Business present? Could a Minister respond to this Motion?

Very well! Maj. Sugow, proceed!

**The Assistant Minister, Ministry of State for Public Service** (Maj. Sugow): Thank you, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Are you giving a response on behalf of the Government?

**The Assistant Minister, Ministry of State for Public Service** (Maj. Sugow): Mr. Deputy Speaker, Sir, I do not consider it as a Government response. I want to contribute to this Motion in my personal capacity.

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. This House brought a Motion and so we demand an official Government response as opposed to his own personal views. I wonder what it means when Ministers sign performance contracts. Does it include responding to hon. Members' Motions and Questions as part of their performance? At this rate, it looks like it is not part of their performance.

*(Maj. Sugow stood up in his place)*

**Mr. Deputy Speaker:** Order, Mr. Assistant Minister! Indeed, the Chair takes note of the conduct of the Government side. Nonetheless I will give five minutes to another Member of the Government to contribute in his personal capacity. I hope that within that time, the response from the relevant Ministry will be ready.

**Mr. Imanyara:** On a point of order, Mr. Deputy Speaker, Sir. I am just concerned that on this side of the House there are very many hon. Members who want to contribute except that there is no time. Now that there is no Government Minister willing to respond on behalf of the Government, should the debate not be opened to hon. Members on this side rather than giving an unfair advantage to the Government side?

*(Applause)*

**Mr. Deputy Speaker:** Hon. Member, it is a Private Members' Day and Ministers have equal opportunities. They are also Members of Parliament.

Proceed, Maj. Sugow! You have 5 minutes.

**The Assistant Minister, Ministry of State for Public Service** (Maj. Sugow): Thank you, Mr. Deputy Speaker, Sir, for that protection. Other than being a Member of the Government, I am also a Member of this House and, therefore, I am entitled to my contribution. I believe it is time for the Government to respond and I hope that the official responder will come in due course of the debate.

Mr. Deputy Speaker, Sir, I would like to thank Mr. Wamalwa for presenting this Motion. It is very important. We know very well that in our African set up, the structure of the elders is very important. It is high time we respected and included them in our structures. We need to respect and honour them. We should reward them for the work they are doing. In this age when times are very hard, these people sacrifice a lot of their personal time to do community work. When you request these people to continue offering these services, a time will eventually come when the economic difficulties they face will force them to provide partial services. This is what we want them protected against, by giving them due remuneration structures from the Exchequer.

Mr. Deputy Speaker, Sir, there are some unofficial structures in some of the districts. They are called Peace Committees. These are essentially made up of local elders. They hold their own



elections to determine who becomes an official in those structures. These people are not remunerated in any way. They are under the mercy of the DCs who give them handouts every now and then. In most cases, these people are biased simply because they do not have a regular income from the Government yet they need to provide these services. Ever since time immemorial, the structure of elders was the backbone to solving myriad problems in the society. The elders are still doing that job today. Forty years down the line, we have made a lot of legislation shifting from the old English system to bringing the African culture and customs to our mainstream legislation. It is high time we adopted this as well to ensure that these people are remunerated accordingly.

With those few remarks, I beg to support the Motion.

**Mr. Deputy Speaker:** Prof. Kamar, in the absence of the Government Respondent, it appears you will get some few minutes.

**Prof. Kamar:** Thank you, Mr. Deputy Speaker, Sir---

*(Mr. Lesrima stood up in his place)*

**Mr. Deputy Speaker:** Mr. Assistant Minister, you were supposed to be here at the appropriate time to give the Government's response. Nonetheless, you will get your opportunity.

Proceed, hon. Prof. Kamar!

**Prof. Kamar:** Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this very important Motion. First, I would like to thank Mr. Wamalwa for bringing forth the Motion. This is something that ought to have been done long ago.

Our African system allows for dispute resolution at the village level. The administrative structure we adopted at Independence does not recognise that because we start with the sub-location. At that level, we have a number of villages that come together. The same villages are sometimes in conflict. The role that village elders have played on a voluntary basis in this country is one that has not been handled even by our administrative structure. I would like to support this Motion and say that we need to go back to the structures that resolve disputes and conflicts within our communities. This is one group of Kenyans that has been very patriotic. They have been offering services without being paid any salary. The disputes in our villages are being handled by village elders. They have resolved disputes which chiefs, DOs and DCs have failed to resolve. Why is that the case? It is because they live with the people and they are respected by the people. The village elders can talk the truth to the community frankly and fearlessly. They resolve conflicts. If we had this structure in January and February, I can tell you that we would not have had an escalation of the problem that we had. But because they were not recognised by any structure, they are busy appeasing people without being recognised. It is very important that we recognise this class of Kenyans who have been able to resolve disputes voluntarily. We need to remunerate them.

Mr. Deputy Speaker, Sir, the surprising bit is that if we allow them to be remunerated, we must also allow the selection or election of those elders by the villagers themselves. This is because there are people who are going to jump for those positions now that we are going to pay for them if this Motion passes. Those kind of people can only take advantage of the payment and not the job that is supposed to be done. Eldership in a village is a gift in the African set up. There are people who are known for dispute resolution. We must, as we support this Motion, come up with a system that will ensure proper selection of elders so that we get the right people. If we pay these people, as I have come across them myself in Eldoret East, they will do their work better.

Mr. Deputy Speaker, Sir, I want to say that even during the dispute period in my constituency, I used these people a lot and to date, they are the ones who are criss-crossing between the Internally Displaced Persons (IDPs) and the communities keeping the peace that is currently on.

So, it is very important that we recognise them. They are doing work that could not be done by the administrative structure that we have.

Mr. Deputy Speaker, Sir, with those remarks, I want to say that I really support this Motion. I support that we must have these village elders. They are part of our structures. They form one area that we erroneously dismantled when we became independent. We must go back to it.

Thank you.

**Mr. Nyambati:** Thank you, Mr. Deputy Speaker, Sir, for the opportunity. I stand here to also support this Motion. I want to say that it is a pity that we are copying too much from the western world. We must go back into history and realise that the elders over the years had done a lot to bring peace and stability in our own systems. We must understand that the work that these elders do even now is great and enormous. It is time we appreciated and recognised them because without them we may not live cohesively the way we do. Its no wonder the kind of authority that they have is immense.

These elders are respected among our communities, villages and amongst our people. It is time we gave them a chance to exercise their influence. In order to do so, we must find a way to thank them in terms of monetary gain; whether it is allowances, salaries or anything.

Mr. Deputy Speaker, Sir, I want us to go back to the beginning of the year when we had a lot of problems. If we had these organised people in our communities, they could have done a lot to bring peace. They can even interact from one community or tribe to another. So, I think it is very important. This is a timely Motion. We should not sweep it under the carpet. I think it is important that the Government takes this issue very seriously. I want to take this opportunity to thank the Mover of this Motion, Mr. Wamalwa, for bringing it up.

We all should support it because we all come from an African set up and we understand the kind of role our elders play. It is even upon us as Members of Parliament that when your father tells you something, you listen. That is the kind of system that we must instal in this country. We must go back to this and support it if we really intend to have a community that works together.

Mr. Deputy Speaker, Sir, these elders can also be used a lot in terms of mobilising resources when we want to do anything in either our schools or any other community project. They can also be used to solve some small cases which otherwise do not have to go before courts of law. This can be done amicably within our villages and communities so that Kenyans can now begin to live together as one people.

So, I strongly support this Motion. I want to say that the Government should take it seriously. I also want to say that it is about time that the Government Ministers took the affairs of this House seriously. It is a pity that we debate a Motion and there is no Government Minister listening to what we are saying. So, it is just like we are just making noise to ourselves and this is not fair to Members of Parliament. So, I suggest that this House finds a way of penalising Ministers who do not come to this House.

With those few remarks, I beg to support.

**Mr. Imanyara:** Thank you, Mr. Deputy Speaker, Sir, for this opportunity to support this Motion. One of the saddest consequences of the introduction of foreign or colonial rule in this country was the destruction of social institutions that held society together. Particularly in my community, we had the *Njuri Ncheke* institution which was destroyed by the colonial system and yet it played such a critical role in resolving disputes such as the ones that are resolved by the village elders as envisaged in this Motion. One can only say that this Motion needs the overwhelming support of all the Members.

Mr. Deputy Speaker, Sir, one only hopes that when the time comes to amend the Standing Orders and I do hope that this will be within the next two weeks, we shall do away with this procedure of seeking leave to introduce such critical and important motions such as this one, so

that when hon. Members want to bring Private Bills as envisaged in the new Standing Orders, they can come directly with the Bills and then we can proceed and pass those laws without necessarily obtaining leave of the House in an institution where the Government does not take the work of the House seriously.

I support this Motion and hope that Members will give it the support it deserves and when the day comes, we can pass it in one sitting.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): Mr. Deputy Speaker, Sir, could I donate my two minutes to hon. Affey?

**Mr. Deputy Speaker:** Okay. Hon. Affey!

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. While appreciating that we need to hear from the Assistant Minister, since he was unavailable at the time of the official Government responder, he forfeited that chance. So, he cannot even purport to be donating his time to another Member.

**Mr. Deputy Speaker:** Order, hon. Ethuro! It is within the Assistant Minister's time. He has a right to donate even if he wants 80 per cent of his time. Nonetheless, he has donated two minutes to hon. Affey.

**Mr. Affey:** Thank you very much, Mr. Deputy Speaker, Sir. First of all, I want to thank the Assistant Minister for giving me an opportunity to ventilate on this issue.

I begin by thanking the hon. Mover. This Motion is so important and timely. The role played by elders cannot be under-estimated particularly in pastoral communities where elders play the role of the Government in conflict resolution and, in most cases, they are the ones that the communities rely upon for leadership at the grassroots.

Mr. Deputy Speaker, Sir, the role of community elders from marriage, conflict resolution to even nomination of parliamentarians is very important. Where I come from, you cannot be a serious leader if you do not have the backing of elders on the ground because they are the ones who live with the community and they understand the kind of leaders they require to lead the community. I would like to plead with the Assistant Minister to reinstate the role of paramount chiefs because they played significant roles in communities where conflict has been prevalent particularly in the northern part of Kenya.

Mr. Deputy Speaker, Sir, on this particular issue, it gives us an opportunity to even discuss the current Scheme of Service that the Government seems to have deployed in recruitment of chiefs. This scheme of service is scandalous. It is something that the Ministry needs to revise as soon as possible. It requires that for you to be a chief or assistant chief, you must have certain basic education qualifications.

I support this Motion and I allow the Assistant Minister to continue. Thank you very much.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): Thank you, Mr. Deputy Speaker, Sir. I apologise for not being here when the debate on this Motion was resuming after the recess. Let me take this opportunity to congratulate Mr. Wamalwa for introducing this very important Motion. Let me also say that I have read the comments of Members of Parliament in the HANSARD and so I am not taking this matter lightly.

This is a very important Motion and I think Mr. Wamalwa, in his presentation, had literally covered everything that the village elders do and what we require to do. In fact, the only major concern that the Government would have with this Motion is again on the question of financial implications. I am very pleased to note that hon. Wamalwa is not even insisting on those people being on the payroll or given an allowance. So, I do appreciate his recognition of the budgetary implications. When you consider that we have 7,000 sub-locations in Kenya today, and note that there are five villages in every location--- Let us assume, for the sake of argument, that there are

50,000 village elders. If we were to pay each a small allowance of Kshs2,000, that would translate into a budget of Kshs1.2 billion per annum. I think we could discuss, at the beginning, the remuneration for those people.

It is also important to consider the points that have been raised by Prof. Kamar; that we require some kind of standardization. It seems to me that the institution of village elders is stronger in some parts of Kenya, particularly in Western Kenya and Nyanza, than in other areas. We could look for a way of institutionalizing, formalizing and streamlining the arrangement. In some areas, those village elders are appointed by assistant chiefs in consultation with the community. In other places, in fact, they are even elected. So, that is one other area that we need to look at.

Those people play a crucial link between the Government and communities. They are also good intelligence gatherers. They are employed in mobilization, peace and security activities. Initially, they were very useful in the registration of persons - even for passports and identity cards. Yet, the law under Cap.128(7) of the Chiefs Act allows the chief to employ any person. Now, employment implies obviously some form of remuneration. It recognizes that part of remuneration. So, really, unless the remuneration is put in place, they are bound to have all manner of rent-seeking activities, where the same elders may want to pay themselves by using other means.

Mr. Deputy Speaker, Sir, with those many remarks, I beg to support this Motion.

**Mr. Deputy Speaker:** It is now time for the Mover to reply. Hon. Wamalwa!

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, I think this is a very happy day for many elders across many villages in this country. That is because they have been waiting for this for many years. When the Assistant Minister failed to show up at the time he was called upon to reply, we thought that it was the same attitude that the Government has had towards those very important Kenyans who play a very important role in this country and yet, they have never been recognized. But I am very grateful that the Assistant Minister has come and given his time and support to this Motion.

Mr. Deputy Speaker, Sir, there are many colleagues who were very keen on supporting the Motion. I wish, with your permission, to donate five minutes to hon. Ethuro. He really wanted a chance.

**Mr. Deputy Speaker:** Proceed, Mr. Ethuro!

**Mr. Ethuro:** Thank you, Mr. Deputy Speaker, Sir. I also want to thank hon. Wamalwa for giving me the opportunity to contribute to this Motion.

Mr. Deputy Speaker, Sir, the good Bible tells us, and I will quote in Kiswahili: "*Vijana wataona maono na wazee wataota ndoto.*" The hon. Member for Saboti is a young legislator---

**Mr. Deputy Speaker:** Order, hon. Ethuro! The Standing Orders are very explicit about that. You can use Kiswahili or English. But you cannot mix them!

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, I was very clear. I started with English and made a quote in Kiswahili which I asked for. It was just a quote and that was the end of the story. So, I had to proceed with the language that I started with.

**Mr. Deputy Speaker:** Proceed!

**Mr. Ethuro:** Thank you, Mr. Deputy Speaker, Sir. I am a bit careful with these things. The young legislator is thinking about the elderly; only that he has forgotten that he is talking about elders and headmen. There are also women who are serious elders. It is important to recognize the role that elders play in our society. We do not want that important role to be left at the whims of a local chief or assistant chief who will just decide whom to pick or not to pick. What the hon. Member is asking is to seek leave of the House to amend the Chiefs Act. The Assistant Minister has owned up that even the Act provides for employment, which means that there must be some gainful compensation for those people. We are not asking them to be put on the payroll. We are asking for some token of appreciation. This Motion is going to reduce corruption. That is because

when a young man attains the age of 18 and goes to the elders for verification, he is asked for a "*meza ya wazee*." Now, there will be no need for "*meza ya wazee*."

Mr. Deputy Speaker, Sir, this Motion is also asking for governance at the very grassroots level. That is because when we acknowledge the vital role played by the elders - the process by which they get appointed - then we will have infused transparency and democratic principles to the very local village. Many at times, Ministers of Government, especially when we have conflicts, will come to this House and tell us that they are going to put *wazees* together. Many at times also, we have reminded the Government that those *wazees* are not paid for that job. It is Government officers who are paid for that job. This will ensure that, when we are calling upon the elders to contribute to important issues like conflict resolution, especially for those of us who come from the international borders, and even within northern Kenya where we have conflicts between warring communities, those elders will be remunerated properly for the job that they do.

Mr. Deputy Speaker, Sir, the job of a chief needs to be redefined. I have heard this House being informed that we are going to make the chiefs be responsible for the registration of deaths and births. How do think they get that information? It is through those village elders who provide the same information to the chiefs for free. Movement across the districts, especially in times of conflicts over pasture and water - where some of us come from - you will find that, most of the time, the people who move with the herders are the village elders and not even the chiefs. This Motion is extremely important in promoting information flow, transparency, accountability and giving due recognition to the elders.

Mr. Deputy Speaker, Sir, I beg to support.

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, Section 7 of the Chief's Act allows the chief to employ persons to assist him in carrying out his duties. Sections 12 and 13 allow the same chief to employ people to help in cases of emergencies and in conservation efforts. Under Section 14, such persons are paid from public funds, but Section 7 that allows the chief to employ people to assist in administration duties does not provide for payment.

There is, therefore, a lacuna in our laws. It is for this purpose that I have brought this Motion. We have embraced the concept of a working nation. We have Kenyans who are working hard, yet as a nation, we have not recognised those ordinary Kenyans who do extra-ordinary things that make this nation great. Those ordinary Kenyans like the ECD teachers, the village elders who work in every village and provide information intelligence to the chiefs, the Government and the councillors who work with wananchi at the civic levels are not recognised and paid for their work.

Mr. Deputy Speaker, Sir, it is not only a legal issue. If a law empowers one to employ, that law should not only empower him to hire, but also to fire and to also pay for services rendered. It is in this regard that I brought this Motion, so that those Kenyans across many villages in Kenya shall be rewarded for the very important work that they do for this nation. Other speakers who have contributed to this Motion have all acknowledged the important work that these Kenyans do. I do not need to repeat it.

I am very pleased that the Government has also recognised the role these Kenyans play. The Minister has talked about the role of the village elders. In Leviticus Chapter 9 Verse 13, the Bible says:-

"The wages of him whom you have hired shall not stay with you all night".

The Bible requires that if you hire, you must pay wages for the work done. So, this is not only a legal issue. It is also a moral issue. I wish to end by saying that village elders should be paid.

With those few remarks, I beg to move.

*(Question put and agreed to)*

DEMONSTRATION OF APPRECIATION TO  
MAU MAU VETERANS BY GOVERNMENT

**Mr. Mututho:** Mr. Deputy Speaker, Sir, with your indulgence, under the Standing Order No.41, I would like to move the Motion in an amended form to include the words "and other freedom fighters" immediately after the word "Mau Mau". Then on the second last line, I would like to remove the word "Mau Mau" and insert the words "war veterans".

Mr. Deputy Speaker, Sir, I therefore, beg to move the following Motion:-

THAT, acknowledging the gallant and selfless efforts by the Mau Mau and other freedom fighters in the liberation of the country from the British Colonialists; further aware that these war veterans are in their sunset years and living in the most dehumanising conditions and absolute poverty; this House urges the Government to consider allocating a minimum of 2.5 acres of arable land and any additional humanitarian assistance to every authenticated Mau Mau and freedom fighter as a token of appreciation for their role in bringing Independence to Kenya.

In moving this Motion, I want to start by saying that this is not a Kikuyu affair. Indeed, very many other tribes participated in the uprising against the illegal land acquisition by the settlers. This dates back to many years. Before I move further, hon. Members can remember the late Phaniel Dede, Achieng-Oneko, Elijah Masinde of the Dini ya Msambwa, Masinde Muliro, Paul Ngei, Jaramogi Oginga Odinga and many other freedom fighters. All these people are listed as veterans in the Mau Mau Uprising. This is not a Kikuyu affair as many people tend to think when the word Mau Mau is mentioned.

Mr. Deputy Speaker, Sir, indeed, if you look at the former detention camps like Manyani, Hola, Kapenguria, Mageta, Oyamo and Thinyani Islands around Lake Victoria, you will find that the detainees were from outside those areas. I want to talk about Mageta Island, which is right on the shores of Lake Victoria.

**Mr. Deputy Speaker:** Order, Mr. Mututho! You are allowed, as per the Standing Orders, to amend the Motion provided you do not substantially alter the spirit and the objectives of the Motion itself. When you sought my approval for that, I thought you said that you will insert immediately after the word "Mau Mau" on the first line the words "and other freedom fighters". Then on the second last line, you had said that instead of the word "Mau Mau" you will insert the words "war veterans", so that it reads "to every authenticated freedom war veterans". But I thought I heard you say just "war veterans". If you say "war veterans", then that includes people who fought in the First and the Second World Wars on behalf of the British and the Germans. Are we reading from the same script because this is what you brought to me? On the second last line, you should replace the word "Mau Mau" with the words "freedom war veterans".

**Mr. Mututho:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Proceed! Then we are reading from the same script. Please, read the terms of the Motion in its totality from the beginning to the end.

**Mr. Mututho:** Thank you, Mr. Deputy Speaker, Sir, for that correction.

Mr. Deputy Speaker, Sir, the Motion as amended reads:-

THAT, acknowledging the gallant and selfless efforts by the Mau Mau and other freedom fighters in the liberation of the country from the British Colonialists; further aware that these war veterans are in their sunset years and living in the most dehumanising conditions and absolute poverty; this House urges the Government to consider allocating a minimum of 2.5 acres of arable land and any additional humanitarian assistance to every authenticated freedom war veteran as a token of appreciation for their role in bringing Independence to Kenya.

**Mr. Deputy Speaker:** Proceed!

**Mr. Mututho:** Mr. Deputy Speaker, Sir, I was talking about the Mageta Island on the shores of Lake Victoria. On Mageta Island, there was an arrogant white man, who tortured Africans to their deaths. The local women, who were mainly Luos, decided that enough was enough. They knew that the white man could not swim. So, they threw him into Lake Victoria. Since he could not swim, he drowned. Those women are war veterans.

I am trying to emphasise the fact that even women like the Luo women that I have talked about, also participated in the struggle for Independence and are part of it.

*[Mr. Deputy Speaker left the Chair]*

*[The Temporary Deputy Speaker  
(Prof. Kamar) took the Chair]*

Madam Temporary Speaker, the Mau Mau started as a land and freedom army. The Chair has previously ruled that electronic format of documents cannot be laid before the House, but I would like to lay on the Table a document which has been downloaded from [www.pxywar.org](http://www.pxywar.org) website, which gives the details of the Mau Mau oathing.

*(Mr. Mututho laid the document  
on the Table)*

"I swear that I will fight for the African soil that the white man has stolen from us".

That was the oath. Other details of the oath are included in this document, which I have already tabled. The whole oathing issue was about that African soil that the white man took from the Africans. It had nothing more than that.

Madam Temporary Deputy Speaker, I want to say that these issues had been addressed and people had been aggrieved for very many years. For instance, in 1913, a Maasai took the Colonial Government to court, challenging the illegality of the Maasai Treaty. The Colonial Government made a landmark ruling that the Maasai Treaty was a treaty between two nations and, therefore, the magistrate court could not give a ruling on that. Those are some of the things that we have witnessed over the years in relation to this. How did it all happen?

When the freedom fighters went to the forest to fight, the white man responded by enacting the Forfeiture of Land Ordinance, 1953 No.11 of 1954, which essentially meant that any African male, particularly those ones from the affected areas that were not in their homes for a given time, whether they were on Safari or wherever they were, forfeited their land automatically.

Madam Temporary Deputy Speaker, I want this Government to accept that they took over from that bad Government; the Colonial Government. They put notices in the Kenya Gazette, for instance: Government Notice No.517 of 14th April, 1955; Government Notice No.516 of 14th April, 1955; Government Notice No.988 of 24th July, 1955; Notice No.991 of 11th July, 1955 and Government Notice No.993. All these notices had bad words like the Forfeiture of Land Ordinance 1953 (No.11 of 1954) - Native Land Rights Confiscation Order. It read as follows:-

"Whereas I am satisfied that each of the persons named in the schedule have since the 11th day of July, 1955, being the appointed day for the purpose of Section 3 of the Forfeiture of Land Ordinance 1953, participated or aided in armed or violent resistance against the forces of law and order now, therefore, in exercise of the powers conferred by paragraph 3, Section 3(1) of the Forfeiture of Land Ordinance 1953, I hereby

make this Native Land Rights Confiscation Order against each of the said persons as in the said ordinance provided."

Madam Temporary Deputy Speaker, the names are in their thousands. They committed no crime. These orders were made by a legitimate Government, which was the Colonial Government, that handed over power to this Government. They took people's land and later on consolidated it and the Government must own up to this mess. I wish to lay on the Table part of the many orders the then Government published in the Gazette Notice.

*(Mr. Mututho laid the document  
on the Table)*

It is a shame that we, in Africa, do not take our war veterans seriously. As early as 1636, the white men went to America and when they got there, they wanted to occupy Americas. They were killed. Those people who were killed then were recognised as war veterans and rewarded appropriately. Many countries are doing that. I want to quickly highlight to hon. Members the success story in the United States of America. Those people were referred to as Pilgrims from Plymouth. They met some stiff resistance from the Indians. Very many of them were killed while others were maimed. The then government passed a law to the effect that those people must be protected as veterans.

In 1776, there was a revolution in the USA and all those people who died were again rewarded and they are sung heroes today. In 1811, the veterans received the first medical facility by law for the same purpose as in our case. In the 19th Century, the program was expanded to include pensions. America is known for engaging in civil wars and wars with other nations. They have made it worthwhile for them to die that their war veterans get education and housing. That is a nation that recognizes their war veterans; people who fought for a worthwhile cause.

Those people who died in Thinyani Island, particularly one woman, I wish the Assistant Minister for Finance was here because he was a small boy then and must have seen it. A woman died as she held soil on her hands. Just before death, she put the soil in her mouth. That was a Kikuyu old woman. They died for the soil. All people who died in the forest devoted their last energy to the soil. They said very clearly that they were dying for that soil. As late as last year, at a place called Ng'arua, which is in Laikipia, somebody died and was buried by the roadside with a 44 year old bullet lodged in his leg.

When I sit down, I would like the Ministers to rise and say that they should give the land tomorrow. When a man dies with a 44 year old bullet lodged in his leg and he is buried by the roadside and yet he fought for the land, we have inherited this land and we are enjoying it. It is a habit of this Government and previous governments to solve such a complicated issue as land through commissions and very funny arguments. The first one was in 1897. That was the one that made it possible for the colonialists to come and occupy the land. Other commissions were set up in 1900, 1902, 1905 and 1907. All these were set to try and legalise, as it turned out, the occupation of land, which ended up being about 10 million acres. The Maasai were persuaded, through an illegitimate treaty, to vacate their land so that they could create room for the white settlements. Later on, as it turned out at Lancaster House, this gentleman called Delamere, another *mzungu*, wrote a letter to the people who were participating in the Lancaster House conference. It said:-

"It must be recognised that few Europeans are likely to remain in Kenya unless they are satisfied that their personal safety---"That gave rise to Section 75 of our *Katiba* that guarantees, and gives sanctity to title deeds.

Madam Temporary Deputy Speaker, the white men not only took our land but helped entrench sections in our own Constitution that guarantee that they remain on that land. All we are



urging now is; let us be gentle enough to honour that small commitment by those gallant freedom fighters that made me sit here as an hon. Member for Naivasha. Let them be given, together with other freedom fighters, a minimum of 2.5 acres of land, maybe not to farm, but, at least, to be buried on those *shambas*.

With those few remarks, I would like to invite my brother, Mr. Wamalwa, to first of all, since he comes from an area that produced some of the most fantastic war veterans, support this Motion.

Thank you

**The Minister for Regional Development Authorities**(Mr. Gumo): Who were they?

*(Mr. Gumo laughed)*

**Mr. Wamalwa:** Madam Temporary Deputy Speaker, Mr. Gumo does not appear to know the historical fact that there were very serious war veterans from the western part of Kenya.

**The Minister for Regional Development Authorities** (Mr. Gumo) It was a joke!

**Mr. Wamalwa:** Madam Temporary Deputy Speaker, I rise to support this very important Motion. I want to thank my friend, Mr. Mututho, for coming up with such a Motion. Many times, we tend to take things for granted. We forget that we are here a free nation because there were Kenyans who were willing to die so that we might live and live as a free nation. Those were people who laid down their lives for the country to fight the colonialists, and bring freedom to Kenya, so that Kenyans would own and live in a free country.

My late brother, Michael Wamalwa, used to say that a nation that does not honour its heroes shall itself be forgotten. We are that kind of a nation, that has not been very good at honouring its heroes. It is only in the recent years that we brought a Motion here to create a Heroes Square in Kenya. Since Independence, we had totally forgotten about our heroes, who fought for our Independence. Today, Mr. Mututho has come up with something that will remind us of those true veterans, who fought the colonialists fiercely, so that this country would be free.

I am very grateful to Mr. Mututho, because when we discussed this Motion, we acknowledged the fact that those who fought for the freedom of this country were not only the Mau Mau. The Mau Mau played a major role! In fact, amongst the most celebrated revolutions in the history of mankind, the Mau Mau resistance is considered a revolution. But there were also others who were not Mau Mau, but who fought for the freedom of this country. In fact, as the colonialists advanced into the hinterland, they met very fierce resistance when they encountered the Maasai. One of the most fierce of warriors that they had come across in the continent of Africa; the Maasai!

Madam Temporary Deputy Speaker, as the colonialists advanced towards the west, they came across the fiercest or what is considered the fiercest resistance ever, the Nandi resistance led by Koitalel arap Samoei. This has gone down in history as one of the fiercest resistances in the history of mankind. The Nandi resisted the colonialists! They held them back for 11 months; they could not penetrate or advance, and they fought for the freedom of this country. They resisted the encroachment of the British colonialists. Eventually, as they reached the western part of Kenya, there were very serious wars that were fought in that part of Kenya. In an area called Lumboka in Bungoma, there was a serious battle and also in a place called Chetambe. The Chetambe and Lumboka wars were some of the very fierce battles, where the British suffered serious casualties. In fact, in very rare circumstances, the British employed one of their most terrifying weapon, the cannon, which was used to bomb and break through the barricaded Chetambe place, from where the community resisted the British.

Indeed, in the western part, Elijah Masinde has not only been considered a prophet. He is considered a freedom fighter, because he mobilised people, through *Dini ya Msambwa*, to offer

very serious resistance to the British in the western part of Kenya. As we think about heroes and veterans who fought the British, we need to get our history right. We need to look back and acknowledge the role that Kenyans, who came before us, played in ensuring that we live in a free country. In which way can we remember them? In which manner can we acknowledge the role they played?

I was watching Barack Obama and John McCain this morning. I also watched their previous debate and you will see that the issue of the veterans is a very coveted issue. Every candidate or president in the United States has ensured that it is handled with care, because they acknowledge their brave sons who were willing to lay down their lives for the sake of the nation. But in this country, we have a terrible history of only remembering our heroes when they die. In fact, when we talk about Bildad Kaggia and the other heroes who have died, they have only been brought to the national attention when cameras and very brave journalists have gone out to actually seek them out and find them living in poverty. That is when, after they die, we have offered to, maybe, tarmack a road and name it after them. That is when we have offered expensive coffins and funeral arrangements to support their families, but when they lived and breathed, no one remembered them.

Madam Temporary Deputy Speaker, I say so because I know one freedom fighter, who is alive today, and who is a founder member of Ford Kenya, Mzee Gitu Kahengeri. He is a true hero, who fought for this country but he is not acknowledged. He is not known! I came across him when he was trying to push the cause of war veterans. I must congratulate my brother, Mr. Mututho, for bringing this Motion; he has taken a step in the right direction. We, as leaders in this country, must go the extra mile to ensure that these war veterans are remembered. They are living in terrible conditions. We should do something to settle them; we should do something to give them a decent retirement, decent homes and, perhaps, land because many of them are landless, yet it is this very land that they fought for.

As we talk about settling our war veterans, we must also address the issue of compensation. We know that it is a matter that many other countries have dealt with. We have heard that the Aborigines in Australia received an apology and compensation for what was done to them; the displacement. We have heard the Italians apologising for what they did in North Africa. But what the British did at Lumboka, Chetambe; what they did at Koitalel arap Samoei's homestead - the cold-blooded murder and eventual killing of a great son of Kenya--- I think up to now, we are still waiting for an apology or compensation for those heroes. I think that is something we might need to take up. I think there is a Motion coming to that effect. But for now, we would like to see what can be done about the heroes and the veterans who are alive today and who are living in squalid conditions or, those who have passed away and their families, who also suffered as a result of their sacrifice for this country, are living in terrible conditions! I think we must, as a nation, honour those heroes!

But Madam Temporary Deputy Speaker, as we do so, we must also recognise that the land issue remains a time bomb in Kenya. We fought for the land during Independence. In successive years, we have held elections and there have been clashes over land. As we speak, we do not yet have a comprehensive national land policy to address the very sensitive issue of land; the very issue that we are talking about today, that the veterans fought for. We must, as a matter of urgency, speed up the process of putting in place a comprehensive national land policy to deal with the land issue in this nation.

Madam Temporary Deputy Speaker, with those few remarks, I beg to second.

*(Applause)*

*(Question proposed)*

**The Assistant Minister for Nairobi Metropolitan Development** (Ms. Ongoro): Thank you, Madam Temporary Deputy Speaker. I rise to support this very, very important Motion. I thank you, hon. Mututho, for bringing this Motion.

Over the years, I have realised that we, as a country, are living in a state of great hypocrisy. That is because those people that we now refer to as "freedom fighters", gave us a platform of the freedom that we are now enjoying. They put their lives on the line and, in many cases, you read in the newspapers when one of them passes on, then we all troop to their various villages and give them "state funerals" as has been observed. Honestly speaking, what they fought for was nothing other than land. They were not fighting for an allocation of shares in any company. They were fighting to protect the land. The land issue is still really critical even at this time. But we must recognize that those who started the fight should be given what they deserve. It is not actually a favour; it is actually a moral obligation upon this nation! We must reach out to those families, even of those who have already departed, and give them some parcel of land. It is really shameful for one Kenyan to own 500,000 acres when another Kenyan, who actually fought for that same land before that other Kenyan was born, is living in abject poverty!

Madam Temporary Deputy Speaker, while we consider this very, very good action, we must also realise that wars are fought in many ways. There were those who availed themselves physically and went to the bush to fight. But there were those who were fighting intellectual wars at that time! There were those who were facilitating like, for example, the women who were providing our fighters with food and moral support. There were also those communities which, in one way or the other, as has been indicated by hon. Wamalwa, made it quite difficult and gave a very, very important boost to the whole process.

Madam Temporary Deputy Speaker, my proposal is that every community should be consulted. As we talk about every community in Kenya, one way or the other, some contributed more. But I believe that every community is able to identify one or two people who were involved in the process in one way or the other. While we consider the compensation process, I want to also say that, over the years, even as we sit here in this House, we are fighting yet another war. And this should not just go towards recognising those who fought before. But can we have a policy of recognising those who contribute critically in every generation of this country? It should not just be those who fought physically. In every generation, we have those who have contributed critically towards certain things. Like now, very shortly, we are going to debate the Constitution of this country. I believe that if we have a Government policy that will recognise, in every generation, those who will fight the very many different kind of wars; intellectual, physical or otherwise, should be recognised in one way or the other.

Madam Temporary Deputy Speaker, with those few remarks, I beg to support fully, and I hope we are going to soberly debate this Motion and, probably, implement every recommendation that is contained in it.

Thank you, Madam Temporary Deputy Speaker.

*(Applause)*

**Mr. Kutuny:** Bi. Naibu Spika wa Muda, nashukuru kwa kunipa fursa hii. Kwanza, ningependa kumshukuru Bw. Mututho kwa kuleta Hoja hii, ambayo imekuwa donda ndugu sana katika Taifa la Kenya. Wakenya wengi walijitolea ima fa ima kwa miaka mingi, ili kuleta ukombozi na Uhuru katika Taifa la Kenya. Wengi wao walipoteza maisha yao na wengi wakupoteza makao katika harakati za kuleta ukombozi katika Taifa la Kenya. Wabeberu walikuwa

wamelimiliki Bara la Africa na Taifa la Kenya kwa ujumla. Lakini Wakenya ambao walikuwa na maono waliweza kujitolea kwa namna yoyote ile, ili kuweza kulikomboa Taifa hili.

Lakini masikitiko ni kwamba wale ambao walileta Uhuru na kutupatia mchanga na ardhi ambayo ina rutuba katika Taifa la Kenya, walikufa katika ufukara. Kwa sasa, mbegu ya ufukara wao inachipuka. Katika Taifa la Kenya, kuna vikundi tofauti tofauti. Genge la majambazi. Nikitaja vikundi vichache, kuna genge kama la *Mungiki* na genge la *Sungu Sungu*. Hayo ni matatizo ambayo tuko nayo na ukifuata kwa undani, utagundua kwamba wale ni wana wa wale watu ambao waliwania na kupambana na ubeberu ili kutupatia nafasi ya uongozi ambao tunao sasa. Lakini wachache ambao walikuja kutawala Taifa hili hawakuona umuhimu wa kuweza kuwatafuta wale watu waliowania kutupatia Uhuru katika Taifa la Kenya. Kukawa na mabwenyenye wachache katika Taifa la Kenya, wakanyakua kila kitu na ikawa mwenye nguvu mpishe. Ikawa tangu lini nguruwe akapatikana kwenye taka la simba? Walifutwa na wakasukumwa kando. Sasa tunasema hapa Bungeni kwamba wakati umefika kwetu sisi, kama taifa la Kenya, kuwanyooshea mkono wa shukrani wale waliojitolea kutupatia nafasi ya kujitawala. Hatua ya kwanza ni kubuni mikakati itakayotuwezesha kuhakikisha kwamba Hoja hii itakapotekelzwa, tutaweza kuwatambua wale watu walioweza kuwania nafasi ya Wakenya kujitawala ili tusije tukawa na watu watakaosema: "Sisi tuliwania haki ya Wakenya", lakini ukweli ni kwamba wao ni mbwamwitu waliovalia ngozi ya kondoo.

Bi. Naibu Spika wa Muda, miaka michache iliyopita, watu fulani walienda Uhabeshi na kutuletea mtu mmoja mjanja aliyedhaniwa kuwa Jenerali Mathenge. Ukweli ni kwamba mtu huyo hakuwa miongoni mwa wanaharakati wa Mau Mau ambao walitutea mpaka tukapata Uhuru. Kwa hivyo, tutakapoititisha Hoja hii, ni lazima kuweko na mipango kamili ya kuwatambua wale waliopigania Uhuru wetu na kuangamiza ubeberu katika nchi ya Kenya. Pili, familia za wapiganiaji Uhuru ambazo ziko katika taifa hili ni lazima zishughulikiwe kwa kina. Tatu, tuna vyo vingi katika taifa la Kenya. Kuna baadhi ya viongozi ambao walivipa majina yao vyo zaidi ya 100. Tunataka baadhi ya vyo hivyo katika kila mkoa vibadilishwe majina kupewa majina ya mashujaa walijitolea kupigania Uhuru wa nchi hii. Sisi kama wabunge kutoka Bonde la Ufa, tuna mpango wa kuleta Hoja Bungeni ili kubadilisha jina la Moi University, Eldoret, liwe "Koitalel University", ili kuwatambua na kuwapatia heshima wale watu ambao walitetea haki ya Wakenya.

Nikimalizia, ninasema kwamba tunataka tushirikiane sisi sote. Ninashukuru kwa sababu Hoja hii imefanyiwa marekebisho. Nilikuwa na wasi wasi kidogo pale Hoja hii ilipozungumzia juu ya wapiganiaji Uhuru wa Mau Mau pekee yao. Kule Mombasa, kulikuweko na vita. Kinjeketile alikuwa kule akitetea haki ya Wakenya. Vile vile, katika sehemu ya mpaka wa Kenya na Tanzania, kulikuweko na vita. Kinjeketile aliongoza vita hivyo kutoka sehemu ya pwani ya Kenya hadi kule Tanzania. Nguvu zake zilifika kote katika taifa la Kenya.

Hapa Nairobi, kulikuweko na vita vilivyoongozwa na Wakenya. Kule Nyanza, kulikuweko na wakombozi. Katika sehemu zote katika taifa la Kenya, kulikuwepo na watu waliojitolea. Ndiyo tunashukuru kwa sababu ya marekebisho yaliyofanyiwa Hoja hii, ambayo yanaelekea kuwajumuisha Wakenya wote waliojitolea kuhakisha kwamba mbeberu aliondoka kutoka taifa la Kenya.

Kwa hayo machache, ninaunga mkono Hoja hii.

**The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria):** Thank you, Madam Temporary Deputy Speaker, for giving me the opportunity to support this very important Motion on our liberation and the people who did so much to get us free to even be able to be speaking, as we are in Parliament today.

It is good that we recognise that this goes beyond the Kikuyu, Meru and Embu people, to include the Nandi, as the last speaker has said, as well as the Pokots. In fact, there was a big massacre of the Pokot people by the British in 1950, where more than 500 Pokots were massacred

while resisting British rule. There were also Asians who took part in the struggle. Examples are Pinto, Malkiat Singh and others. There were Maasais and Luhyas, as we have been told.

Madam Temporary Deputy Speaker, those people fought for Independence, so that they and other Africans could benefit but like they say, with the Independent African Government, there is a Swahili saying which goes: "*Ahsante ya punda ni mateke*". What happened is that many of the people who fought for our freedom, as a matter of fact, were harassed by the Kenyatta regime that took over from the colonialists. In fact, some were chased and flushed out of the forests by the same people they fought for. In fact, there were leaders of the Mau Mau who were shot dead by the Independence Kenya Government.

As that was happening, it turned out that a lot of the people who took over the Government were not, in themselves, thinking about the people who fought and about the country at large, but rather for themselves. So, the people who got the most rewards were the ones we called the "homeguards". The "homeguards", who fought the Mau Mau fighters and did all sorts of terrible atrocities against the Africans, were the same ones who got the most land. They got the biggest jobs and continue to frustrate the people who fought for Independence.

Madam Temporary Deputy Speaker, we have been told that many Mau Mau fighters died poor and their children followed them. Many were assassinated. We do not know what happened to people like Mr. Kungu Karumba. People like Gama Pinto were assassinated. Many of the children of those families are amongst the many squatters we are talking about. So, when we talk about squatters, we are not just talking about those in the Mau Forest, but they include other Kenyans who are squatting on account of the fact that their parents were not able to support them in any way. They could not give them any education or any other means to be able to acquire any land resources in this country.

I agree with Mr. Mututho and others who have spoken. We should give these people some minimum pieces of land. The question is where this land is going to come from. We have been told that there are many Kenyans who own much more than they need. We just need to go to the Ndung'u Report, which has not been implemented up to this point. The Ndung'u Report gives us cases of Kenyans who own whole provinces. These happen to be the Kenyans who did nothing for struggle for Independence. In fact, they were the beneficiaries. The Ndung'u Report talks about many cases of Kenyans who have grabbed public land that used to belong to the Agricultural Development Corporation (ADC) and others; thousands of acres.

Madam Temporary Deputy Speaker, therefore, it would not be so difficult for us to find land for these people, as well as for those people we are trying to get out of the Mau Forest. I think there is land. If the people who own so much of it become less greedy, and if the Government has the will to dare touch the people who have land they do not need, and which they did not buy but in a lot of cases, grabbed even what was meant for public utility. We should have programmes of re-settling them in an organised manner, including giving them basic survival necessities like, as it has been said, housing and so on.

We should have education programmes for their children and grandchildren, so that they can also benefit from what it is that they cannot get from the land, but which education can make possible for them to achieve. We must provide support for them to start small businesses now that we have all sorts of funds, including the ones for the Youth Enterprise Development Fund and Women Enterprise Development Fund. It is possible to come up with a special fund for children of veterans, so that they can have a more decent life than their parents. That way, they can be happy that their parents, at least, fought for something.

Madam Temporary Deputy Speaker, we should also give them some legal support. All the time, I encounter Mau Mau veterans from Meru, Nyeri and other places, coming to Nairobi. They have Mr. Paul Muite as their advocate. I know it is not easy that they have to meet their own

expenses. As a Government, we should be able to provide the legal fees for those people, so that they can pursue both their matter of compensation as well as whatever else that they can benefit from in this country.

We have been told that we should also be able to remember these people in many ways. If you go to South Africa, and to Pretoria Square, you will see that they have a list of all the people who fought during the World War I. If you go to many countries, you will find that they have a memorial listing of the people who did their country proud. In Nairobi, recently, we remembered the late Dedan Kimathi, but there are others like Koitalel arap Samoei, Gama Pinto and many others.

Madam Temporary Deputy Speaker, I remember that when Nelson Mandela first visited Kenya, the first question he asked even before he became the President of South Africa was where he would find the family of Dedan Kimathi. Of course, he was not going to find them, because it was not a priority of the regimes that took over the leadership of this country, but a foreign dignitary could remember them. So, we need to be able to have an opportunity to remember these people, and the square should include all their names, what roles they played for this country, which years they passed on and what it is that they are remembered for.

We have national days and presidential awards like the Elder of the Burning Spear (EBS), *et cetera*, but we rarely remember those kind of people. I do not remember any of the freedom fighters who has been honoured by any of the former Presidents. They did much more than some of the people who get these honours. We should go back, get them listed and support them. We should also have national days in which we remember them. Why should we have Kenyatta Day? Is Kenyatta the only one who fought for Independence? I would propose we call that day Heroes Day so that we can remember all the heroes. I really hope Parliament will support the change of name so that we can have one name where we remember all our heroes as opposed to focusing on one single hero.

Madam Temporary Deputy Speaker, similarly, I wonder whether we are going to be having a day for every President of this country. This Friday, we are going to celebrate Moi Day. Soon, I am sure we will be talking about Mwai Kibaki Day! Now, let us assume; after we will have had 300 Presidents, we will only have 52 working days in this country. That time will come!

*(Laughter)*

Madam Temporary Deputy Speaker, I would also like to suggest that we consider having one day for all former Heads of State. It can be called Heads of State Day if we have to remember all of them. But this business of being sycophantic and every time coming up with an excuse to say, "we have to give you a day because you have done so much", even when you have blundered so much, is unfortunate. It is high time, we reserved that order only for those who fought for this country.

With those few remarks, I beg to support.

**Mr. Kioni:** Thank you Madam Temporary Deputy Speaker, for giving me this opportunity to contribute to this very important Motion. I want to start by congratulating Mr. Mututho for thinking about this and bringing it to the Floor of the House.

I am a son of a former Mau Mau fighter. My father was detained twice. It was by the grace of God that he did not die under the very cruel hands of the British colonialists. So, as I stand to speak here, I talk from a point of a person who has had it, felt it and knows what it is to have been associated with this issue of Mau Mau and other freedom fighters. Let me just say that it is clear that when you see Mau Mau, it was not a Kikuyu name. It was not just meant for the Kikuyus who were in the forest. In fact, the word Mau Mau was not coined by Kikuyus. It is a name that was

given to those who were fighting for the freedom of this country.

Madam Temporary Deputy Speaker, I would want to mention that it is telling that when at one point, in 1946, the late Mzee Jomo Kenyatta said that if it was Central Province that we wanted freedom for, the *wazungus* were ready to give him that freedom that early. He said that it was not Central Province that those who were in the forest were fighting for. It was the whole of this country they wanted liberated. They wanted the white man to leave the whole of this country to those it belonged to.

One former Member of Parliament, Mr. J.M. Kariuki who was the Member of Parliament for Nyandarua North was also a detainee. It is important to remember that he used to prick his own skin. He used to use his own blood to write letters to the colonialists asking for the land that belongs to us. We still have very many other people who contributed. We have Ndung'u Gicheru, who is now aging somewhere in Enderasha in Gatarakwa. I know he has bullet shots on his body but if you visit him now, he has nothing to show for all the sacrifice that he made. He is amongst very many other old people. If you go and see those people and if some of them can be seen on television, we would know what I am talking about.

Madam Temporary Deputy Speaker, we will be having a meeting in Ndaragwa soon. We will be bringing all those people together so that the country can appreciate the difficulties that they are living in. They can actually get to understand what we mean when we say that those people are living in dehumanised conditions.

Just as has been said by other hon. Members, we should not live a lie. The people who fought for Independence, those who were in the bush and those who were detained and are still alive have a lot of bitterness. That bitterness is even more in the young people we see on the streets. If we do not address these issues, we will keep hiding and every other time there is an opportunity for people to come to the streets, we would be thinking that they are coming to the streets for the reasons we think but it is historical bitterness. We have the National Land Policy issue talking about historical injustice.

Madam Temporary Deputy Speaker, if there can be any other historical injustice other than people who died and fought for this country, yet we have just forgotten them--- As many people have said, the only time we want to remember them is the time they are about to die. When they cannot meet their medical bills, is when we go and try to pay these bills for them. We are being hypocritical when we do that because we are trying to get political mileage out of these cases. It is not that we are going to help them but looking for political mileage.

It is very important that we get history accurately. If we do not address it properly, for sure, every other time, for example, in the year 2012, there is going to be general elections and there is a likelihood of violence. Let us not cheat ourselves. Some of these cases of violence have a lot to do with the way we have treated our parents and the way we treated those who sacrificed for this country. It also has to do with the way those who came after them have suffered.

Madam Temporary Deputy Speaker, it is known to us that when our fathers were in the forests, many of us lost opportunities to go to school. Many of us lost opportunities to venture into business. Out of that poverty, we can still see the line going on. If we do not come up and face these issues--- They are painful and difficult and we may not want to talk about them. However, if we do not allow ourselves to be open and talk about these issues, this is going to be a problem. It is not just going to be a problem in Central Kenya, it will be across the whole nation.

If you look at history, many attempts have been made to address the issue of land in this country since 1897. In 1905, we saw the Nandi Resistance. In 1908 we saw the Maasai fighting. In 1912 we saw the Chiefs' Association. We saw the Giriama in 1913. All these are attempts to sort out the issue of land. Even in the year 2008, we can still see these issues of land. We do not talk about it and continue hiding. That is why I stand to support this Motion.

Madam Temporary Deputy Speaker, at times, it is just important for us to stand and say, "thank you". I want us to be told at what time did the Government take a moment to just thank those people who sacrificed so much. You have given this issue so much lip service and we are limping out of the situation we have. Even if we do not solve it in this Parliament, let nobody think that it is going to die. This is something that will be there for the life of this country.

When you go to the United States of America (USA) and other places, they make a lot of money in the tourism industry just by telling people who their heroes were, what they did and how they contributed to the country they are in now. Ours is a question of saying it is like nothing happened. We want to behave like there are no people who died in the forest or those who lost property. We want to behave like it did not happen. If we continue to behave this way, then let me say we may be calling them *Mungikis*, the SLDF or whatever you want to call them, but it will continue coming. Until we say "yes, this happened", we cannot succeed.

Madam Temporary Deputy Speaker, we have a group of Mau Mau people. I use the word "Mau Mau" to represent all those who fought for Independence in this country. They are struggling to get compensation from the British Government. However, they have got no help from the Government. They use their own money to hire lawyers, they travel around and because of the inadequacy in terms of knowledge and resources, they have always had technical problems with the cases they have filed. I do not understand why the Government cannot just take over this on behalf of its own people. Other countries have been compensated for their people being killed and mistreated. They say that, that which belongs to us should always belong to us.

With those few remarks, I beg to support.

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaiserry): Madam Temporary Deputy Speaker, thank you very much for giving me this opportunity to contribute to this very important Motion. I would like to commend my friend, Mr. Mututho, for bringing this important Motion in the august House for us to discuss. It is very important that, as a nation, we recognise and honour our heroes. There are several fundamental questions which we must address. The first one is the profiling of the war veterans. We need to profile the war veterans: Where are they? How many are they? How are they living now? How many are alive? Which war did they fight? Do we pay compensation posthumously?

The second question is about the freedom fighters, especially those who fought for our Independence. They fought so that we could be free, and we are indeed free. They did not fight to get compensated. The compensation they got was our freedom. I am so glad that a product of one of the war fighters is a Member of Parliament sitting here today. That is a price you paid for us to be free. The next thing that I want to point out is why we should lament, 45 years after Independence, that our people are living in squalor conditions, when the African themselves have been the leaders and commanders for the last 45 years. So, we cannot blame the British who left 45 years ago. That brings out a very fundamental question: How do we help the heroes?

Madam Temporary Deputy Speaker, we have been talking about the issue of land, and we need to address the issues of land, historical injustices and so on when we bring the Bill on Truth, Justice and Reconciliation. That is the only time we can address that issue. For example, where does the Republic of Kenya get 2.5 acres of land to give to each freedom fighter once we know them? We should be able to say that we will get land from land grabbers. There are people who grabbed land after the heroes fought for it. Freedom fighters fought for land for all of us, but very few grabbers took that land for themselves. Those are fundamental questions, into which the Mover of this Motion need to do a thorough research and address, so that the Government can critically look into it.

If there is no land to give to these heroes, I would suggest that a Motion be brought to this House to create a special fund for the heroes. This fund will be like the Youth Enterprise Fund or



the Women Enterprise Development Fund. We could put that fund under the Ministry of State for Special Programmes, but we can only do that effectively if the questions which I raised are fully addressed. There is the question of numbers. We do not want crooks to come and say that they are freedom fighters. How many freedom fighters are we going to compensate? There are freedom fighters who fought the Shifta War. Do we extend this to the people who served in the military? We need to do a serious profiling. How many wars do you want to take into consideration. The Maasais fought the British; so, do you compensate their offsprings? Do you compensate somebody because he fought for Kenya? Is it not a calling or a vocation? Must we do things for this country for us to get compensated? These are fundamental questions. These are some of the issues that are supposed to be addressed by the Mover; he should clarify them, so that the Government can address them in a clearer way.

Madam Temporary Deputy Speaker, the issue of heroes is very important. It is only this country which recognises crooks on national days and forgets the real freedom fighters. We should be singing praises to the late Kimathi, Lenana, Samoei and so on, instead of praising crooks. When we bring here the Bill on Truth, Justice and Reconciliation we should strip all those crooks of their titles. This is a very important Motion which needs the support of the Government and hon. Members. We really need to consider two issues: special fund and repossessing land taken by the grabbers so that we can give it to our heroes.

With those few remarks, I support.

**The Minister for Forestry and Wildlife** (Dr. Wekesa): Thank you, Madam Temporary Deputy Speaker, for giving me an opportunity to support this very important Motion. I want to thank the Mover, a good friend of mine, Mr. Mututho, and the Seconder, a brilliant debater, who has taken over the mantle of his late brother, Mr. Wamalwa; there is a historical background to this very important Motion. Without repeating myself, let me say that my colleagues who have spoken before me, have highlighted the historical background. They have highlighted on those gallant Kenyans across the nation who rebelled against the British invasion in Kenya. So, I will not go into that again.

I want to support this Motion. I have been in Parliament since 1988, and over a period of time, this issue has been glossed over by those of us who have been in this House. Now the Grand Coalition Government is going to deal with the issue. You can see that there is some good coming out of this Grand Coalition.

I want to touch on an aspect that has not come out clearly. We have to look at several stages of this issue. There are those Kenyans who rebelled the British and have been named. There are those Mau Mau veterans who took on the British and fought them. These were Kenyans, and not just the Kikuyus as we have been told. The third category are the politicians like the late Jomo Kenyatta, the late Kaggia, the late Kungu Karumba, the late Oneko and so on, who took the political side and brought about publicity that culminated in our Independence. I think we should look at those categories as we address the issue of compensation. I note that my colleague, the Minister for Lands, is not here. But, indeed, I want to echo hon. Mwiria's assertion that we have a lot of grabbed land in this nation. My colleague, hon. Orenge, should take up the Report of the Ndung'u Commission and identify grabbed land. We are battling with Mau Forest. A lot of people in Mau Forest are Kenyans who sold their cows and goats and bought grabbed land. Those who grabbed land are big politicians. Some of them are still alive today. So, as we talk about---

**An hon. Member:** They are within!

**The Minister for Forestry and Wildlife** (Dr. Wekesa): I have never grabbed any land. I thought for a while you said that I grabbed land. Indeed, this is an area that we should take very seriously. We should not just talk about repossessing land. We should go and actually get that land back. In Kitale, we know who grabbed land. We are willing to give names. In Mau, we know who

grabbed land. We should go and get that land and distribute it not only to those veterans, but also to many very poor landless Kenyans that we are living with today.

Madam Temporary Deputy Speaker, another issue, which is related to this - and I thought this is right time to bring it-- When you look at Kenyans who have excelled in sports, many of them have been forgotten. We are looking forward to a time when a Motion will be brought to the House so that we, as Kenyans, have a culture of recognising Kenyans who have contributed in one way or another. So, as we recognise those gallant fighters, we also must recognise those gallant Kenyans who have sold the name of Kenya to the world. Those are our sportsmen who have given this land the reputation that we have today. So, as we address this issue, let us also look at a wide picture of recognising gallant Kenyans particularly during national days.

Finally, we should not just talk about land alone. When you look at families such as that of Kungu Karumba, Bildad Kaggia and others - people who have died in the last 20 to 30 years - they have their families. We have the late Masinde Muliro and others who took over from where the Mau Mau veterans left. Their families are still living. Some of their children are graduates. I think as a Government, we should go along way to accommodate children of gallant Kenyans and give them jobs. Not necessarily just giving them land, but we can accommodate them by giving them jobs in the Government.

So, I want to support this Motion and it has been brought at the right time.

Thank you.

**Mr. Koech:** Thank you, Madam Temporary Deputy Speaker, for giving me this opportunity to contribute to this very important Motion.

From the outset, I wish to sincerely commend my colleagues hon. Mututho and Wamalwa for this wonderful Motion. It is high time, as a country, that we do things in a different way. There are so many things which have been discussed. I wish to recommend here that we, as Parliament, and the leadership of this country, should be able to take such kind of Motion with the seriousness that it deserves. We wish to see action. Having listened to what my colleagues have said about this very important Motion, I wish to say that this is the best way this country should move.

I do not wish to repeat what my colleagues have said. But very importantly, I am grateful and I fully support all that they have proposed this morning. This Motion brings us to the point of remembering those who made us what we are today. We are able to talk today in Parliament and we are able to move as a country because of certain people who sacrificed their lives. Some of their relatives, brothers and neighbours lost their lives, but they never gave up. They continued fighting and that is why this country was liberated.

It is important that we remember those people and, more importantly, as it has been mentioned, all those who have contributed to the Independence of this country. This is because we could not be here if they did not fight for us. It is important to acknowledge that those people cut across all the tribes in Kenya. We have the Kikuyus, Kambas, Luos and Luhyas. Among the Kalenjins where I come from, we have the late Koitalel Samoei who resisted vehemently the coming in of the white man. To date, the only thing we have been able to do to remember Samoei is to build a secondary school in his honour. We have also proposed a museum which is yet to come up. We know that Koitalel has descendants and most of them come from my constituency. It is a pity that they are living in abject poverty and yet, our hero made sure that we are what we are today.

Madam Temporary Deputy Speaker, this Motion asks the Government to give them very little compensation. Compensation of 2.5 acres of land. We are aware that after Independence, there are Kenyans who own thousands and thousands of acres of land. So, when you tell them about 2.5 acres, they can even laugh. To them, what is 2.5 acres? It is something very small that no Government should actually even think of opposing. So, we, therefore, recommend that those

people be given that very important compensation.

Madam Temporary Deputy Speaker, those are our heroes. Most of us go out of this country one time or the other. I have just arrived this morning from Cuba. In Cuba, the Government recognises their heroes. The Che Guevara was not even a Cuban. He was from Argentina. But he participated in the independence of Cuba and all Cubans celebrate him. At every corner of Cuba, you find a monument of Che Guevara. You will also find the monument of Jose Martin. In every corner of that country, you will see monuments of their heroes. Indeed, these heroes make the history of a country. Any Kenyan who goes out of this country comes back carrying artifacts and clothes bearing the names of heroes of the countries they visit. What are we doing as Kenyans? When tourists visit Kenya, what is it that they go back with?

Madam Temporary Deputy Speaker, apart from compensating these people, there is need for us to have artifacts and clothes bearing their names. We need to write books about them. We carried so many books from Cuba. In fact, I carried some books for our library on Che Guevara, Jose Martin and other heroes who supported Cuba. We need to write books about our heroes so that they form part of our history that will never be forgotten. Whatever income that we get from these things, part of it should also go to the descendants, children or relatives of these heroes.

It is important that we take cognisance of the fact that a child of a leader, in most instances, is also a leader. It is unfortunate that today we are talking of only one person from the lineage of the heroes in Parliament. It is because after the Mau Mau fighters fought for Independence, our successive governments never recognised them and, therefore, most of their children never went to school. We need, as a country, to recognise the children of these people by setting aside funds so that they can be educated and participate in the leadership of this country.

As we speak about the heroes who liberated this country from colonialism, it is also important to remember the many other heroes who have come up after Independence. Athletes have been mentioned. Every other time we talk about them, but thereafter we forget about them. We must have a system in place of recognising all our heroes for our own benefit because they form a very important history of Kenya. This is a country we would want to live to see it even better tomorrow.

It is important that we recognise these people who have contributed to this country. It is unfortunate that we have a system of remembering people after they are dead. What is the benefit of hon. Members of this august House coming to my place when I die? Of what benefit is it to me? I want to see them today. I want to see our leaders visiting every corner of this country to provide the leadership and development that we require.

Madam Temporary Deputy Speaker, with those few remarks, I beg to support.

**The Assistant Minister for Medical Services** (Mr. Mungatana): Ahsante sana, Bi. Naibu Spika wa Muda, kwa kunipa nafasi ili nami nichangie Hoja hii. Ningependa kumshukuru Bw. Mututho kwa kuleta Hoja hii Bungeni. Ametupatia nafasi ya kuweza kuzungumzia mambo muhimu kuhusu maisha yetu sisi Wakenya na hasa kuhusu historia yetu.

Sote tunakubaliana kwamba ni lazima kitu kifanywe kwa ajili ya kuwakumbuka waliopigania Uhuru. Ninakubaliana na wale ambao wamependekeza mabadiliko kwa Hoja hii. Wamesema kwamba tusiwaangalie tu mashujaa wa Mau Mau bali pia tuwaangalie wapiganiaji Uhuru wote nchini. Sisi kutoka kule Mkoa wa Pwani tunamkumbuka kiongozi mashuhuri Mekatilili wa Menza ambaye alichangia pakubwa upiganiaji Uhuru kule Mkoa wa Pwani. Wapo viongozi wengine waliotajwa pia.

Je, taabu imekuwa wapi? Ingawaje sisi Wabunge tunakubaliana tukiwa humu Bungeni ama kule nje kwa wananchi, tungependa kujua taabu imetokea wapi. Taabu iliyoko Kenya - si Kenya pekee yake -ni kwamba mtu ambaye amevalia suti, amefunga tai, amevalia saa na amevipiga viatu vyake rangi, akija ofisini, yeye hupewa nafasi ya kuongea na husikizwa. Lakini akija mtu amevalia

shuka na hakuchana nywele ama amevalia shati lililopasuka, yeye hutengwa. Askari pale ofisini hawampi nafasi ya kuingia ndani ile azungumze mambo yake. Tabia hii ya kunyanyasa maskini haikuanza leo. Ilianzishwa na sera za mkoloni.

Mkoloni alimchagua mtoto wa chifu kisha akampleka shule. Alimfunza kupiga rangi viatu na akampa kaptula, suruali na nguo zingine. Mtoto huyo aliposoma, alipelekwa ulaya kwa masomo zaidi. Aliporudi, huyo ndiye mkoloni alitaka kuona. Mau Mau hawakuwa na hata kichana. Waliishi msituni na watoto wao walipata taabu. Dkt. Kilemi Mwiria aliniambia kuwa yeye alizaliwa katika *concentration camp*. Wazee wake hawakupatiwa nafasi kusema, "Sisi tulikuwa na taabu. Tumeng'ang'ania mambo haya." Marais waliokuwako hawakutaka kuwaona watu hawa kwa sababu walikuwa na nywele ndefu na walikuwa wamejitanda shuka. Hawakuweza kupatiwa nafasi na Serikali kama alivyopewa mtu wa kawaida. Serikali ilikuwa ni ya mzungu tu. Kilichofanyika ni kwamba mzungu kawa mweusi. Mzungu ni yuyo huyo aliyepewa kaptula na kupelekwa ulaya. Ni yuyo huyo aliyerudi na kushika mamlaka. Mau Mau pamoja na wapiganiaji uhuru wengine waliachwa nje kwa sababu hawakuwa safi.

Akili hii ya kuwanyanyasa maskini tumeibeba kutoka enzi za Marais wetu, Mzee Kenyatta na Moi. Mpaka leo tungali na akili hiyo. Sisi, Wabunge, katika mazungumzo yetu, tunasema kwamba tuanze kubadilisha mambo yetu. Je, ni hatua gani tutachukua kurekebisha mambo haya? Kwanza, Wizara inayohusika na torati za kitaifa ambayo inasimamiwa na Waziri mhe. ole Ntimama--- Kabla yake, Waziri aliyesimamia Wizara hiyo alikuwa ni mhe. Shakombo. Itakuwaje Wizara nzima inatumia Ksh56 milion kujenga jukwaa ilhali kuna watoto maskini waliozaliwa na wapiganiaji Uhuru? Kwanza ni lazima mawazo yetu yabadilike. Siyo majengo tu yanayofaa. Tunataka watoto wale wapewe nafasi yao. Serikali iwe inahifadhi pesa. Lazima Wizara hii ya torati za kitaifa na utamaduni itenge pesa, kwa mfano, Ksh1 milioni ambazo tutapitisha hapa Bunge. Hiyo itakuwa ni bajeti ambayo tutapanga kwa ajili ya kutafuta namna ya kusaidia watoto wale wa wapiganiaji Uhuru isiwe tu kuwapa pesa za chakula. Tumetaja mambo kama vile kusimamia gharama za elimu, fedha za kuanzisha biashara na senti za kujinufaisha maisha, na kadhalika. Hilo ndilo jambo la kwanza la kufanya.

Pili, inatubidi kutafuta njia ya kuwatambua jamaa hao. Watu bado wana mawazo ya kikoloni. Mtu safi aliye na mali husikizwa ilhali mtu maskini aliyevalia shuka hasikizwi. Sisi tusikomee hapa. Suala hili tumelizungumzia sana na linaelekea kutaka usaidizi wa Waziri anayehusika na masuala ya utawala wa mikoa na usalama wa ndani wa nchi lakini hayuko hapa leo.

Bi. Naibu Spika wa Muda, tungenema kwamba, tunaweza kupitisha Hoja hii na isifanywe. Kitu cha muhimu ni kumwambia Bw. Mututho ya kwamba tulete sheria mpya ya Kenya ambayo tutaizungumzia kwa urefu hapa Bungeni na tuangalie kila kitu ambacho kinafaa kiangaliwe. Tunatumia njia gani na akina nani ambao watapata? Na ikiwa ni katika ile miaka, wale ambao walikuwa katika miaka hiyo iliyopita, ni kizazi gani? Tutaenda mpaka kizazi gani? Tuizungumzie na iwe ni sheria ya Jamhuri ya Kenya ambayo hakuna Rais, Makamu wa Rais, Waziri Mkuu ama Waziri anaweza kuikiuka kwa sababu tukipitisha Hoja Bungeni, mara nyingine watu wanaangalia na wanasema ni mazungumzo ya Wabunge ilhali ni kitu muhimu.

Bi. Naibu Spika wa Muda, kwa hivyo, ningemalizia kwa kusema kwamba haitoshi kupitisha Hoja hii pekee yetu. Inatakakina sasa mhe. Mututho na waheshimiwa wengine ambao tunajua ukweli wa mambo na dharau ambazo zinafanyiwa maskini kwa sababu ya akili ya ukoloni, ya kwamba tupitishie sheria ambayo itakuwa haipingi mtu. Hakuna mtu ambaye atasema yeye ni mkubwa na hawezi kufuata sheria. Tutapitisha hii sheria na kupitisha pesa katika Bunge kupitia Wizara ya Toradhi za Kimataifa ili hawa watu wajulikana. Hii aibu ambayo tuko nayo itutoke.

Taabu ambayo tumepata mwakani, ingine ni kutokana na sisi kutoangalia mambo ya watu ambao walimwaga damu kwa ajili ya Kenya hii. Tumewadharau watu hao na vizazi vyao na ndio

maana taabu ingine haiishi hapa Kenya. Ukabila hauishi hapa Kenya kwa sababu ni kama tumelaaniwa kwa sababu hatujafanya ukweli wa mambo. Ukiangalia nchi kama za Uingereza, Australia na Amerika, watu wametoa maombi ya msamaha. Wajeremani waliwachukua wanawake wa Kijapani na wakawafanya watumwa huko kwao lakini wanatoa pole. Na ndio nchi hizo zingine zinabarikiwa. Lakini hapa Kenya hata kusema pole kwa sababu ya kuwatesa hawa watu waliopigania Uhuru, hatujafanya. Serikali zote tatu hazifanya hivyo. Ni aibu kwetu na pia kwa nchi. Wakati umefika sasa haya yafanyike.

Kwa hayo nimesema, naomba kuunga mkono.

**The Temporary Deputy Speaker** (Prof. Kamar): Hon. Members, in the absence of the Minister, I will share his time with a few more Members. Please take about five minutes so that we can cover all those who have stood up.

Proceed, Mrs. Shabesh!

**Mrs. Shabesh:** Thank you very much, Madam Temporary Deputy Speaker, I would of course want to start by congratulating the Mover of this Motion, Mr. Mututho, and from the outset, I support this Motion.

I would like to clearly state that my reason for supporting this Motion is mostly because I would like to debunk this myth that exists in this country that land is the most crucial issue and that without solving it, we will never solve the problems of this country. During the beginning of this year when we witnessed the post-election crisis and subsequently during the consultations that have gone on, the issue of land continues to be what is considered by most Kenyans and even the Government, as the most crucial issue to address. My understanding of it has always been that it is because of lack of recognition of the Mau Mau and the freedom fighters on this issue of land that it continues to bog us down and to be looked at as the key issue.

Madam Temporary Deputy Speaker, I really believe that it is because the previous Governments, including the present Grand Coalition Government, have refused to address the issue of compensation for the freedom fighters of this country, through generations, that the issue has been looked at as the one that continues to bring problems today.

I thank Mr. Mututho for bringing this Motion because, for me, if we deal with this issue we will put to rest issues of land bringing historical injustices. That way, we can look at the real issues that are now affecting us in Kenya which are really about ethnicity and the poor versus the rich. Land is a historical issue that we can put to rest. When we look at the issue of unlawful groups that we have in this country; the young people who are taking up all sorts of unlawful activities, they are also using the issue of land but let the truth be told that these young men and women simply do not have jobs. Since they know that there has always been historical injustice of land, they continue to use land as if that is the excuse. We know very well that the reason why we have problems with youth in this country is because the Government has not put in place a mechanism to create jobs for the them. So, we cannot keep on using this issue of land as an excuse and that is why I stand up today to say that I support this Motion because it must put to rest the issue of land.

Madam Temporary Deputy Speaker, if we want to solve the issue of land, let us be bold. For the people who own large tracts of land in this country and who sit in the Government, we must come out boldly as a Parliament and hold to account the Government where most of these people sit. If we want to solve the problem of historical injustices, let us bring on board those who have land that they do not use and those who have been disposed of land. Let us solve that issue, put it to rest and then look at the critical issues in this day and age that are now affecting this country.

I support this Motion and again I congratulate Mr. Mututho for bringing it to this House.

**The Minister for Foreign Affairs** (Mr. Wetangula): Thank you very much, Madam Temporary Deputy Speaker, for an opportunity to support this Motion. I want to congratulate the

Mover.

I think the Motion is long overdue. It ought to have been in this House at the dawn of Independence. However, as I do so, I hope others have said that first, the freedom fighters of this country are not limited to Mau Mau. We have many others who fought for Independence. We have Koitalel, Edward Muindi Mbingu, Elijah Masinde and many others but we certainly salute the role Mau Mau played in fighting for Independence.

Madam Temporary Deputy Speaker, I agree that these freedom fighters and their families that are still existing, especially those that still live and they must be in their sunset years as the Motion says, must be quite few. I also agree that where possible, they should be given some land but my view would be that we need to address the issue in a little broader level. I think where we are today, we are trying to evolve a new land policy. I hope the Minister will bring it to this Parliament soon. I hope he will try to de-emphasise the issue of land ownership as an end in itself in this country.

I think that these freedom fighters should be accorded an opportunity to lead decent lives. We should give them houses whether in urban centres, rural areas or in local markets. These houses should also be supplied with electricity and water paid for by the State. They should also be given house help facilities by employing people to work for them. However, above all, once people get into the 60 plus age bracket, their health also becomes fragile. We must afford these freedom fighters unlimited access to health care so that they can be looked after by the State wherever their health fails them so that they are able to live a little longer. In the event that we have those who have left us already, I think we should have what we tried to do with the late Wamalwa Kijana who passed on; creating a heroes corner. Even where we have buried our heroes elsewhere, we can still have a plaque and memorial for them in the heroes corner so that, at an appropriate time, we can all go there and salute the role they played in the liberation of this country. If we were able to do that, then the shame that we have all suffered, the indignity through which Bildad Kaggia lived and died, will be purged and we shall be forgiven for our omissions.

Madam Temporary Deputy Speaker, I also want to urge, particularly, the managers of local authorities and cities that we want to see more monuments, streets and parks named after our heroes so that the future history of this country is not distorted. It does not end up with people known to have been dubious in their characters during the struggle for Independence taking high ground levels with streets, parks and so on named after them, when the real heroes are confined to the back pages of our history. I think a country that wants to move forward must have a solid historical background that is able to be known and remembered by everybody, so that we look to the future with dignity and a lot of hope; that what they founded is what we can build on.

Madam Temporary Deputy Speaker, I beg to support.

**Mr. Wambugu:** Thank you, Madam Temporary Deputy Speaker, for giving me this chance to contribute to this very important Motion. It is a Motion that has been long overdue. It is actually very sad that now, after 45 years, we are remembering the people who have made us sit in this House.

From the outset, let me say that I rise to support this Motion, especially when we are talking about our freedom fighters; the people who made this country the way it is. I remember when we were in school and we were trying to get the meaning of MAU MAU. We were told that it is: "*Mzungu Arudi Ulaya Mwafrika Apate Uhuru.*" That is why we are having the freedom to sit in this House and even express ourselves. It is sad because even after we realized what our freedom fighters did, we sat quietly and let them suffer. We have not even recognised the work that they have done. When they went to the forest, most of the land that they had was taken away by the white men. Thereafter, most of our people were taken to detention camps where they suffered greatly. Their families were left homeless. Most of the freedom fighters were men. Many orphans

were left behind. Most of the people were left without any type of livelihood. Recently, we had the issue of unlawful groups which, I believe, most likely, could have come out because of the neglect of our freedom fighters. That is why we got into a lot of problems in this country. We are still going through the same problems.

My wish is for us to move forward this time and recognize our people positively. How can we do that? First and foremost, my wish is that we protect the sites or caves where they used to live in. We understand that there are some people who are already taking measures to go and take those sites and destroy them to their advantage. They want to build hotels. But I wish those caves could be protected. Any time the Government wants to utilise them, the freedom fighters should be consulted. In case there are any benefits accruing from that, they should also be considered. We should also allow our freedom fighters to open up offices at the divisional and locational levels, so that they can have areas where they can go and interact with the other people. That is because even up to now, there is still a big and serious stigma that anybody called Mau Mau is supposed to be a terrorist. We need to change that. Let us allow them to open offices at locational and divisional levels, so that we can also go there and get the actual history about those people. That is because most of the history that we are getting was written by the colonialists.

We also, as a country, need to establish a fund for the surviving freedom fighters, where they can go and get some bit of money for their survival and daily needs. I think it has also been mentioned that most of them are living in abject poverty. It would be good for the Government to provide free medical care to the surviving Mau Mau and other freedom fighters, and also extend the same to other members of their families.

It was said here before that we, Kenyans, have a habit of recognizing our people after their death. I think we need to change that and start recognizing our people when they are still alive. My wish is that we start naming most of the roads in our country in remembrance of most of our heroes. I have some in Mathiyoia and most of those people are still crying. The last time they wrote to the Government, they were told that there is no Act that governs the registration or even naming of those roads in their favour. I wish the Government would take challenge almost immediately so that some of those roads, other than naming them "Ds", "Es" and "Fs", which do not have any meaning to us, be named after some of those people like Dedan Kimathi, Mwangi Kibiro and all the others.

With those few remarks, I beg to support the Motion.

**Mr. Warugongo:** Ahsante sana, Madam Naibu Spika Wa Muda, kwa kunipa fursa hii ili niunge mkono Hoja hii ambayo ni muhimu sana, na ambayo imeletwa na mhe. Mututho.

Mambo mengi yamesemwa, lakini mimi pia nitasisitiza kidogo tu mambo fulani. Hao wapiganiaji Uhuru, mimi nikiwa mtoto wa mmoja wao, walijitokeza, wakamwaga damu na kuhakikisha kwamba Kenya imekuwa huru. Itakuwa vibaya sana ikiwa sisi kama watoto wao hatutakumbuka kazi yao. Watoto wa wengi waliokufa wako hai. Kuna wachache pia ambao bado wako hai. Haitakuwa vizuri kuwasahau watu hao tungoje wafe bila kuwatafutia kitu kidogo. Ningependa kupendekeza, kama vile Waziri alisema hapo awali, kwamba ikiwezekana, yale mashamba ambayo yaliibwa, kulingana na Ripoti ya Ndung'u yarudishwe, ili tuwapatie wapiganiaji wa Uhuru ambao wangali hai ama watoto wao. Tumeambiwa hapa kwamba sio Wakikuyu peke yao ambao walipigania Uhuru, bali ni kila mtu. Tumesikia maana ya Mau Mau kuwa ni "Mzungu Arudi Ulaya, Mwafrika Apate Uhuru." Hiyo ni kusema kwamba sio kitu kinachohusu Wakikuyu, Wameru ama Wakalenjin. Ni kitu kinachohusu Kenya nzima.

Tuko na Women Enterprise Development Fund na Youth Enterprise Development Fund ambazo zinatoa pesa kwa vijana na akina mama. Ingekuwa vizuri tuunde Freedom Fighters Fund ambayo itawasaidia wale wachache ambao wangali hai waliofanya kazi ngumu ya kupigania nchi yetu.

Ahsante sana, Madam Naibu Spika wa Muda, kwa kunipatia nafasi niongee.

**Mr. Imanyara:** Thank you, Madam Temporary Deputy Speaker. I will take less than five minutes to give my friends an opportunity. This country has a history of forgetting those who sow, at the time of harvest. This is a legacy that we inherited at Independence. It has been said here that those who are sitting in authority over us today are the fourth beneficiaries of the struggle for Independence. The time has come for us to put right this historical wrongs that have been with us for the last 45 years.

Madam Temporary Deputy Speaker, I feel sad when I hear people talking about Da Gama Pinto being the first case of political assassination. The very first political assassinations in this country occurred shortly after Independence after those who came from the forests challenged Kenyatta. They asked him if the *status quo* was what they had fought for. I know Field Marshal Baimungi from my constituency and General Chui. Kenyatta was so angry that he ordered them shot. When we talk about political assassinations, the very first ones were committed by an Independent Government of Kenya. This has been continued. So, the assassinations of Pinto, J.M. Kariuki and Ouko were a continuation of the wrongs that have been committed by the very first Government.

I want to congratulate Mr. Mututho for coming up with this Motion. It is not just about the Mau Mau. It is not just about those who fought for Independence, but those who have continuously struggled to uphold the ideals for which the original fighters went to battle. I am talking about people who spent days, weeks and months in Nyati House. We have forgotten them. Some of them are in this House. Because of the precedence of forgetting those who are responsible for the gains and the fruits of Independence, we ran the risk again of forgetting even those who will come after ourselves.

Madam Temporary Deputy Speaker, although this Motion talks about the freedom fighters at Independence, it should be broad enough to include those like the late Jaramogi Oginga Odinga, Masinde Muliro, Titus Adungosi, John Khaminwa, Mohammed Ibrahim and all those people who have continuously defended the ideals for which this country fought for.

Madam Temporary Deputy Speaker, I agree that this need not take the form of 2.5 acres of land. Compensation can take many forms. There should be freedom of choice on the part of the freedom fighters, their successors and families to decide whether they want monetary compensation, land or awards. In three days' time, we should be reading in the Kenya Gazette about the awards of EGH, CGH, MBS. If you go through that list, you will not see a single freedom fighter honoured. The people who are responsible for preparing these lists are civil servants who sit in some Government offices and who have continuously sat there. Even before Independence, they were still civil servants. They do not appreciate the role of freedom fighters in this country. So, when you read the Kenya Gazette, you will see that the people who are getting the EGH awards are Provincial and District Commissioners. They are given the OGW awards, but the people who deserve to be honoured are never honoured.

Madam Temporary Deputy Speaker, I agree that every year, as a Parliament, we should insist to see what budget allocation has been set aside for the freedom fighters in the annual Budget. As we congratulate Mr. Mututho for moving this important Motion, we need to cast our eyes wider, so that we can recognise the men, women, children and the wives who were left behind when their husbands were in detention camps. We need to widen the scope. Every time the President addresses the nation on Madaraka days, he should start by observing a minute of silence in honour of those who made it possible for him to be addressing the nation on those days.

With those few remarks, I wish to support this Motion and ask the hon. Members to pass it without further ado.

**The Temporary Deputy Speaker** (Prof. Kamar): Hon. Members, we are back to the



Mover. Mr. Mututho, you have five minutes. If you are not able to finish, we will give you another five minutes next week.

**Mr. Mututho:** Madam Deputy Temporary Speaker, I want to thank all the Members who have contributed to this Motion. I want to assure them that I have noted all their comments and contributions.

I am also gratified to inform the hon. Members of my intention to bring to the House the Veterans Bill, 2008. I have forwarded it to the Speaker's Chamber. This Bill will address all these issues very comprehensively, so that all our heroes are properly taken care of.

Madam Temporary Deputy Speaker, I feel very delighted and I believe all our ancestors must be laughing and turning in their graves tonight to learn that at least this Tenth Parliament has hon. Members and men of honour who remember them for the gallant work they did.

I beg to move.

*(Question put and agreed to)*

### ADJOURNMENT

**The Temporary Deputy Speaker** (Prof. Kamar): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until 2.30 p.m.

The House rose at 12.27 p.m.