

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 28<sup>th</sup> February, 2019

*The House met at the Senate Chamber,  
Parliament Buildings, at 2.30 p.m.*

*[The Speaker (Hon. Lusaka) in the Chair]*

### PRAYER

**Sen. Olekina:** Thank you, Madam Temporary Speaker. I rise to support the Statement by Sen. Pareno. The issue of land ownership in this country is something that must be resolved once and for all. I went to Embakasi and I want to thank Governor Sonko for going there and giving the Maasais something that they could spend for a couple of days. Were it not for the rule of law, I would have called all the Maasais there and have them fight for their rights.

There is something that we call *ewoshi emouwo* and when you blow that trumpet, you call for war. We, the Maasais, have been so gentle and welcoming. Nairobi once belonged to the Maasais but we have now been overtaken. During the constitutional amendment, when the counties were being created, Narok and Kajiado were referred to as the Maasai counties.

However, due to the cosmopolitan nonsense, people who have lived in an area for over 38 years and have called it their home, including nine months and one day old children, were forced to leave or to spend the night in the cold because of special interests. We have got the law on adverse possession which is only 12 years old. The reason as to why our people were evicted from that place is because of land compensation that we were talking of earlier on today.

There is something that is called spatial awareness which is the ability for you to know your surroundings. One thing that saddens me is that when we were young, and I am sure that you will agree with me, most of us were carried by our mothers and the only thing that we could see was their back. We were not aware of our surroundings. No wonder, when you are forced to put a picture on the wall in your home, you can never put it in a straight way. It is always bending backwards. However, we are now aware of our surroundings. It is time that this Government takes issues to do with the marginalised communities seriously especially when it comes to places where they call their home.

With all due respect to the distinguished Senator from Bomet County, the issue of Mau forest cannot be compared with the issue of those people who were evicted there. There is an issue to do with the environment versus the issue to do with why you have

occupied that place. These people have been living there. What we know is that there is the issue of compensation because of the Standard Gauge Railway (SGR) and that is the reason as to why those people were moved out of there.

*(Sen. Omanga spoke off record)*

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, if you are on a point of order, you know that you are supposed to press the intervention and not shout from where you are sitting.

**Sen. Olekina:** Madam Temporary Speaker, it is wrong and I once again thank Governor Sonko because he went there. He said that those people are known cartels who are using magistrates to get court orders. How on earth does a magistrate issue a court order for a property which is over Kshs10 billion? These are things which are left for other entities.

**Sen. (Dr.) Milgo:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Nyamunga): What is your point of order? Please use the right button.

**Sen. Olekina:** Madam Temporary Speaker, I come from a school of thought that believes that facts are very stubborn. At no point did I say that the people who had encroached into Mau forest were not human. The only thing that I said---

**The Temporary Speaker** (Sen. Nyamunga): Just say the exact thing that you said.

**Sen. Olekina:** Madam Temporary Speaker, with all due respect to the nominated Senator from Bomet, I said that you cannot compare the situation in Mau forest with what happened in Embakasi and I laid proper background as to what happened there. These are people who have lived there for 38 years; the land is not occupied by anyone else apart from them.

**Sen. Omanga:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Nyamunga): What is your intervention, Sen. Omanga?

**Sen. Olekina:** Madam Temporary Speaker, I stand by what I said earlier on. Right now, there is something called---

**Sen. Cherargei:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Nyamunga): Sen. Cherargei, what is your intervention?

**Sen. Olekina:** Madam Temporary Speaker, you have asked me to substantiate and even before I do that, there is another intervention.

**The Temporary Speaker** (Sen. Nyamunga): There is another intervention. We will go back to that.

**The Temporary Speaker** (Sen. Nyamunga): Continue, Sen. Olekina.

**Sen. Olekina:** Madam Temporary Speaker, one of our biggest undoing is that we do not sit in this House to listen so as to know the person who requested for a Statement. The distinguished Senator is now saying that I am the one who requested for the Statement when I am only riding on it. The Statement was requested by Sen. Pareno. It is important to listen to the background instead of jumping on it. My point is very clear and it is factual that Nairobi used to belong to the Maasai but we have now been swallowed.

What happened there is inhumane and we are now aware of our surrounding and we know where we are heading to. We can no longer agree to be carried in our backs when the only thing we can see is darkness. The Committee that you will direct to look into that matter should go further and find out why these cartels are allowed to continue grabbing every property where there is the issue of compensation.

**The Temporary Speaker** (Sen. Nyamunga): Sen. Olekina, it is important for us to be civil in the language that we use.

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senators, we can allow one or two comments. Sen. Olekina.

**Sen. Olekina:** Thank you, Madam Temporary Speaker for this opportunity. This is a very serious matter because I woke up early in the morning to come here after having stayed here last night up to 10.30 p.m.

**The Temporary Speaker** (Sen. Nyamunga): Kindly, let the comments be brief as much as possible.

**Sen. Olekina:** Madam Temporary Speaker, what made me come here is because of a letter from the Speaker inviting all Senators to this very important matter. Earlier on, I was listening to my colleagues talking about the importance of this Senate. Article 96 is very clear on the role that we play in terms of enacting legislation that affects counties.

This is a serious matter and I thought the CSs would come here and explain to us why this process is ongoing, yet the Senate of this Republic was not involved when an amendment to a law that affects counties was made by the National Assembly.

Madam Temporary Speaker, we ought to be vigilant. I am holding here the Statutes Law Miscellaneous (Amendment) Act of 2018, which makes this issue of NIIMS very serious. The matter at hand affects counties. However, the National Assembly gave themselves power, amended the Act and initiated the issue of registration of persons on this thing called NIIMS, or Huduma Number without bringing it to the Senate and making it law.

Madam Temporary Speaker, with the Committee and the powers given to us by our Standing Orders, we can stop the implementation of that until that law can be brought back to this House for us to consider whether it is something which is good for this nation or it is not. This is because the more we allow these CSs to, first of all, snub the invitation of the Senate and implement laws which they know are illegal because the Senate was not involved, we will be not be playing our rightful role. They think they are legal because they were enacted by the National Assembly.

The Chair can direct the Committee on National Security to stop the implementation of this Act until the Senate looks at these amendments. Last Session, this Senate stood firm and went to court to defend its position. This is the time that we should not only allow Omutatah to go to court, but we seize of the matter and take the necessary action. We all know that the principal Act is brought here. However, when it comes to its amendments, it is done to the National Assembly and then sent to the President for the assent.

I urge CS Matiang'i to take these matters seriously so that we know how to proceed.

**The Temporary Speaker** (Sen. Nyamunga): Sen. Cherargei. Please, make the comments very brief.

**Sen. Olekina:** Madam Temporary Speaker, we have been talking about the importance of us doing our job diligently. I sat here yesterday when the Speaker gave a ruling for the Chairperson of the Senate Committee on Health to be here. It is the first time in the history of the Senate for the Speaker to give direction to the Serjeant-at-Arms to bring the Chairperson here and nothing happens. It is high time we dissolved that Committee and bring people who can give Kenyans what they want to hear.

Madam Temporary Speaker, there are many issues in the healthcare sector. I am tired of hearing this Isiolo business on a daily basis. We either complete it fully or we say we are no longer able to do our job. The last day we had a Committee of the Whole Chaired by the Senate Majority Leader on the same issue of the healthcare mess.

I know the Senate Minority Leader has requested that the Report by the Committee be circulated to the Members so that when we comment on it we do so from a point of knowledge. The Speaker directed that enough copies be made available to Senators.

*(Sen. Ndwiga walked into the Chamber without bowing to the Chair)*

**The Temporary Speaker** (Sen. Nyamunga): Just a minute. Sen. Ndwiga, kindly go back to the Bar.

*(Sen. Ndwiga walked to the Bar and bowed to the Chair)*

**Sen. Olekina:** Thank you, Madam Temporary Speaker; it would be good for us to know what is holding this issue. Give us the Report so that we can look at it. If the Committee has done its work and the Chairpersons not able to come and report here, then the responsibility is either given to the Senate Majority Leader so that we can have an end to this Isiolo healthcare business.

I now request the distinguished Senator of Narok County, Sen. Olekina, to second this Motion.

**Sen. Olekina:** Madam Temporary Speaker, I second.

*(Question proposed)*

**The Temporary Speaker** (Sen. Pareno): Sen. Olekina Ledama.

**Sen. Olekina:** Thank you, Madam Temporary Speaker, for giving me an opportunity to comment on the importance of this Bill. Earlier on, we were debating the issue of corruption and when you look at what has been happening in this country, unless we deal with corruption; there is no way we can ever preserve human dignity.

Madam Temporary Speaker, I submit today that it is not the Government that is corrupt. It is us who are corrupt. We are corrupt to a point where the Government becomes corrupt. The reason why I support this Bill is that when you look at Article 43 of the Constitution, every human being living in this country has a right to a good life and

has to be protected. However, our human activities; what we subscribe to in this country, it is special interests first and human dignity last.

Madam Temporary Speaker, earlier this week, we were taken to a place by the Majority Chief Whip, who actually is walking, and I hope she is listening, to meet these young men whose dignity was being violated by certain people. May be sometimes it is because we do not have certain rights. These young people deserve the right to good housing.

When you look at Article 43 of the Constitution which refers to the issues of economic and social rights, some of the things that we are discussing in this country today, which are projects that are being run down by corruption were designed to ensure that we have proper, clean and safe drinking water in adequate quantities. However, the media is awash with the stories of people using money which is supposed to provide that basic necessity for all the corrupt deals.

When we stand here; we start pointing fingers at the investigating agencies and asking questions as to why these investigative agencies should use social media. I submit to hear that they do so because this is becoming a national crisis. The public out there must know that somebody is doing something to ensure that human dignity is preserved.

The Mover of this Bill, Sen. Halake, who I respect a lot because of her contribution in this House, has really taken her time to ensure that, finally, we can have a law that we can refer to and ensure that Article 43 of the Constitution is fully implemented. It is wrong when we talk about huge projects---

My people have been traumatized for a century to a point where they cannot think about their future. We talk about bequeathing this world to the future generation. However, if we do not respect its own basic human dignity, how on earth are we going to do so?

This Bill recognizes that we as human beings are all one race. Earlier on, I said as grow up, there is something called spatial awareness. I know the distinguished Senator who brought this Bill when she was three years and below she was inquisitive as any other child. When she was being carried on the back of her mother, she was only seeing the back. A country like USA and others in Europe, children are carried on the front, so that they can see everything. There is a big gap of understanding between them and us.

When we talk about corruption, certain people can boldly say: "Oh it is not Ksh21 million, it is Ksh7 million." Corruption is corruption. We will not preserve human dignity if we will continue belittling serious issues. We cannot say because it is not much, it is okay. It is not okay because somebody somewhere is missing water. We talk about food security in this country. However, all our actions have been reduced to what I can call food insecurity.

This Bill promotes the issue of ensuring that every citizen in this country has access to proper health care. I want to commend the National Assembly because finally they passed a Bill that will ensure that if someone dies in a hospital, he will not be kept there. I hope this Bill will be brought here.

What pains me most is the fact that Boniface from Makueni County who died about seven months ago is still in the morgue in Nairobi Womens' Hospital because of a Bill of Kshs2 million. Ours is a country that believes in the rule of law and respect the human dignity. It is sad that after you have passed on, your family cannot even lay you to rest.

I hope that the Governor of Makueni County will assist that family and ensure that remains of Boniface rest in peace.

When you travel around this country—

**The Temporary Speaker** (Sen. Pareno): Sen. Olekina, I would want you to wind up because we still have the Mover to reply and the Motion to adjourn this House to allow Senators to attend the Devolution Conference.

**Sen. Olekina:** Thank you Madam Temporary Speaker, I support.

**Sen. Olekina:** Thank you, Madam Temporary Speaker. I beg to move the following Motion-

THAT, pursuant to Standing Orders 28 and 29, the Senate do adjourn until Tuesday 12<sup>th</sup> March, 2019.

Madam Temporary Speaker, we have had a very good opportunity to carry out serious work in this Senate. I am sure that the public has seen us pass various Bills. It is good for us to take a small break of about a week to go and visit our constituents, and also participate in a very important conference on devolution. This time will help us to refresh and meet with other legislators, governors and the Executive, and think about where we are taking this country.

Madam Temporary Speaker, we have been entertained this week by a lot of interesting things. Therefore, this break will assist to bring all these things into perspective. Corruption is one of the biggest problem that we have and I proud of this House for having passed the Motion on maize issues. Farmers will see that the Senate is doing a fantastic job in order to protect their interests.

Madam Temporary Speaker, the other legislations that we were able to pass will help this country to generate more revenue and also bring sanity into the issues of compensation. One of the good legislation that we were able to work on, which has been sent back to the National Assembly, is The Land Value Index Laws (Amendment) Bill, which sets out a clear mechanism on how people can be compensated, once any national development projects are done. I am proud of the Committee that worked on that Report because they ensured that the rule of law prevails.

Madam Temporary Speaker, the other issue that I cannot forget has to do with the responsibilities of this House. When this House summons anybody to appear before it, it is important--- I want to send a very strong warning and message to Cabinet Secretary, Dr. Fred Matiang'i. The fact that the President appointed him to co-ordinate national Government did not say that he is above the law. It is time that people respect this House, because the Constitution is alive. We are given an opportunity to look at matters that affect Kenyans, otherwise, we will be reduced to rubberstamps.

Madam Temporary Speaker, I am proud of this House because, yesterday, a few Senators remained here until 10.30 p.m. to debate and pass the Budget Policy Statement (BPS). I am proud that we were able to propose an increase in the money going to the counties. During the break, we will make this position very clear to the Executive. I am sure that the Council of Governors (CoG) will be very happy to hear that we, as the Senate, in our wisdom, have increased the money which is to be sent to the counties.

Madam Temporary Speaker, I know that this is a well-deserved break. I want to wish all the Senators a good break and hope that we will get back here energized, to continue serving the people of Kenya.

With those few remarks, I beg to move and request the distinguished Senator for West Pokot County to second.