

**PARLIAMENT OF KENYA****THE SENATE****THE HANSARD****Thursday, 7<sup>th</sup> November, 2019***The House met at the Senate Chamber,  
Parliament Buildings, at 2.30 p.m.**[The Speaker (Hon. Lusaka) in the Chair]***PRAYER****PETITIONS****The Speaker** (Hon. Lusaka): Hon. Senators, I will defer Petition No.1.**CORRUPTION AND EMBEZZLEMENT OF FUNDS IN  
NAROK COUNTY GOVERNMENT***(Petition deferred)**(Resumption of debate on Statement)*

Proceed, Sen. Olekina.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I rise to support this timely Statement by the Chairperson of the Committee on Justice, Legal Affairs and Human Rights. I knew him in the past when he was a milk vendor, but I am very proud of him now, as the Senator for Nandi, for the good work that he has been doing.

As I stand here today, I am a worried man, because we might as well just throw this Constitution in the dustbin. The role of the Judiciary is to defend that Constitution. It is very worrying when you see a notice from a Deputy Registrar of a court in Kenya that reads as follows:-

“Due to Judiciary budget cuts, we have been unable to facilitate the three Judge bench scheduled for the 28<sup>th</sup> October, 2019.”

Someone once said, “Justice delayed, is justice denied.” Therefore, if legal redress is available for a party that has suffered an injury, but it is not forthcoming in a timely fashion, it is ineffective.

Mr. Speaker, Sir, last week when I saw the CJ giving a Press conference, stating clearly that he is not respected; and that he is denied certain services, a lot of things just came to mind. I wondered if you do not like CJ Maraga as a person, why can you not respect that institution? The three arms of Government were brought about so that they can check each other. They are equal arms of Government; the Legislature, the Judiciary and the Executive. I hope that this time, this Parliament can take this opportunity to

correct this. When I say Parliament, I am not only speaking of the Senate or the National Assembly; I am speaking about both Houses.

When people talk about constitutional amendments, the first thing we must do, is to ensure that when we have a Constitution which is supposed to be defended or protected by one arm of Government, we must ensure that when we are doing the Appropriation Act, for example, we have different Appropriations Acts. I have heard my colleague talking about the Executive controlling the other arms of Government, by ensuring that the national Treasury is part of the Executive. That is where we went wrong.

Mr. Speaker, Sir, the only way we can ensure that each arm of Government does its work effectively, is when we relook Article 219 of this Constitution. Currently, it only protects county governments. We are sitting here happy, because we know that this Constitution has protected the little money that we send to the county governments. It is about time that when we think about amending the Constitution, we think about coming up with different Appropriations Acts. We should define the shareable revenue differently, and share the revenue equally through the three different arms of Government.

Mr. Speaker, Sir, we are facing a very sad occasion in this country. On a daily basis, people are injured and they run to the courts. However, when they cannot get justice there, we might as well say that Kenya is a free country for someone to commit any crime. This is because you know that when you go to the Judiciary, they have no money to hear you. This is a worrisome trend. This House, all distinguished Senators and honorable MPs must rise up to the occasion. There is no way we will have a country called Kenya, if we violate this Constitution.

Mr. Speaker, Sir, when you talk about separation of power, a doctrine of constitutional law under which the three arms of Government are kept separate, we must respect that. If we do not respect that, then I think we are just living in a jungle.

I recently heard the media replaying the clips of when the President was saying, “We shall revisit;” calling the Judiciary, “*hawa wakora*.” I then wondered what the use of the “Handshake” is. I thought that the “Handshake” was supposed to come in so that it can heal all these problems. In fact, we are at a point where some people say that there is no longer an opposition in this country. It is really sad that sometimes some of us believe that the “Handshake” was only made to make certain people happy, yet it destroys others. As a young legislator, it is about time that we tell the Executive that what they are doing is wrong.

*(Applause)*

It is absolutely ludicrous for a CJ to stand and say: “I cannot even be accorded the respect of a Chief Justice.” Hate the man, but respect the institution. Respect him because he was appointed by you. What worries me, is that if we continue like this – and I will repeat it – every Kenyan will say that there is no law in this country. That is because where am I supposed to get justice if they are not given any money to constitute a bench? I pray to God that reason will prevail, so that we can respect different opinions. We must respect the rule of law.

Mr. Speaker, Sir---

**The Speaker** (Hon. Lusaka): You better start concluding, because we have a lot of interest in this matter.

**Sen. Olekina:** Mr. Speaker, Sir, as I conclude, I want to request the President of this Republic to, one, go back and spend a couple of days reading through this Constitution. Secondly, I request him to call the CJ. This is because I remember him making a statement, saying that he hopes that the CJ will meet him so that they can caucus and talk about the issues of this country. The President was right, because the CJ's role is to link the Judiciary with the other arms of Government. I hope that they can do that now, for the sake of this country we call Kenya. At the end, we might see the light at the end of the tunnel.

Mr. Speaker, Sir, yesterday we approved the debt ceiling; and a lot of people are bashing us for doing that. We came out clearly and said that we can no longer afford these commercial loans. If those commercial loans can be retired so that we can have money in this country, please, the last people who should be denied money are the Judiciary.

Thank you, Mr. Speaker, Sir.

Sen. Olekina.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 12<sup>TH</sup> NOVEMBER, 2019

**Sen. Olekina:** Thank you, Madam Temporary Speaker. I also want to congratulate you. You are an amazing Senator and to see you sitting there, I can guarantee Kenyans that this House will be in order.

Before I read the Statement of the Senate Majority Leader, I am happy to see that this House has spoken strongly, and I think, some sanity has prevailed in the National Treasury. I am reading from the news that the Judiciary money has been restored. It shows that when this House starts speaking, Kenyans and every one listens. I am very happy about that.

Madam Temporary Speaker, pursuant to Standing Order No.52 (1), I hereby present to the Senate, the business of the House for the week commencing Tuesday, 12<sup>th</sup> November, 2019.

On Tuesday, 12<sup>th</sup> November, 2019, the Senate Business Committee will meet to schedule the business of the Senate for the week. Subject to further directions by the Committee, the Senate will consider Bills due for Second Reading and those at the Committee of the Whole stage. The Senate will also continue with the consideration of business that will not be concluded in today's Order Paper.

Madam Temporary Speaker, the following Bills are due for Second Reading and at the Committee of the Whole stages respectively and will be scheduled accordingly by the Senate Business Committee:

Bills at Second Reading Stage-

- (1) The Registration of Persons (Amendment) Bill (Senate Bills No. 14 of 2019).
- (2) The Care and Protection of Child Parents Bill (Senate Bills No. 11 of 2019).
- (3) The Kenya Sign Language Bill (Senate Bills No. 15 of 2019);
- (4) The County Licensing (Uniform Procedure) Bill (Sen. Bills No. 17 of 2019).

(5) The Statute Law (Miscellaneous Amendments) (No. 2) (National Assembly Bills No. 13 of 2018).

(6) The Alternative Dispute Resolution Bill (Senate Bills No. 19 of 2019).  
Bills at Committee of the Whole Stage -

(1) The Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Bill (Senate Bills No. 2 of 2018).

(2) The Kenya Medical Supplies Authority (Amendment) Bill (Senate Bills No. 38 of 2018).

(3) The Cancer Prevention and Control (Amendment) Bill (Senate Bills No. 9 of 2019).

(4) The Street Vendors (Protection of Livelihood) Bill (Senate Bills No. 10 of 2019).

(5) The Establishment of Children's Homes (Senate Bills No. 12 of 2019).

(6) The County Tourism Bill (Senate Bills No. 5 of 2019).

(7) The County Hall of Fame Bill (Senate Bills No. 39 of 2018).

I urge respective Standing Committees to expedite consideration of the aforementioned Bills and to table reports within the stipulated timelines. This will enrich debate at the Second Reading stage and facilitate the House to effectively navigate the Committee of the Whole stage. I also urge respective Movers of the Bills to be in the Chamber, whenever the Bills are scheduled in the Order Paper.

Madam Temporary Speaker Standing Order No. 51(1) (b) provides for quarterly reports to the House by Select Committees relating to their activities, including, consideration of Bills, Statements and Petitions and inquiries undertaken.

During its sitting held on Tuesday 5<sup>th</sup> November, 2019, the Senate Business Committee approved a schedule of reports by Select Committees. The schedule indicating the date when a Select Committee is required to make a Statement pursuant to the aforementioned Standing Order is attached to this Statement. In this regard, I urge respective Chairpersons to prepare accordingly.

Madam Temporary Speaker, I thank you and hereby lay the Statement on the Table of the Senate.