

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 29th July, 2021

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

[The Deputy Speaker (Sen. (Prof.) Kamar) in the Chair]

COMMUNICATION FROM THE CHAIR

THE SEVENTH ANNUAL DEVOLUTION CONFERENCE

Sen. Olekina: Thank you, Madam Deputy Speaker. I beg to lay the following paper on the table of the Senate today, Thursday, 29th July, 2021-

Report of the Standing Committee on Health on the Special Audit Report on Utilization of COVID-19 Funds by the County Governments.

(Sen. Olekina laid the document on the table)

STATEMENTS

Sen. Olekina: Thank you, Madam Deputy Speaker. Before I seek this Statement, I do so with a very painful heart because this involves the eviction of our people, pastoralists in Laikipia County. We have been dealing with this matter for many years.

Madam Deputy Speaker, I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on National Security, Defense and Foreign Relations regarding the threats by the Cabinet Secretary (CS) for Interior and Coordination of National Government, to forcefully evict pastoralists from parcels of land in Laikipia County.

In the Statement, the Committee should-

(1) Explain the reasons behind the seven-day ultimatum by CS Dr. Matiang'i requiring herders to leave grazing land in Laikipia County or be forcefully evicted by Government security apparatus.

(2) State whether the national Government will provide alternative grazing land for the affected pastoralists ahead of the impending eviction as proclaimed by the CS.

(3) Inform the House on the progress made in addressing historical injustices that led to locals being dispossessed of their land by colonialists and powerful Kenyans, leaving locals with very little land to graze their animals

(4) Explain why expired leases for ranches in Laikipia County have continued to be renewed without a portion of land being excised from the ranches for community benefit, thus exacerbating conflict in a pasture stressed area.

(5) State the impact of the livestock offtake programme proposed by the Cabinet Secretary of Interior and Coordination of National Government on the livelihood of the pastoralist communities in the areas targeted as a way of easing pressure on pasture.

(6) Cause the cessation of the seven-day ultimatum issued by the Cabinet Secretary Dr. Matiang'i, until a workable solution for addressing the plight of herders is arrived at in consultation with pastoralists and communities in Laikipia County.

(7) Explain whether there has been consultation between the Government, pastoralists and "owners" of large tracts of land in Laikipia County in the past to address conflict over grazing land and what the outcome of the consultation were.

Finally, the Cabinet Secretary should remember that that land belongs to the people of Laikipia. Our families are spread across from Narok, Samburu and Laikipia. When you tell people to leave within seven days or you will send the entire army and the police to go and evict them, it causes a lot of pain.

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senator, do not digress.

Sen. Olekina: Madam Deputy Speaker, I will not digress. Thank you for allowing me to request this Statement because it is painful. I hope the Committee on National Security, Defence and Foreign Relations will deal with this matter urgently because it will affect thousands of people.

Sen. Olekina: Madam Deputy Speaker, I will not add anything, but I just hope we can all listen. The Committee should-

(7) Explain whether there has been consultation between the Government, pastoralists and "owners" of large tracts of land - I say "owners" because the land belongs to the Maasai - In Laikipia County in their past to address conflict over grazing land and what the outcome of the consultation is---

Madam Deputy Speaker, we are in this House to defend our people---

Sen. Olekina: Madam Temporary Chairperson, I beg to move-
THAT Clause 6 of the Bill be amended—

(a) in sub-clause (1) by inserting the words "including community and family-based care and support for persons with mental illness" immediately after the words "community health services" appearing in paragraph (e); and

(b) in sub-clause (2) by inserting the words "including community and family-based care and support for persons with mental illness" immediately after the words "community health services" appearing in paragraph (b).

(Question of the amendment proposed)

Sen. Olekina: Madam Temporary Chairperson, I beg to move-

THAT Clause 8 of the Bill be amended in sub-clause (1) by deleting paragraph (c) and substituting therefor the following new paragraph —

(c) develop strategies for the effective and efficient delivery of community health services, including community and family-based care and support for persons with mental illness at the community level;

(Question of the amendment proposed)

Sen. Olekina: Madam Temporary Chairperson, I beg to move-

THAT clause 11 of the Bill be amended in sub-clause (2) by inserting the following new paragraph immediately after paragraph (d) —

(da) monitor the rehabilitation and integration of persons with a mental illness into the community.

Sen. Olekina: Madam Deputy Speaker, I second.

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Sen. Olekina: Madam Deputy Speaker, I have been on the phone with Sen. Kasanga. She requested me to be here. I was acting on behalf of the Chair of the Committee on Health. She requested me to come here and move it. In fact, she just called and wondered why her Bill was skipped and yet she is online.

Earlier on, we were informed that the sponsor of the Bill has to be here. There are other amendments that were not affected by the Committee, so I was only moving the Committee amendments. It is like there were two Movers. The Chairperson of the Committee moves the Committee amendments. Sen. Kasanga is online and has been calling me throughout.

I request that we deal with that Bill so that we do not have to delay it. Otherwise, I would have actually gone and---

The Deputy Speaker (Sen. Prof.) Kamar): You realize that your request means that we reconvene the Committee of the Whole?

Sen. Olekina: That is my request, Madam Deputy Speaker.

The Temporary Speaker (Sen. Nyamunga): Finally, Sen. Olekina, proceed.

Sen. Olekina: Madam Temporary Speaker, I rise to support this timely Prompt Payment Bill 2021. Let me begin by congratulating my dear brother Sen. Sakaja and my sister Sen. Farhiya for doing something to try and bring sanity into the business world. Worldwide, there are Prompt Payment Acts. I know in the US, there are different things that are prescribed in the Prompt Payment Act. What is not prescribed in the Prompt Payment Act which I think that my dear brother Sen. Sakaja ought to do it first is the issue of paying interests by a government agency that fails to pay a contractor on time.

My biggest problem with this issue of delayed payments has got to do with the trickledown effect. When a Government agency fails to pay a contractor, that contractor

does not pay the subcontractor. It trickles down and affects an economy of the county or even the country.

Madam Temporary Speaker, it is sad that counties are procuring services from vendors and contractors knowing they do not have a budget. Most county and national governments are led by politicians. So, they may want to appease their people that they are actually bringing in development, when we know that they are not. What they are doing is killing the economy. It is sad. Some of these things should be made criminal.

I propose to Sen. Sakaja that he should do a first in the world. These Government entities should now start paying interest because most of us take loans from financial institutions. This is a commercial transaction, but governments are not penalized an interest. I think it is about time that just like the way Government entities charge us interest when we delay to remit our statutory deductions, that should also apply to Government agencies that do not pay contractors when payments are due.

I do not see the reason why Government agencies should continue to enjoy the monopoly where they owe you money and can choose to pay you in 10 years. We should all be uniform because they have chosen to procure a service. They have said they have money. If they do not have it, they should not be allowed to procure.

For us to be more effective and for this Bill to make sense when it becomes an Act of Parliament, I think we now need to ensure that even the Controller of Budget (CoB) and the National Treasury are part of the entire process. If you read the current Insurance Act and the Human Resource Management handbook and Articles 233 and 237, it gives the National Treasury the power to withhold money from entities that do not provide health and life insurance cover to their employees. This is mostly in the public service. Soon, I will be bringing a statement to this effect.

Madam Temporary Speaker, you find many teachers who do not have *riba* or health or life insurance. The National Treasury has the power to stop the money of an entity from being disbursed if they do not show in their budget that they have covered all their employees.

Sen. Sakaja should now look at introducing an amendment that before the CoB releases any money to county governments, they must show that they have paid 100 per cent of their Bills. I have always been on record saying there is no reason why a county government should have a pending bill. You procure and you have a budget. You cannot just come out of the blues with a budget which you do not have money to fund and proceed to procure.

County assemblies should also play their role. They should ensure that the budget they approve is equivalent to the money that either the Senate has sent to county governments or their own source revenue. To make sure this Prompt Payment Bill becomes more effective in helping the business community, the CoB and the National Treasury must also play a role to ensure that they only release money to counties that do not have pending bills.

Counties complain a lot that the National Treasury delays in releasing their funds. When they do so, they make these claims that they only have money to pay salaries. If they continue to have that as a continuous problem affecting them, then they should not procure any services. They should continue to pay salaries if the only money they are getting is for salaries.

As I support this Bill, I would like to end by saying that this will only become effective and meaningful to the citizens out there who are now languishing in poverty because Government entities have not paid for the services they have already provided. If you introduce an element of interest, this Government should start paying interest. There is no reason why I should be penalized by the Kenya Revenue Authority (KRA) for late submission of my taxes, yet KRA should not pay me for refusing to pay me on time. Introduce an element of interest. That is the only way we can help our citizens.

Finally, I thank Sen. Sakaja again for doing the obvious. In a supermarket, you will not be given anything on credit. You pay and you are given what you have bought. If county governments are unable to ascertain what has been done, then they should introduce a draw down system where documents are exchanged. So, you do not have to know me to pay me for what you I have provided. I tendered, you awarded me the tender, I have done my job and so, everything should be electronic. Let me get my money through the bank and then I can pay my sub-contractors.

I support and I hope this becomes an Act of Parliament.