



Parliament of Uganda

**REPORT OF THE COMMITTEE ON PHYSICAL INFRASTRUCTURE ON THE
ROADS BILL, 2018**

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OFFICE OF THE CLERK TO PARLIAMENT

APRIL 2019

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Table of Contents

LIST OF ACRONYMS iii

1 INTRODUCTION 1

2 BACKGROUND TO THE BILL 1

3 OBJECT OF THE BILL 2

4 HOW THE BILL SEEKS TO ADDRESS THE DEFECTS. 2

5 METHODOLOGY 3

6 OBSERVATIONS AND RECOMMENDATIONS 4

6.1 Delineation of responsibility centres in the roads sector Part II: Road Management 4

6.2 Tolling of roads 5

6.3 Declaration and Protection of Road reserves 6

6.4 Vehicle load control 8

6.5 Road safety 8

6.6 Access to roads 9

6.7 Offences and penalties 9

7 CONCLUSION 10

The page contains numerous handwritten signatures and initials in black ink. Some are clearly legible, such as 'Anne' in the center, 'K. Hill' at the top left, and 'S. M. de A.' at the bottom right. Other signatures are more stylized or scribbled, including one that looks like 'A. Hill' with a circled 'A', and another that appears to be 'S. M. de A.' with a large flourish. There are also several sets of initials and marks, some of which are crossed out or partially obscured.

LIST OF ACRONYMS

GOU	Government of Uganda
MOFPED	Ministry of Finance, Planning and Economic Development
PPDA	Public Procurement and Disposal of Assets
PFMA	Public Finance Management Act
MOWT	Ministry of Works and Transport
POU	Parliament of Uganda
PPP	Public-Private-Partnerships
UNRA	Uganda National Roads Authority

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1 INTRODUCTION.

The Roads Bill, 2018 was read the first time on 26th September 2018 and consequently referred to the Committee on Physical Infrastructure in accordance with Rule 128 of the Rules of Procedure of Parliament.

2 BACKGROUND TO THE BILL

The existing laws governing the roads sector in Uganda, namely the Roads Act, 1949 and the Access to Roads Act, 1969 are indeed outdated and grossly incapable of meeting contemporary trends in the management, administration and access to public roads. The Roads Act was enacted in 1949 to provide for the establishment of road reserves and maintenance of roads while the Access to Roads Act, enacted in 1969, set out the procedure for owners or occupiers of land situated in relation to roads to apply for access to the road. The two Acts therefore only cover a limited range of the management of roads and are not sufficient to address current issues concerning management, administration and access to public roads.

While Roads Act, 1949 provides only for the establishment of road reserves and maintenance of roads and the Access to Roads Act only provides for access to roads through private land, they neither address the regulation of access points on public roads; especially highways nor the development, management, classification, demarcation and safety of public roads.

Additionally, under the existing Roads Act, road reserves are maintained by governments of district administrations and yet currently, the management of public roads lies with different stakeholders, including the Uganda National Roads Authority for national roads, district local governments or urban local government councils for district or community access roads and Kampala Capital City Authority for KCCA roads.

Further, in the Roads Act, a road reserve is defined as an area bounded by imaginary lines parallel to and distant not more than fifty feet from the centre

line of any road. There is need to amend the Act to allow for the future widening of public roads by empowering the Minister to declare different widths of road reserves for different classes of public roads.

The increase in traffic volumes and utility services which require cables to be installed underground using ducts and pipe works within the road reserve also require wider road reserves to enable the construction of utilities corridors.

There is also need to reform the law to address emerging issues not currently addressed in the law, including the declaration of toll roads, payment of tolls, management of storm water, axle load control, management of road reserves, management of road furniture, establishment of resting centres on public roads, promotion of road safety and prescribing penalties for substandard work by contractors, among others.

3 OBJECT OF THE BILL

The object of the Bill is to reform and amend the law relating to the development, management and maintenance of public roads and access to roads in order to conform with current Government policies, plans and programmes.

4 HOW THE BILL SEEKS TO ADDRESS THE DEFECTS.

The Roads Bill, 2018 seeks to address the gaps that have been identified in the current law by amending the existing law to:

- 1) provide for the development, management, classification, demarcation and safety of public roads, the placing and maintenance of road furniture; the declaration, management and protection of wider road reserves on public roads, providing for the control of axle loads on public roads;

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- ii) provide for the development and maintenance of toll roads and the imposition of road tolls on certain public roads, providing for access to public roads, creating an environment that is conducive for the efficient and effective rehabilitation and maintenance of public roads, providing for the development and management of ferries and ferry landings and to prescribe appropriate penalties for offences.
- iii) define the roles of different stakeholders in the management and administration of public roads; including the role of the minister responsible for roads and roads authorities. The Bill therefore provides for-
 - a) more comprehensive regulation of the development, maintenance and management of public roads, bridges and ferry landings;
 - b) effective control of traffic, restriction on use of roads' closure of roads for maintenance, removal of abandoned or broken-down vehicles and axle load controls under the different roads authorities;
 - c) increased road safety; to be achieved through provision of wider road reserves, street lighting along roads in urban and built-up areas and road safety enhancement regulations;
 - d) cadastral surveying and marking of public roads to help inform the public and prevent encroachment on road reserves;
 - e) additional road reserve space to enable establishment of utilities corridors for laying utility cables and pipes;
 - f) control of nuisance on public roads such as piling of silt, refuse and mud on roads, movement of animals along public roads, trading on road sides and the burning of grass and cutting of trees or ornamentals in road reserves
 - g) improved environment and quality of road works; and
 - h) enhanced deterrent penalties to encourage compliance with the law

5 METHODOLOGY

In the consideration of the Bill, the Committee:

- a) Held a public hearing on 20th February, 2019
- b) Met with and elicited views from;
 - i) The Minister of Works and Transport
 - ii) Uganda National Roads Authority (UNRA)
 - iii) Uganda Road Fund (URF)
 - iv) Uganda Police Force
 - v) Uganda Human Settlements Network
- c) Received and reviewed written memoranda from;
 - i) Ministry of Lands Housing and Urban Development
- d) Reviewed relevant literature namely; the Roads Act, 1949, The Access to Roads Act 1969, The Roads Bill, 2018, The Constitution of the Republic of Uganda 1995

6 OBSERVATIONS AND RECOMMENDATIONS

6.1 Delineation of responsibility centres in the roads sector Part II: Road Management

The Bill seeks to effectively delineate responsibility centres in the roads sector and provides for tolling of roads. It establishes Uganda National Roads Authority (UNRA) for national roads, local government councils for district and community access roads, urban councils for urban roads and Kampala Capital City Authority (KCCA) for Kampala capital city roads; and bestows functions upon them.

Additionally, the Minister responsible for Works and Transport is granted powers, exercised through statutory instruments, in amongst others, delegating any function of the road authority in section 4 to any public institution or agency or to a private institution in respect of an area or specified road.

The Committee notes that this segregation of responsibilities is comprehensive and caters for the various segments of roads in the country. This will not only ease planning and implementation of roads projects but also bolsters accountability.

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6.2 Tolling of roads

Tolling is a method of raising revenue from transport infrastructure through imposing a charge or fee on the vehicles. Tolling of roads is a global phenomenon that seeks to aid the financing of and maintenance of roads to enable the public enjoy the benefits of befitting and quality roads. The Road tolling policy of Ministry of Works and Transport of May 2017 defines a toll road as the whole length or portion of a national, urban and community access road infrastructure where tolls are levied and collected from vehicle.

Clause 6 of the Bill provides for the tolling of roads and bestows power upon the Minister to declare any road, group of roads or a portion of a road as a toll road in consultation with the MoFPED and the relevant road authority. The Bill empowers the Minister to prescribe tolls for toll roads in consultation with the Minister of Finance, Planning and Economic Development (MoFPED) in accordance with the classification of vehicles set out in Schedule 6 and provides for the modalities for payment of road toll. The road authority is empowered to collect the toll and may retain the revenue with the approval of the MoFPED for purposes of meeting any expense and obligations associated with the road upon which the toll is levied. This provision further subjects the management of the revenue accruing to road toll to the Road Fund Act 2008, the PFMA Act 2015 and the PPDA Act 2015.

The Committee notes that the Government of Uganda has in the recent past committed a sizeable amount of the national budget towards funding road infrastructure works. However, the available funding has not been able to meet the road infrastructure development and maintenance needs. To bridge the funding gap, the Government has moved to attract private sector capital that will be recouped through tolling.

Roads are vital and play an important role in the aspect of enhancing economic development in the Country. Vision 2040 targets at an 80% paved national roads network. Similarly, the long term development vision for Uganda is to transform Uganda from a peasant to a modern and prosperous country within 30 years. Special attention is given to the need to develop a critical mass of transport infrastructure to lower the costs of doing business and to spur economic growth. This agenda is however constantly being constrained by insufficient funding.

Therefore, the new financing methods have been necessitated to increase funding for construction, operation, maintenance and rehabilitation of roads and one such method is the introduction of private finance through borrowing. Government will then be able to repay the private capital by charging tolls on roads which tolls shall be paid by all road users.

The Committee is content that the provision, in the Bill, for Public Private Partnerships (PPP) in the development, operation and maintenance of toll roads will boost efficiency, effectiveness' and economy in the management and administration of roads.

6.3 Declaration and Protection of Road reserves

A road reserve is an area of land that is set aside for potential road construction, on which building is not allowed. Roads open up more areas and stimulate economic social development and it is for these reasons why the road infrastructure is the most important of all public assets. It is therefore incumbent on government to always secure land in form of road reserves to take care of these future prospects of expansion of roads.

The Committee is cognizant of prevailing challenges of non-observance of and encroachment onto road reserves, periodic excavations of roads by utility service providers and in some cases the general absence of road reserves. With increasing traffic volumes in the country and the need for greater road safety, there is need for effective streamlining and protection of road reserves and also expansion of roads. The recent assessment report by the National Planning Authority, the certificate of Compliance for the Annual Budget FY2017/18 also indicated that land compensations were crowding out the impact of infrastructure projects undertaken by Government. The high compensations have increased the infrastructure costs and reduced value for money on public investment hence the need for Government to secure land through acquisition as provided by the law, long before implementing road construction projects.

In **Section 2** of the **Roads Act of 1949**, the Minister is mandated by statutory instrument to declare an area bounded by imaginary lines parallel to and distant not more than fifty feet from the centre line (*the equivalent of fifteen meters*) of any road to be a road reserve.

~~Amended~~ **Clause 14** of the Bill is proposing to empower the Minister to declare a road reserve of not more than forty meters from the centerline of any road and

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further provides for road reserves to be kept clear. In furtherance to this, **Clause 23** of the Bill is proposing to confer upon the road authority, the power to stop in writing, certain activities in a road reserve or a proposed road where there is reason to believe that the land owner or any person having any right of the land which is affected may do any act which may interfere with the proposed road. The proposal also expressly states that the affected person shall not claim a right to compensation in respect of any loss or damage suffered by reason of the exercise by a road authority.

The Committee noted that civilization in the country has continually expanded over the years and that because of the high economic activity in the country due to increased rural urban migration, Ugandans are always on the move for resources as well as places to live, work and play. Roads are the arteries through which the economy pulses because they create linkages between producers to markets, workers to jobs, students to schools and the sick to hospitals hence making roads vital to any development agenda. Good roads are an important factor in the aspect of development and therefore the proposal to increase the road reserve to forty (40) meters will go a long way in enhancing this development agenda.

The Committee however noted that Clause 23 contravenes Article 26 of the Constitution which protects every Ugandan from deprivation of property, except for public use and upon payment of adequate compensation. The proposal instead prohibits any person from claiming any compensation arising from failure by a road authority to put to use the road reserve land for two years. In a bid to give powers to declare road reserves to the Minister, the committee thinks that this will be heavily abused by the person in the office of the Minister at any one time. This power could be subjected to political manipulation and irregularities which could worsen the already bad situation in the country where land has been a subject of contention for so long.

Recommendation.

The Committee recommends that the road authority should first acquire land in accordance with Article 26 of the Constitution of the republic of Uganda and therefore reserve after acquisition.

The Committee also recommends that the Physical Planning Aspect be strengthened to provide for cheaper avenues of implementing Government projects. The Physical planning sector should look at

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areas where government can implement road construction projects at cheaper costs without having to incur huge expenditures in compensations. Planning should not only be focused on the already crowded and urban areas in the country. For Uganda to archive Vision 2040, the planning sector should look at the Country holistically and identify potential areas of growth where government can implement road projects, acquire land now according to the Law so as to insulate itself from incurring huge costs of compensation in future.

6.4 Vehicle load control

The Bill mandates a road authority to control the maximum gross vehicle weights, axle loads and dimensions of permitted vehicles and impose speed limits and overloading fees. The parameters of vehicle load control are synchronized with the East African Community Vehicle Load Control Act, 2016. To this end, the Bill provides the legal load limits, mandatory weighing of vehicles and stipulate the special categories of vehicle loads and over loading fines, prohibits overloading and stipulates the liability for payment of fines and other costs.

The Committee observes that the synchronization of our national axle load control laws with the rest of the East African Community is timely. In addition, axle load control will help protect roads from damage and increase their lifespan and ultimately value for money.

6.5 Road safety

The Bill addresses road safety as an integral part of road transport by mandating a road authority to institute measures to ensure the safety of road users during the design, construction, maintenance and operation of public roads. Over the years, the population of Uganda has drastically increased which has created a lot of congestion on the already constructed roads in the country. Most of the existing roads do not cater for footways and cycle ways and it is very common sight in the City and the urban centers of the country to see pedestrians, cyclists and motorists scramble for the same space in an unsafe manner.

The Bill further is responsive to the requirements of gender and equity as provisions for the establishment of pedestrian crossings, footways and cycle ways and the requirement by the road authority to ensure that the necessary road furniture is erected and maintained on public roads under its jurisdiction are catered for. The Bill also criminalizes the damage,

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removal of road furniture and bestows power upon the Minister to regulate speed limits on all public roads or sections of public roads whilst criminalizing non-compliance to speed limits. It is also noteworthy that the Bill mandates a road authority, by notice in the Gazette, to set aside parts of a road as places for bus stops, taxi cab stands and loading zones for goods vehicles.

The Committee is content that the consideration of road safety will go a long way in stemming the high levels and cost of road carnage that the country is grappling with.

6.6 Access to roads

The Bill empowers the Minister to make regulations for the control of the number, location and design of points of access to public roads and mandates the Minister to make regulations to specify the requirements and specifications of access roads. The section also criminalizes any obstruction of an access road. The Bill further provides for the application for leave to construct access road through private property.

Roads stimulate economic responses in terms of trade, location choices and transport use and thus shape the ultimate development outcomes. The Committee notes that with the various on-going and planned road projects, enabling access to such roads will aid the integration of road networks in the country and ease the movement of people and goods.

6.7 Offences and penalties

The Bill provides for various offences and penalties relating to; destroying roads, obstruction on roads, interferences on public roads, Stopping or clogging drains and watercourse, Nuisance on roads, Damage from water, silt and stone boulders, Failure to comply with the building line requirements, Offences relating to road tolls, Offences relating to axle loads, Obstruction of officers, Offences by contractors and express penalties among others.

The Committee notes that while the Bill had initially proposed hefty penalties as a deterrent measure against various offences, some of the penalties were out rightly exorbitant and unrealistic and this would render the law so hard to implement. The Committee therefore proposes the re-alignment of the penalties to maintain their prohibitiveness but also reflect realism and practicality.

7 CONCLUSION.

The Bill seeks to reform and amend the law relating to the development, management and maintenance of public roads and access to roads in order to conform to the current Government policies, plans and programs. The Committee reviewed the bill and made proposals that the Committee deemed fit to achieve the objectives of the Bill.

The Committee was alive to the fact that in an attempt to enable government expeditiously implement road infrastructure projects, the proposal to empower the Minister to declare road reserves has been imbedded in the powers of the Minister. The Committee acknowledges that there is urgent need to enable government expeditiously implement these projects through cheap means of acquisition of land without having to incur costs in compensations. The Committee however finds that unconstitutional and strongly urges Government to conform with the provisions of the law under **Article 26** of the **Constitution of Uganda 1995** that stipulate that no Ugandan should be deprived of their property without adequate compensation.

The Committee therefore recommends that the Bill be considered for second reading subject to the proposed amendments attached hereto and any other modifications that the House may deem fit.

I beg to report.

for

PROPOSED AMENDMENTS TO THE ROADS BILL, 2018

Clause 1: Purpose and commencement.

Clause 1 (2)

Delete sub-clause (2).

Justification

To ensure that the Bill comes into force on the date of its publication as notified in the Gazette and not by the issue of statutory instrument.

Clause 4: Functions of road authorities.

Clause 4 (2) (a)

Substitute for the words "development plans", the words "physical development plans".

Justification

To ensure that the development of roads is aligned to the national physical development plan in accordance with the Physical Planning Act, 2010.

Clause 5: Powers of the Minister.

Clause 5 (1)

Substitute for the words "private person" appearing in line four, the words "private institution".

Justification: To ensure that the Minister does not delegate any of the functions of road authorities to an individual person.

Clause 5 (4)

Delete sub-clause (4).

~~AO~~ **Justification:** It contradicts sub-clause (3).

Clause 5 (5)

Delete the words "appointed by the Public Service Commission" appearing in lines one and two.

Justification: To cater for situations where the appointing authority of an Engineer-in-Chief may change.

Clause 8: Payment of road toll.

Clause 8 (2) (c)

Delete the entire paragraph.

Justification:

- i) It will be difficult to ascertain whether a vehicle of a security agency is on emergency duty or not. As a result, the provision might be abused.
- ii) Since clause 6 (3) proposes the operation and management of toll roads to be supported by the use of appropriate technologies, once implemented, it will enable toll operators to keep timely track of such vehicles without causing undue delays. Thereafter, toll operators can compile the road toll and make monthly submissions for payment to a responsible security agency. This will also widen road toll collections.

Clause 14: Declaration of road reserve.

Clause 14 (2)

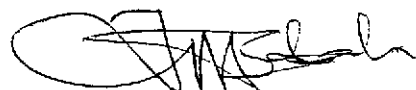
Substitute for sub-clause (2) the following:

“(2) Subject to subsection (1), the Minister may declare and gazette different widths of road reserves for different classes of roads not exceeding the widths set out in Schedule 3.”

Justification: To ensure that Parliament sets the maximum widths of road reserve for different classes of roads.

Insert a new sub-clause immediately after sub-clause (2) as follows:

“For the avoidance of doubt, where a declaration of a road reserve is made under subsections (1) and (2) in respect of any road, a road authority shall make prompt payment of fair and adequate compensation to a land owner or person having interest in or over the land prior to the taking of possession or acquisition of the land under the declaration.”



Justification:

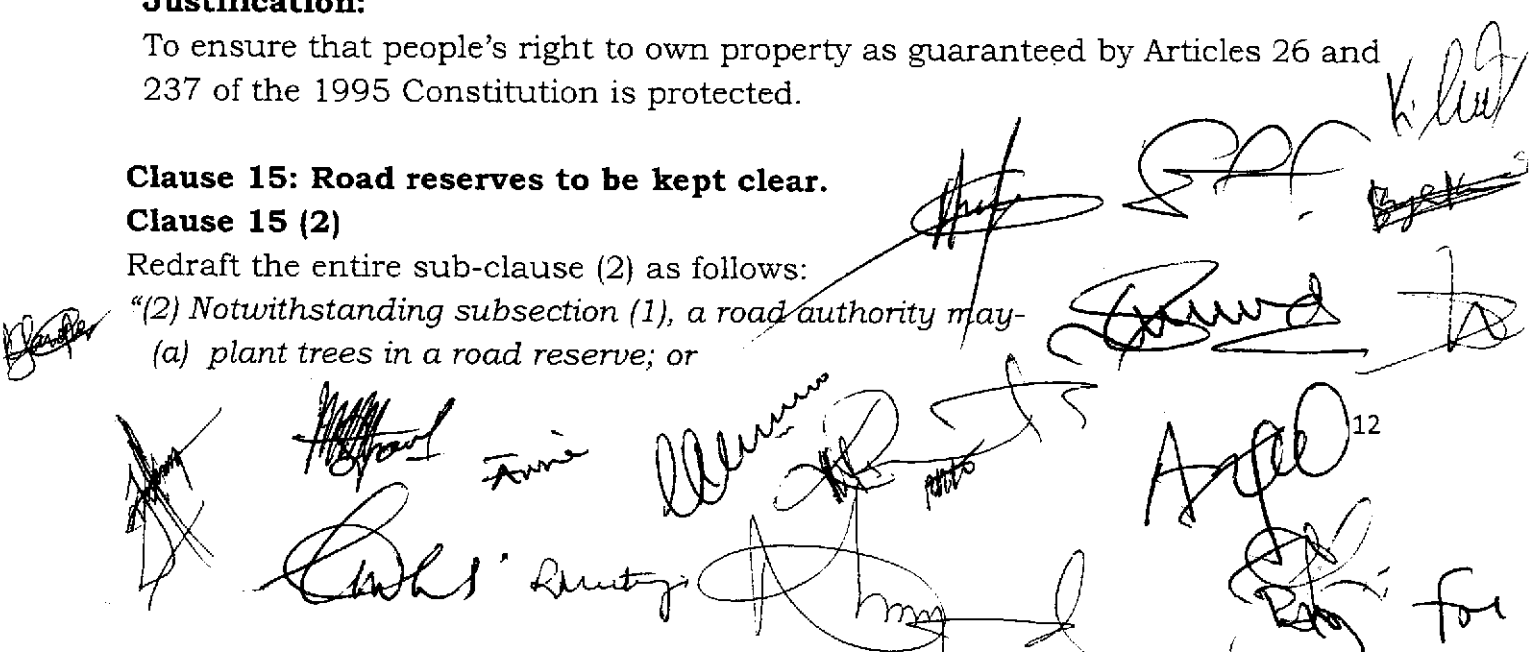
To ensure that people's right to own property as guaranteed by Articles 26 and 237 of the 1995 Constitution is protected.

Clause 15: Road reserves to be kept clear.

Clause 15 (2)

Redraft the entire sub-clause (2) as follows:

“(2) Notwithstanding subsection (1), a road authority may-
(a) *plant trees in a road reserve; or*



(b) in writing, authorise any person or authority to use a road reserve temporarily for any approved activity including the placing of public lighting, advertisements, pipelines, telephone lines, electric supplies, optic fibre cables and posts, drains, sewers, mains and other utilities."

Justification:

To promote environmental protection and conservation by utilizing road reserves to plant trees, whenever possible.

Clause 19: Power to enter and survey.

Delete the entire clause.

Justification

- i) It contradicts section 2 of the Land Acquisition Act, Cap. 226 which provides for power to enter on and examine land.

Whereas under the Land Acquisition Act the power to enter any land and survey, dig or bore into the subsoil and remove samples, among others must be authorized by the Minister, the Bill under clause 19 grants the power to authorize entry upon any land to a road authority.

Secondly, section 2 (2) of the Land Acquisition Act provides for compensation to any person for any damage which the person may suffer as a result of the exercise of the power of entry. However, the Bill under clause 19 does not provide for such compensation. It only provides for the consent of a land owner, which must not be unreasonably withheld.

- ii) Section 2 of the Land Acquisition Act, suffices.

Clause 23: Power to stop certain activities.

Delete clause 23.

Justification

- i) Clause 23 contravenes Article 26 of the Constitution which protects every person from deprivation of property, except for public use and upon prompt payment of fair and adequate compensation prior to the taking of possession or acquisition of the property.

Clause 23 (6) expressly prohibits any person from claiming any compensation arising from failure by a road authority to put to use the reserved land for two years.

- ii) A road authority should first acquire land in accordance with the applicable law before reservation.

Clause 24: Temporary traffic signs.

Insert a new sub-clause immediately after sub-clause 3 as follows:

“Notwithstanding subsections (1) and (2), a police officer or any person acting under the authority or instruction of the Inspector General of Police; or a road authority shall take measures to ensure minimum disruption of traffic flow.”

Justification:

To ensure that traffic flow is not disrupted unreasonably in the process of placing temporary traffic signs on a public road.

**Clause 26: Preventing soil from being washed onto public roads.
Delete clause 26.**

Justification:

- i) Sub-clause (1) is impracticable considering the terrain of some areas and also the cost of constructing water channels.
- ii) Sub-clause (2) is already provided for under clause 25 (5).

~~10~~ **Clause 28: Power of road authority to make ditches.**

Clause 28 (2)

Redraft sub-clause (2) to read as follows:

“(2) Notwithstanding subsection (1), a drain, tunnel or culvert shall be constructed in a manner that –

(a) minimizes damage to the environment, adjacent land and other properties;

(b) is not dangerous to road users; and

(c) does not restrict access to property.”

Justification

To ensure that protective measures are taken when constructing a drain, tunnel or culvert on a public road to prevent damage to the environment and other properties, among others.

Clause 30: Power to protect road works.

Clause 30 (2)

Substitute for the words “fifteen meters” appearing in line three, the words “forty five meters”.

Justification

- i) Fifteen meters is such a short distance for a motorist to adjust to the warning. Forty five meters warning is more reasonable.
- ii) To harmonise the provision with Regulation 7 (6) of the Traffic and Road Safety (Reflectors) Regulations, 2012.

Clause 43: Installation and management of weighbridges and weigh stations.

Insert a new sub-clause immediately after sub-clause (1) to read as follows:
“(2) In determining the network and location of weighbridges and weighing stations under subsection (1), a road authority shall take into account the flow of traffic along the public road.”

Justification

To ensure that the establishment of weighbridges and weigh stations does not interfere with the flow of traffic on any public road.

Clause 44: Appointment of authorised officers.

Clause 44 (1)

Substitute for the words “every road authority” appearing at the beginning of the provision, the words “National road authority”.

Justification

To restrict the power to appoint authorized officers to the national road authority.

Clause 45: Power of authorized officers.

Insert a new sub-clause immediately after sub-clause (4) to read as follows:

"(5) For the avoidance of doubt, only authorized officers with requisite identification shall manage weighbridges and weighing stations.

Justification

- i) To ensure that authorized officers are clearly identified to avoid abuse of powers.
- ii) To harmonise the provision with the East African Community Vehicle Load Control Act, 2016.

Clause 53: Road furniture.

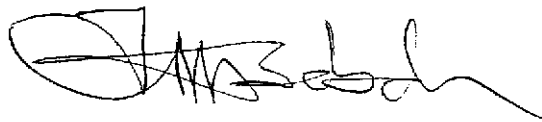
Clause 53 (3)

Redraft sub-clause (3) to read as follows:

"(3) A person who removes or maliciously damages road furniture commits an offence and is liable, on conviction, to a fine not exceeding ten thousand currency points or imprisonment not exceeding four years, or both."

Justification

The provision is susceptible to abuse.



~~AO~~ **Clause 56: Construction of special roads, restriction of traffic, deviations and rest areas.**

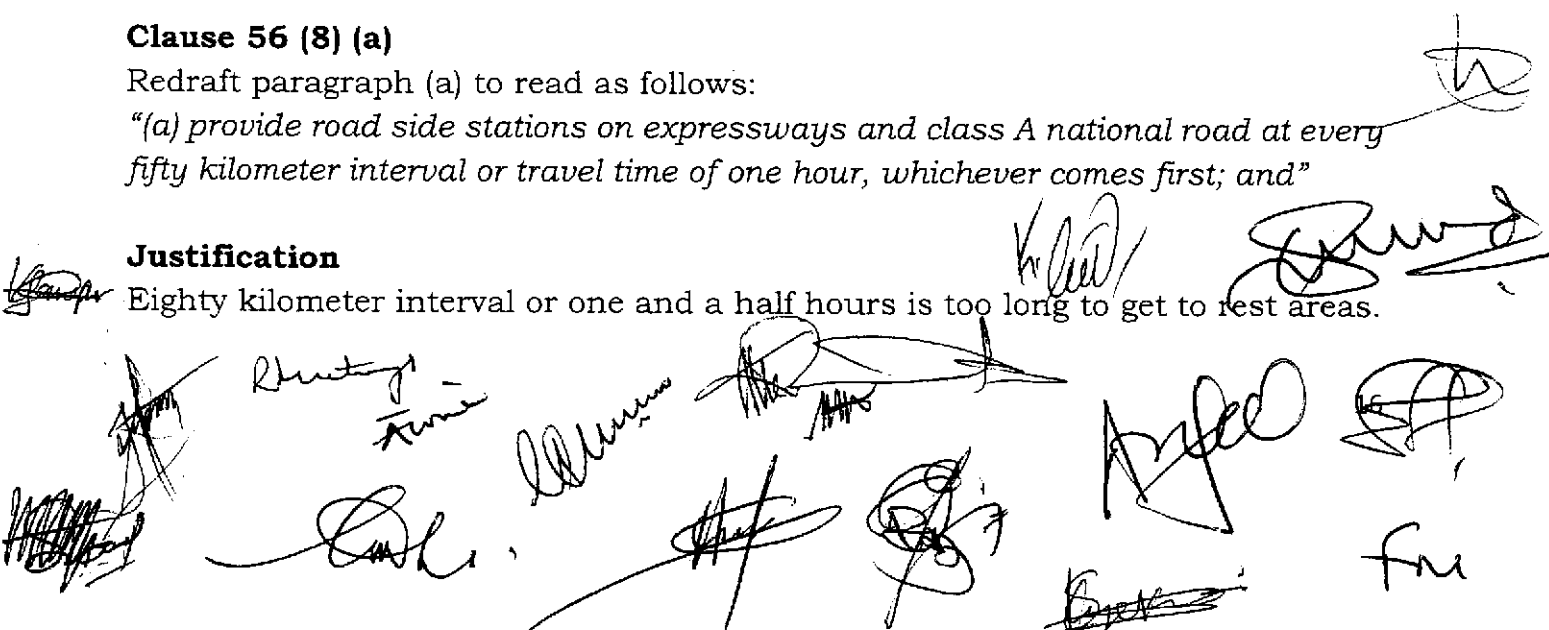
Clause 56 (8) (a)

Redraft paragraph (a) to read as follows:

"(a) provide road side stations on expressways and class A national road at every fifty kilometer interval or travel time of one hour, whichever comes first; and"

Justification

Eighty kilometer interval or one and a half hours is too long to get to rest areas.



Justification

- i) To reduce the time frame within which repairs on vehicles along a public road can be done in an urban area from four hours to two hours to lessen inconveniences to other road users.
- ii) To provide a time frame for vehicle repairs along a public road in rural areas.

Clause 60 (5)

Insert the words "or his or her representative" between the words "owner" and "after" appearing in line four.

Justification

To ensure that the removal of a vehicle from a police station is not restricted to an owner of the vehicle only.

Clause 61: Sale of abandoned vehicles.

Clause 61 (1)

Substitute for the words "a road authority" appearing in line four, the words "the police".


Justification

The sale and auctioning of the abandoned vehicles should be done by the police since it is the body mandated under Article 212 (a) of the Constitution and section 4 (1) (a) of the Police Act, Cap. 303 to protect property.

Clause 61 (2)


Substitute for the words "thirty days" appearing at the beginning of the provision, the words "six months".

Justification



~~AO~~ To require sufficient notice to be given to an owner of an abandoned vehicle before auctioning. 


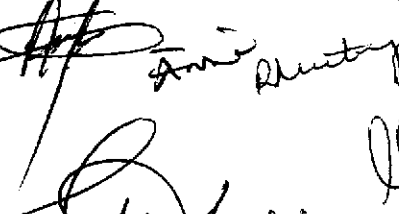

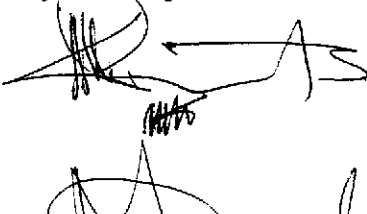
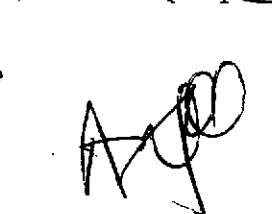
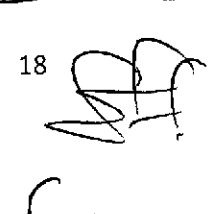
Clause 63: Requirement and specification of access roads.


Clause 63 (2)


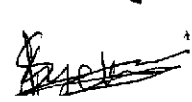
Insert the words "and acquired" immediately after the word "designated" in line two. 

Justification

~~AO~~ To ensure that before designation of any land by the Minister, it is first acquired.  

18 

 for 

Clause 64: Application for leave to construct access road through private property.

Insert a new sub clause immediately after sub clause (2) to read as follows:
"The Minister shall, before granting leave to construct an access road under subsection (2), ensure that an applicant compensates the adjoining landowner."

Justification

To ensure that the Minister does not impose decisions on adjoining landowners to surrender their land for an access road without compensation.

Clause 65: Destroying roads.

Redraft the entire provision to read as follows:

"A person who—

- (a) maliciously destroys, pulls up, breaks or damages milestones, culverts, road furniture, dams, bridges or pavements;
- (b) litters a public road;
- (c) maliciously spills oil on a public road, bridge, ferry or pontoon;
- (d) causes sewage to spill on a public road; or
- (e) places or burns on a public road, any substance that can damage the public road, bridge, ferry or pontoon;

commits an offence and is liable, on conviction, to a fine not exceeding twenty five currency points or imprisonment not exceeding one year, or both.

Justification

- i) The insertion of the word "maliciously" in paragraphs (a) and (c) is for prevention of abuse through malicious prosecution.
- ii) The deletion of the words "storm water" in paragraph (d) is to ensure practical implementation since storm water may be beyond one's control.
- iii) To broaden the provision by creating an offence and a penalty for burning any substance on a public road.
- iv) To provide for a penalty that is commensurate to the offences.

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Clause 66: Obstruction on roads.

Clause 66 (1)

Substitute for the "two thousand currency point", "fifty currency points".

Justification

To reduce the fine to make it commensurate to the offences.

Clause 66 (1) (a)

Insert the words "or slaughters" immediately after the word "loose".

Justification

To broaden the provision by creating a penalty for slaughtering animals on a public road.

Clause 66 (1) (c)

Delete the entire paragraph (c).

Justification

The provision is redundant since paragraph (a) is sufficient.

Clause 66 (1) (d)

Redraft paragraph (d) to read as follows:

"(d) places or throws any stones, broken bottles, solid waste, garbage, bricks, sand, nails, lime, dung or rubbish on a public road, and allows the same to remain there except for purposes of implementation of any provision of this Act;"

Justification

- i) The inclusion of "nails" among the prohibited items to be thrown or placed on a public road under paragraph (d) is to make the provision more encompassing.
- ii) To provide for exceptions especially where materials like sand or stones may be placed on a public road for purposes of road construction or maintenance works.

Clause 66 (1) (i)

Redraft paragraph (i) to read as follows:

"(i) prevents by a dam or obstruction, water flowing from a public road onto the adjoining land owned by a road authority;"

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Justification

To protect private individuals from being penalized for obstructing water that flows from public roads onto their adjoining land.

Clause 66 (1) (k)

Insert the words "on a public road" immediately after the word "food".

Justification

For clarity

Clause 66 (3)

Redraft sub-clause (3) to read as follows:

"(3) A road authority or any person authorized by a road authority may remove or demolish an obstruction or dam referred to under subsection (1).

Justification:

- i) To harmonise the provision with clause 66 (1) (i).
- ii) To avoid repetition in relation to recovery of cost for removing an obstruction since clause 66 (2) already provides for that.

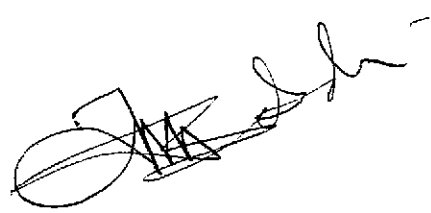
Clause 67: Interferences on public roads.

Clause 67 (1) (b)

Insert the words "within a road reserve" between the words "grow" and "in" appearing in line one of the paragraph.

Justification:

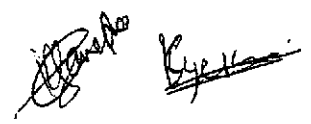
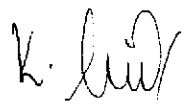
To ensure specificity.



Clause 67 (2)

Substitute for the words "seven years" appearing in line three, the words "five years".

Justification:

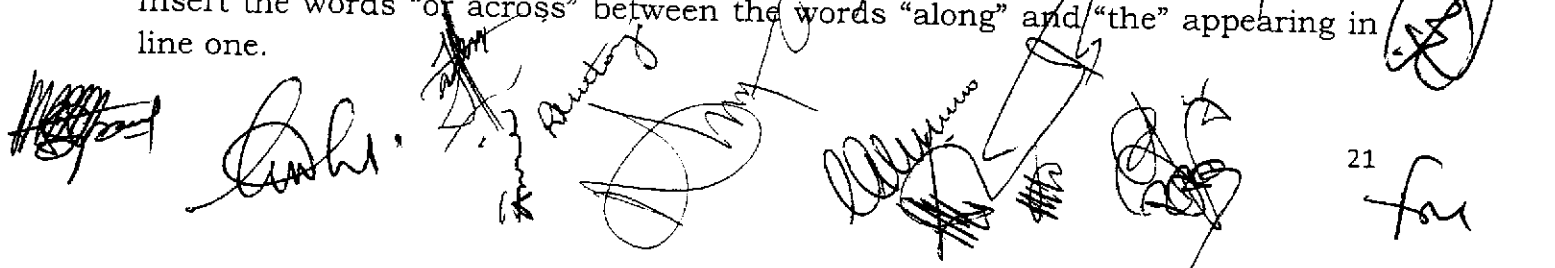


~~AG~~ To reduce the years of imprisonment to make them commensurate to the offence.

Clause 69: Nuisance on roads.

Clause 69 (e)

Insert the words "or across" between the words "along" and "the" appearing in line one.



Justification

To broaden the provision to prohibit walking across a road under the influence of drugs.

Clause 70: Damage from water, silt and stone builders.

Delete the entire clause.

Justification

Clause 66 (1) (j) which creates an offence for causing water to flow over a public road is sufficient.

Clause 71: Failure to comply with road signs.

Substitute for the words "two thousand currency points" appearing in line four, the words "twenty five currency points".

Justification:

To reduce the fine in order to make it proportional to the offence.

Clause 72: Failure to comply with the building line requirement.

Substitute for the words "twenty thousand currency points" appearing in lines three and four, the words "twenty five currency points".

Justification:

To reduce the fine in order to make it proportional to the offence.

Clause 73: Offences relating to road tolls.

Clause 73 (1)

Substitute for the words "one thousand currency points", the words "five hundred currency points".

Justification:

To make the fine proportional to the offence.

Clause 73 (2)

Substitute for the words "one thousand currency points" appearing in lines two and three, the words "twenty thousand currency points".

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Justification:

To make the fine more deterrent based on the nature of the offence.

Clause 73 (4)

Substitute for the words "one thousand currency points" appearing in line three, the words "five hundred currency points".

Justification:

To reduce the fine to make it proportional to the offence.

Clause 74: Offences relating to axle loads.

Clause 74 (2)

Redraft sub-clause (2) to read as follows:

"(2) A person who commits an offence under subsection (1) is liable, on conviction, to a fine not exceeding two thousand seven hundred seventy five currency points or imprisonment not exceeding three years, or both."

Justification:

To harmonise the provision with section 21 of the East African Community Vehicle Load Control Act, 2016.

Clause 74 (4)

"(4) A person who commits an offence under subsection (1) is liable, on conviction, to a fine not exceeding two thousand seven hundred seventy five currency points or imprisonment not exceeding three years, or both."

Justification:

To harmonise the penalty with section 21 of the East African Community Vehicle Load Control Act, 2016.

Clause 78: Express penalties.

Clause 78 (2)

Substitute for the words payable to "the relevant road authority" appearing in lines two and three, the words "a revenue collection bank designated by the Uganda Revenue Authority".

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Justification:

- i) To harmonise the provision with the Traffic and Road Safety Act, Cap.361.
- ii) To ensure that express penalty fines are remitted to the Consolidated Fund.

Clause 82: Repeal and savings.

Clause 82 (3)

Insert section "120" of the Traffic and Road Safety Act, Cap. 361 immediately after the word "Sections" appearing at the beginning of the provision.

Justification:

Having introduced clause 54 on speed limit whose import covers section 120 of the Traffic and Road Safety Act on speeding, section 120 becomes redundant.

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fm

SCHEDULES

Insert a new Schedule immediately after Schedule 2 to provide for maximum width of road reserve for different classes of roads.

Section 14 (2)

MAXIMUM WIDTHS OF ROAD RESERVE FOR DIFFERENT CLASSES OF ROADS.

Class of Road	Type of road	Road Authority	Maximum width of road reserve
National Road	Expressway	Uganda National Roads Authority	40 meters
National Road	A	Uganda National Roads Authority	40 meters
National Road	B	Uganda National Roads Authority	40 meters
National Road	C	Uganda National Roads Authority	40 meters
National Road	Other	Uganda National Roads Authority	30 meters
District Road	I	District Council	20 meters
District Road	II	District Council	20 meters
District Road	III	District Council	20 meters
Urban Road	U	Municipal Council	15 meters
Urban Road	U	Town Council	15 meters
Park Road	P	As determined by the Minister	15 meters
Community Access Road	CAR	District Council	10 meters

Schedule 3: Permissible Axle Load Limits.

In column 4, row 7 of the table, substitute for "22.4", "22.5".

Justification:

To harmonise it with the Second Schedule of the East African Community Vehicle Load Control Act, 2016.

Schedule 5: Vehicle Dimensions, Axle Load Configurations and Vehicle Combination.

In column 3, row 5 of the table, substitute for "2.60", "2.65".

Justification:

To harmonise it with the Fourth Schedule of the East African Community Vehicle Load Control Act, 2016.

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PARLIAMENT OF UGANDA

COMPOSITION BY MEMBERS ON THE COMM. ON PHYSICAL INFRASTRUCTURE

Sn	Name	Constituency	Signature
1	Hon. Kafeero Ssekitoleko Robert, CP	Nakifuma County	
2	Hon. Kumama Nsamba George, VC	Bbaale County	
3	Hon. Angunduru Moses	Terego County West	
4	Hon. Asaba Paul Nsabimana	Kyaka County North	
5	Hon. Burundo Alex Musingo	Bulambuli County	
6	Hon. Byandala Abraham	Katikamu County North	
7	Hon. Dulu Angel Mark	Adjumani County East	
8	Hon. Guma Gumisiriza David	Ibanda County North	
9	Hon. Kasolo Robert	Iki Iki County	
10	Hon. Manderu Amos	Buyamba County	
11	Hon. Mbabazi Janepher Kyomuhendo	DWR Kagadi	
12	Hon. Mbeiza Margaret Kisira	DWR Kaliro	
13	Hon. Muhanga Margaret	Buryaha County	
14	Hon. Musoke Paul Ssebulime	Buikwe County North	
15	Hon. Mutonyi Rose Masaaba	Bubulo County West	
16	Hon. Ninsiima Boaz Kasirabo	Kooki County	
17	Hon. Othieno Okoth Richard	West Budama County North	
18	Hon. Waluswaka James	Bunyole County West	
19	Hon. Watongola Rehema	Kamuli Municipality	
20	Hon. Mwijukye Francis	Buhweju County	
21	Hon. Nzoghu William Musabe	Busongora County North	
22	Hon. Odur Jonathan	Erute County South	
23	Hon. Okupa Elijah	Kasilo County	
24	Hon. Ssempala Kigozi Emmanuel	Makindye Ssabagabo Municipality	
25	Hon. Mawanda Michael Maranga	Igara County East	
26	Hon. Ochen Julius	Kapelebyong County	
27	Hon. Okwir Samuel	Moroto County	
28	Hon. Soyekwo Kenneth Cheborion	Tingey County	
29	Hon. Tumwine Ann Mary	DWR Ntoroko	
30	Hon. Takirwa Francis [Brig.]	UPDF Representative	



PARLIAMENT OF THE REPUBLIC OF UGANDA

**A MINORITY REPORT ON THE ROADS (AMENDMENT)
BILL 2018**

APRIL 2019

Contents

1.0	INTRODUCTION.....	3
2.0	MANDATE.....	4
3.0	ISSUES OF DISSENT.....	5
4.0	CONCLUSION.....	11

1.0 INTRODUCTION

Rt. Hon. Speaker, the object of the Bill is to reform and amend the law relating to the development, management and maintenance of public roads and access to roads in order to conform with current Government policies, plans and Programmes. The Bill further seeks to repeal and replace the Roads Act, Cap' 358 and the Access to Roads act cap. 350.

Rt. Hon. Speaker, It is true that over fifty years since the Roads Act and the Access to Roads Act were enacted, the management and administration of public roads has advanced considerably. The Roads Act was enacted in 1949 to provide for the establishment of road reserves and maintenance of roads while the Access to Roads Act, enacted in 1969, set out the procedure for owners or occupiers of land situated in relation to roads to apply for access to the road.

Rt. Hon. Speaker, therefore the two pieces of legislation cover a limited range of the management of roads and may not address the current issues concerning management, administration and access to public roads.

It is therefore imperative to reform the two outdated laws to meet the current needs and long-term goals of Government and equally address emerging issues not currently addressed in the law, including but not limited to the declaration, of toll roads, payment of tolls, management of storm water, axle load control, management of road reserves, management of road furniture, establishment of resting centres on public roads, promotion of road safety and prescribing penalty's for substandard work by contractors, among others.



Rt. Hon. Speaker, much as we are not opposed to the entire bill, we harbour serious concerns in both its motive and the manner in which the discrepancies which the Bill bears have been handled.

2.0 MANDATE

Rt. Hon. Speaker, we avail ourselves Parliament's oversight role in promoting accountability and transparency.

To this end Rt. Hon Speaker, we are moving under Rule 202 of Parliament's Rules of Procedure which provides that;

- a) Any Member or Members dissenting from the opinion of a majority of a Committee may state in writing the reasons for his or her or their dissent, and the statements of reasons shall be appended to the report of the Committee.
- b) The Member dissenting from the opinion of the majority of the Committee shall be given time to present the minority report at the time of the consideration of the Committee report.
- c) In preparing a minority report, a member shall be afforded reasonable assistance by the Office of the Clerk. (Rt. Hon Speaker and Members, I wish to state that I was not afforded reasonable assistance as envisaged as the Committee Chairperson gave me a report on Thursday afternoon and as you are all aware, Easter set in and yet I was expected to submit the Minority by 10am on Tuesday 23rd April 2019).

3.0 ISSUES OF DISSENT

This Minority Report presents three major points of dissent based on the Methodology, the Object, Scope and Application and Classification and Declaration of road reserve.

3.1 INADQUATE PUBLIC CONSULTATION

OBSERVATION

This Minority Report observes that the committee made narrow consultations on the Roads Bill 2018.

Rt. Hon. Speaker, Objective X of the National Objectives and Directive Principles of State Policy guides to the effect that all necessary steps must be taken to involve the people in formulation and implementation of development plans and programs which affect them, appreciating the sensitivity of the matter, the committee in its work plan had agreed on holding FIVE regional consultative meetings.

This report observes that the Committee failed to execute a work plan agreed by all members to the effect that regional public meetings on the Roads Bill 2018 was to be held in Western, Eastern, Northern, Southern and Central regions of Uganda. This was justified firstly because of the Bill has huge bearing on the public once enacted into law by secondly to facilitate and allow for all Ugandans to have a reasonable opportunity to air their views on the bill. The leadership of the Committee was repeatedly reminded about the need to carry out the planned regional public hearings but they superciliously disregarded and brushed it aside without any explanation.

It is observed that only seven stakeholders were consulted and interacted with the Committee on the Roads Bill 2018 namely; The Ministry of Works and Transport, Uganda Police Force, Uganda Road Fund, Ministry of Lands, Housing



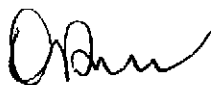
and Urban Development, Uganda National Roads Authority (UNRA) and Uganda Human Settlements Network.

It's worth pointing out that of the seven entities consulted, six are part of Government, the Sponsor of the Bill. In effect, the Committee failed to carry out any meaningful consultations on the Roads Bill 2018 and it is the observation of this report that this was not by accident but rather deliberately and intentionally orchestrated in fear of its ramifications if brought to citizens as they are the owners of Land in Uganda.

The only stakeholder outside Government structure which submitted its views to the Committee was Uganda Human Settlements Network. The organization is a Kampala based Civil Society Organization thus its opinion and submissions can't be construed to be representative of the views of the ordinary Ugandans. Besides Uganda Human Settlements Network has limitation in geographical coverage and outreach provided no proof that their views provided were from the whole country.

Whereas it's true that a public hearing was held on 20th February, 2019, it is suffice to note that the advertisement calling for the public to submit their views in a public hearing on the Roads Bill 2018 appeared in the New Vision Newspaper barely days to hearing date.

This report observes that the New Vision Newspaper is an English language medium which doesn't necessarily reach and or can be understood by the larger population of Uganda. Therefore the one and only public hearing held by the committee on 20th February 2019 falls severely short of the legislative standard envisaged by this Parliament therefore, House, is invited to take exception on the deliberate failure by the committee to hold meaningful consultations and public hearings and accordingly take action on the committee report.



RECOMENDATION

Rt. Hon. Speaker, on this issue I therefore recommend that:

- 1) The Road Bill, 2018 involve far and wide consultations with the Public, the legitimate owners of the land. Every Member of Parliament should go back to his or her constituency and consult their respective constituents accordingly about the Road Bill, 2018.
- 2) The Religious and Cultural Institutions, being some of the leading land owners in Uganda must as a matter of necessity be accorded due regard and the same be consulted accordingly.

3.2. OBJECT, SCOPE AND APPLICABILITY OF THE ROADS BILL 2018

The Roads Bill 2018 lists seven objectives that are expected to achieve eight outputs as stated therein. Output (iii) "provides for increased road safety in urban and built up areas" while Output (v) "provides for additional road reserve space to enable establishment of utility corridors for laying utility cables and pipes".

It is observed therefore it is noxious for the majority report to mislead the House that there is need to expand the road reserves to cater for road construction and yet the Bill itself and indeed the sponsors did not intend.

In fact, the Minister of Minister of Works and Transport, Hon Monica Azuba Ntege while addressing the press at the Uganda Media Center averred that Roads Bill 2018 if passed into law will not affect the already existing developments. It is therefore inconceivable for the Committee to recommend a unilateral application of the bill if passed into law to the effect that it shall have Retrospective effect which would be unconstitutional.



The submission of the Uganda Police Force while appearing before the committee was to the effect that given the nature of developments along roads in Uganda especially in cities, towns and other trading centres, the declaration of extra road reserves beyond the status quo is unrealistic, unenforceable and superfluous.

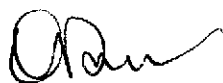
RECOMENDATION

1. I recommend that the original intention of the Roads Bill 2018 requiring road reserves for safety and utilities corridors should be maintained and accordingly this House is convinced that 15 meters road reserve in the current law is adequate and sufficient hence no need to for expansion.
2. It is also my recommendation that the application of the provisions of the Roads Bill 2018 relating to declaration of road reserves if found to be justified strictly to new and future road construction projects as envisaged by Minister of Works and Transport in her address to the Country at Uganda Media Centre.
3. I recommend that the application of the Roads Bill 2018 be restricted to only roads maintained by Government or an administration excluding - footpaths, village roads, private roads and community access roads.

3.3. CLASSIFICATION AND DECLARATION OF ROAD RESERVES

OBSERVATION

Section 2 of Road Act 1949 cap 358, states that a "road means any way open to the public for the circulation of vehicles which is maintained by the Government or an administration;" The Roads Bill 2018 however, conveniently omits the definition of a road and leaves out restriction to roads maintained by Government or an Administration.




The Minority Report further observes that the 40 meters distance proposed either side from the centre of the road (80 meters in total) is unjustified, unsustainable and superfluous. It is common knowledge that two lane roads in Uganda are mostly 8 meters wide (6 meters actual road and 2 meters of shoulders).

The Kampala-Entebbe Express way being one of the most recent roads constructed is a dual double lane design with a total width of less than 40 meters including the road reserves. To be exact, the actual road is around 16 meters wide (8 meters for each double lane). One then wonders the logic of providing for a road reserve as big as size of a football pitch and in any case 10 times more that the actual road.

This report also observe that in urban centres including cities and town (Kampala, Mbarara, Lira, Gulu, Fort Portal, Mbale, Soroti,¹ Jinja among other), have roads which are most often separated by housing blocks with some having less than 20 meters parallel distance between them. A declaration to extending a road reserve has the effect of merging the two roads hence the building blocks must be demolished at a huge cost in compensation and resettlement.

It can be observed that the Committee recommends classifications of different roads and accordingly provides for different widths of the road reserves in schedule 2. The attention of this House is drawn to the fact that classification of the roads is subjective. It's therefore important to note that a community access road can within a day be reclassified as national road which effect will be widening to road to conform to the proposed 80 meters standard for national roads.

Furthermore the Bill proposes that the road reserve has to be kept clear of any activity expect those that have been listed. The effect is that no productive activity would take place on such pieces of land. It is further observes that powers to use such a road reserve is vested in the roads authority (Minister). The



effect of such provision is that the authority can grant ANY PERSON the right to use the road reserve and this House is invited to take note of the word ANY PERSON in light of the rampant land grabbing and abuse of public land.

The committee noted that government has failed miserably to pay compensation to land owners, a case in point being the Stand Gauge Railway project where many Ugandans including our very own member of this House like Hon Mutonyi who has waited for her payment for more than two years despite existence of Article 26 of the Constitution that provides for protection from Deprivation of right to property and for a FAIR, PROMPT and ADEQUATE compensation PRIOR to the taking over of land.

RECOMENDATIONS

1. I recommend that the road reserves be maintained at 15 meters from the centre of all National Roads to avoid disrupting the existing developments along roads since these very developments were guided by the knowledge that roads reserves were 15 meters on national roads only.
2. I also recommend that a single utility corridor be acquired for all utilities (Water pipes, cables etc) contrary to current practice where different entities are acquiring land for their own utility corridors.
3. I recommend that roads that are not under maintenance by Government or an administration such as footpaths, private roads, and community access roads are excluded from schedule 2.
4. I recommend that the definition of a road reserve be changed to mean distance from "shoulder" and not from "center" of the road.

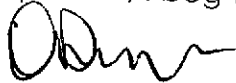


4.0 CONCLUSION

In conclusion, it is the minority's submission that whereas the Roads Bill 2018 seeks to introduce important provisions such as road tolling, Axle Load Controls, offences and penalties, it also seeks to introduce several other provisions which have the effect of impeaching the provision of the constitution in Articles 26 and 237.

It is the view of this Minority Report that the House rejects the Committee report in as far as the points of dissent raised in this report are concerned and prays that this House reflects deeply on the implication of declaring 80 meters of road reserve and accordingly finds merit and adopt this Minority Report.


Rt. Hon. Speaker, I beg to submit.



Hon. Odur Jonathan, MP

Erute County South Constituency

LIST OF MEMBERS DISSENTING

Name(s)	Counstituency	Signature
Hon. Odur Jonathan	Erute County South Constituency	
Hon. Nzoghu William,	Busongora North Constituency	
Hon. Ochen Julius	Kapelebyong Constituency	
Hon. Mwijukye Francis	Buhweju Constituency	