



REPUBLIC OF KENYA
TWELFTH PARLIAMENT– (FOURTH SESSION)
THE NATIONAL ASSEMBLY

COMMUNICATION FROM THE CHAIR

_____(No. 051 of 2020)_____

**ON CONCERNS RAISED REGARDING THE COUNTY ROADS, WALKWAYS AND
PARKING BAYS BILL (SENATE BILL NO. 18 OF 2018)**

As you will recall, **Honourable Members**, during Second Reading of the County Roads, Walkways and Parking Bays Bill (Senate Bill No. 18 of 2018) on 27th February 2020, several Members of this House, including the Chairperson of the Departmental Committee on Transport, Public Works and Housing, Hon. David Pkosing, MP, whose Committee is in charge of the Bill, raised various concerns regarding the said Bill. Specifically, the Chairperson informed the House that the Committee was opposed to Second Reading of the Bill based on various considerations, as reflected in the Report of the Committee on the Bill.

For the information of the House, **Honourable Members**, the County Roads, Walkways and Parking Bays Bill (Senate Bill No. 18 of 2018) was published under Gazette Notice No. 81/2018 on 26th June 2018 in the name of Senator Ledama OleKina, MP (Narok County) and was read a First Time in the National Assembly on 30th July 2019.

A Technical Review of the Bill was undertaken and concluded on 26th September 2019, following which the Bill was granted a go ahead for Second Reading. The Second Reading of the Bill commenced on Thursday, 27th February 2020, but I thereafter suspended the debate on the Bill pending my determination on the various concerns raised by Members on the floor of this House that day.

Honourable Members, the Bill's initial title was '*The County Planning (Roads, Pavements and Parking Bays) Bill*' but was renamed '*The County Roads, Walkways and Parking Bays Bill*' through an amendment in the Senate. As regards its objectives, the Bill seeks to provide for the planning, construction and maintenance of county roads, streets, lanes, alleys, parking bays, drainage systems and walkways. It also seeks to provide for proper planning of access-ways to commercial buildings along major roads, and further provides an outline of duties of the Member of County Executive Committee responsible for matters relating to roads in each county.

Honourable Members, following the concerns raised regarding the Bill, and following my analysis of the proposed piece of legislation, I have made the following observations:-

1) The Bill provides for matters already provided for in law, specific the following Statutes -

- a) The Physical Planning and Land Use Act (No. 13 of 2019);
- b) The Kenya Roads Act, 2007;
- c) The Traffic Act (Cap. 403);
- d) The Public Roads and Roads of Access Act (Cap. 399);
- e) The Streets Adoption Act (Cap. 406);
- f) The Persons with Disabilities Act, 2003; and
- g) The Urban Areas and Cities Act (No. 13 of 201).

2) The Bill does not propose to amend or repeal to any of the aforementioned Acts of Parliament.

3) There is already in law at the national level the element of spatial planning before a road is constructed or a market centre is established, and hence there is no need to re-legislate.

4) The Bill seeks to set standards for the construction of roadways, parkways and other public amenities, which is contrary to Paragraph 18 of Part 1 of the Fourth Schedule of the Constitution which places the following areas under the mandate of the National Government:

- a) road traffic;

- b) the construction and operation of national trunk roads; and
- c) standards for the construction and maintenance of other roads by counties.

5) The Bill purports to address construction and maintenance, both of which are under the purview of the National Government.

6) The Bill is more administrative than legislative in its approach; and

7) The Bill is materially defective on both constitutional and legal aspects.

It is on the basis of these observations, **Honourable Members**, that I hereby rule that further consideration of the County Roads, Walkways and Parking Bays Bill (Senate Bill No. 18 of 2018) by this House be halted with immediate effect.

I thank you!



THE HON. JUSTIN B. N. MUTURI, E.G.H, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Wednesday, August 12, 2020