

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD****SPECIAL SITTING**

*(Convened vide Gazette Notice No. 10690 of 16<sup>th</sup> December 2020)*

Tuesday, 22<sup>nd</sup> December 2020

The House met at 10.00 a.m.

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

**PRAYERS****QUORUM**

**Hon. Speaker:** Well, Hon. Members, I am informed that we do not have quorum. Ring the Quorum Bell.

*(The Quorum Bell was rung)*

Maybe, as an observation, I think there are supposed to be some two Whips to the left of Hon. Speaker. They may have forgotten that, Hon. Junet and Hon. Eseli. Is Hon. Eseli still in the House?

*(An Hon. Member spoke off record)*

Sometimes we look with appreciation on some roles performed by you. I do not want to say who in particular. As you know, you would be already out there looking for Members. Now, maybe somebody should look for Hon. Junet and Hon. (Dr.) Eseli Simiyu and remind them that they are whips. I see Hon. Sankok wants to look for them.

Very well, now we have quorum. We can start.

*(Hon. (Ms.) Gladys Wanga consulted an Hon. Member while on her feet)*

**Hon. Speaker:** Is that the Member for Kisii? Consult the Member while seated. It is a lot more comfortable. Is it the Member for Kisii or not?

*(Loud consultations)*

**An Hon. Member:** It is the Member for Homa Bay.

**Hon. Speaker:** It is the Member for Homa Bay. I cannot identify her well because she is wearing a mask.

## COMMUNICATION FROM THE CHAIR

### BUSINESS FOR CONSIDERATION DURING THE SPECIAL SITTING OF THE HOUSE

**Hon. Speaker:** Hon. Members, I wish to welcome you to today's Special Sitting of the House which has been convened pursuant to the provision of Standing Order No.29 and duly gazetted vide *Kenya Gazette* Notice No.10690 of 16<sup>th</sup> December 2020.

The business to be transacted is as published in the *Kenya Gazette*. The notification of the Special Sitting was also made to all Members by the Clerk of the National Assembly in the usual manner, including publication in two newspapers for national circulation.

Hon. Members, with regard to processing priority Bills and Statutory Instruments during the recess period, you will recall that on 3<sup>rd</sup> December 2020 this House ordered as follows:

- (i) Should a Bill be published during the recess period or a published Bill becomes due for First Reading during the period, the Speaker shall upon lapse of at least three days following the publication of the Bill and following a determination that such a Bill is of priority, forthwith refer such a Bill to the relevant Committee for consideration pursuant to the provision of Standing Order No.127 that deals with committal of Bills to Committees for public participation. Upon resumption of the House, the Speaker shall cause the Bill to be read a First Time and the Second Reading may be taken forthwith or such other day as the House Business Committee may determine.
- (ii) Should any Statutory Instrument be transmitted for tabling before the House during the recess period, the Speaker shall, following a determination that the Statutory Instrument is of priority, forthwith refer the Statutory Instrument to the relevant Committee for consideration and cause the Statutory Instrument to be tabled in the House at its next Sitting, in accordance to the provisions of Section 11 of the Statutory Instruments Act No.3 of 2013.

Hon. Members, in furtherance to this Order of the House, I wish to report as follows:

1. The Tax Laws (Amendment) (No.2) Bill (National Assembly Bill No.48 of 2020) was published on 27<sup>th</sup> November 2020 and determined to be of priority. I, therefore, referred the Bill to the Departmental Committee on Finance and National Planning for consideration. The Committee is expected to table its Report this morning to pave way for consideration of the Bill and later in other stages in this Sitting and during the afternoon sitting.
2. The Anti-Doping (Amendment) Bill (National Assembly Bill No.51 of 2020) was published on 7<sup>th</sup> December 2020 and having determined it to be a priority Bill, I referred the same to the Departmental Committee on Sports, Tourism and Culture for consideration. I also expect the Committee to table its Report this morning to pave way for consideration of the Bill in other stages.
3. The Value Added Tax (Amendment of the Rate of Tax) Order, 2020, Legal Notice No.206 of 2020 was submitted by the Cabinet Secretary to the National Treasury and Planning for tabling and consideration by the National Assembly. Having

determined the Statutory Instrument to be of priority, I referred it to the Committee on Delegated Legislation for consideration. I also expect the Committee to table its Report to the House today morning so as to inform the consideration of the Statutory Instrument later in the day in keeping with the requirements of the law.

The House, is therefore, accordingly informed and guided.

Thank you, Hon. Members.

*(Several Hon. Members entered the Chamber)*

Let me allow the Members who are making their way into the Chamber to settle.

*(An Hon. Member walked in the gangway)*

Let the Member who is in motion freeze.

#### THE DEMISE OF HON. JAMES MUKWE LUSWETI

**Hon. Speaker:** Hon. Members, on a sad note, I wish to inform you that I did notify Members of the National Assembly and the entire parliamentary fraternity of the untimely passing on of the Member for Kabuchai Constituency, the Hon. James Lusweti Mukwe, MP on 4<sup>th</sup> December 2020.

Upon receiving the sudden news of the death of the Member, I constituted an *ad hoc* committee under the chairmanship of the Member for Kwanza Constituency, the Hon. Ferdinand Wanyonyi, MP, to assist the family with funeral and related arrangements on behalf of the National Assembly in line with the Parliamentary Service Commission Bereavement Policy.

Hon. Members, the late Hon. Lusweti made his first attempt into elective national politics as a FORD-K youth winger in the mid-1990s. In 2002 he successively vied for and won a seat of a councillor for Chwele Ward in the then Bungoma County Council, a position to which he was re-elected in 2007 General Election. During his tenure as a councillor the Hon. Lusweti earned the trust of his fellow councillors and got elected as the Chairman for Bungoma County Council in 2004, a position he held until 2007.

The late Hon. Lusweti was known for his servant leadership approach as a councillor and the Chairman of Bungoma County Council, which catapulted him to the National Assembly when he successfully vied for and won the Kabuchai Constituency parliamentary seat on a FORD-K Party ticket in 2013. He was re-elected in 2017 and continued to diligently serve the people until his untimely death on 4<sup>th</sup> December 2020.

The parliamentary community knew him as a humble, sociable and hardworking person. Until his death, he actively served as a Member of the Select Committee on National Cohesion and Equal Opportunities and before then he served as a Member of the Select Committee on National Government Constituencies Development Fund and the Departmental Committee on Trade, Industry and Cooperatives in the 12<sup>th</sup> Parliament and in Budget and Appropriations Committee and the Departmental Committee on Transport, Public Works and Housing in the 11<sup>th</sup> Parliament.

We will all remember the late Hon. Lusweti for his passionate advocacy for the education rights of children and entrenchment of sound fiscal management of public funds allocated to ensure universal access to basic education.

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Hon. Members, I take this opportunity to sincerely thank the *ad hoc* Committee led by the Member for Kwanza, the Hon. Ferdinand Wanyonyi and all Members and the entire parliamentary fraternity for the support extended to his family during the funeral of our departed colleague, who was interred at his home in Chwele Location of Kabuchai Constituency on Saturday 19<sup>th</sup> December 2020.

Hon. Members, on behalf of all Members and staff of the National Assembly and indeed, on my own behalf, I once again convey the heartfelt condolences of the National Assembly and that of the entire parliamentary fraternity to the family of the late Hon. James Mukwe Lusweti, his relatives, friends and the people of Kabuchai Constituency.

Hon. Members, in tribute and honour to our departed colleague, the late Hon. James Mukwe Lusweti, MP, I request that we all rise in our places and observe a moment of silence.

*(Hon. Members rose in their places and observed a moment of silence)*

May his soul rest in eternal peace.

Hon. Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Speaker. I was one of the Members of the *ad hoc* Committee. On behalf of the Chairman of the *ad hoc* Committee, I also want to thank you, Hon. Speaker, in a big way for the big support you gave the Committee. More importantly, I thank the Hon. Members of the National Assembly. When we buried the late Member over the weekend, the number of persons in attendance was overwhelming. We had Members of Parliament in excess of 40. This is the time we are aware that there was another big funeral in the Eastern Region, of the late Joe Nyagah. So, I want to thank Members because they have been on the frontline at a time like this. You never know what will happen tomorrow. All of us are going just like William Shakespeare says that this world is a stage, and we are here like actors. We are acting and we will eventually exit.

Hon. Mukwe has existed, and those of you who knew him know that he was a very humble man. On many occasions, he never bothered to sit in front as a Member of Parliament. He was very humble. During tea break, you would see him cutting across the divides, and liaising with people whether they are from *Tangatanga*, *Kieleweke*, Orange Democratic Movement (ODM) Party or whatever. This is the spirit that Members should borrow. We can differ ideologically, but the friendship of the House must be maintained.

The people of Kabuchai Constituency were very friendly. People thought that there would be chaos, but there was no chaos. Everything was in control apart from some Members who had bad motives. When they were called to eulogize the late Member, they refused because the people on the ground could not allow them. So, we must be our brother's keeper.

Hon. Speaker, you were well and ably represented by Hon. Wangwe. Hon. Wangwe, I thank you. You have taken over as a very good Majority Whip. When this House did not have quorum, you were the only Whip who was in the House. Lucky enough, Hon. (Dr.) Eseli has just entered. I think he is still picking up.

I thank you, Hon. Speaker.

**Hon. Speaker:** Let us have Hon. (Dr.) Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. I want to join my colleagues to pay tribute to our departed colleague, Hon. Mukwe, Member for Kabuchai. On behalf of the Member for Kwanza, Hon. Ferdinand Wanyonyi, who is my neighbour, I also want to join... Hon. Ferdinand called me this morning and informed me that he was not able to make it to Nairobi

because after the function, he had to rest a bit at home, and he is also looking at the issues pertaining to his constituents. Being my neighbour, he told me to thank the *ad hoc* Committee and more so the Speaker and your office for the support you gave to the *ad hoc* Committee to give a good send-off to our departed colleague, Hon. Mukwe.

On behalf of the people of Endebess, Trans Nzoia, Bungoma and Kabuchai which is our neighbour, I wish to say that we really feel the loss of our brother. May his soul rest in eternal peace.

Thank you.

**Hon. Speaker:** Let us have Hon. Mutua Barasa.

**Hon. Didmus Barasa** (Kimilili, JP): Thank you, Hon. Speaker. I also want to express my appreciation to the leadership of this House that put in place everything necessary to ensure that my neighbour and colleague, Hon. James Mukwe, was given a befitting send-off. For sure, I am convinced that wherever he is, he is resting in peace.

Thank you.

**Hon. Speaker:** Let us have the nominee 001.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Speaker, for giving me this opportunity to also thank you. With you being represented by Hon. Wangwe, our Majority Whip, the function was very well attended by Members of this House. We just want to reassure the family that we are with them.

I also want to specifically thank His Excellency Hon. (Dr.) William Samoei arap Ruto who had to attend both funerals. Even though they were more than 700 kilometres apart, he made sure that he mourned with the Members of this House. On that day, he was very busy, and he also flew all the way to Narok after that particular burial.

On behalf of the 6.5 million Kenyans I represent in this House, I want to reassure the family that we are with them.

Thank you.

**Hon. Speaker:** Let us have Hon. Opiyo Wandayi.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Thank you, Hon. Speaker. I also wish to join my colleagues in extending my condolences and those of my constituents of Ugunja to the family and friends of the late colleague, Hon. James Lusweti. I happen to have had a history with Hon. Lusweti in my formative years when I worked in western Kenya as a manager of British American Tobacco (BAT). I lived in his constituency when it was the then greater Sirisia Constituency. Indeed, I opened an operation zone in a place called Mukhweya which is within his Kabuchai Constituency.

Hon. James Lusweti was a true gentleman. We must admit that. He used to sit somewhere here even in the last Parliament. He was a very humble legislator who had friends across the board. He did not like controversies at all. Even those days when we used to be militant and fighting all over here, Hon. James Lusweti was very well composed, and he could not raise a finger. So, we join the family and friends of the late Member in passing these condolences knowing fully that all of us are heading towards that direction.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us have the Member for Ainabkoi.

**Hon. William Chepkut** (Ainabkoi, Independent): Hon. Speaker, permit me to convey my heartfelt sorrow for our colleague, Hon. James Lusweti Mukwe, who passed on. He was, indeed, a distinct patriot. He was a true Kenyan who believed in this country.

I want to convey my heartfelt congratulations to you, our Speaker, who happens to be a gentleman. You “deposited” Hon. James Mukwe in your own heart. So, Hon. Speaker, you are a great man, and we love you.

*(Applause)*

On behalf of the people of Ainabkoi Constituency and Uasin Gishu County, I convey our heartfelt sorrow, and may God rest his soul in eternal peace.

Thank you, and Amen.

**Hon. Speaker:** Let us have the Member for Funyula.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Speaker. On behalf of the people of Funyula, I send my sincere condolences to the family of my former colleague, the MP for Kabuchai.

I met Hon. Lusweti when I joined Parliament and we served with him in the same Departmental Committee on Trade, Industry and Cooperatives. Indeed, he amazed me with his humility and his story of coming here. He demonstrated that you can rise from being a councillor and become a decent man to sit in the august House. I also happen to have shared with him the same Fund Account Manager, and we consulted quite often in respect of matters relating to our two constituencies.

Again, on behalf of my constituents, I send my sincere condolences and I pray that the family gains strength during this time of grief.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us have the Member for Navakholo.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. First and foremost, allow me to thank you in two fronts: First, as the Chairman of Parliamentary Service Commission where you stood firm. As the employer of the late Hon. James Mukwe, you gave him what he required at the time of need. You did this also when he was alive. The family confirmed that you stepped in and supported the medical bills that Hon. James Mukwe had incurred. God loved him most, and He took him. Even upon that takeover, Hon. Speaker, you stood with the family as the employer and supported them to the last moment and last send-off. They said that when I come here, I should pass their regards to you as the Chairman.

Secondly, allow me to thank you as the Speaker of the National Assembly. You sent me to represent you and I believe I did the best. Everyone was happy with your comments and how you reported on the behaviour and aspirations of the late Hon. James Mukwe for his people. On my behalf and on behalf of the people of Navakholo, allow me also to send my message of condolence to the family of the late Mukwe.

I joined this House during the 11<sup>th</sup> Parliament and served with Hon. Mukwe in the Departmental Committee on Transport, Public Works and Housing. In the 12<sup>th</sup> Parliament, we served in the National Government Constituencies Development Fund Committee. He was a very humble man. Hon. Mukwe played some very nice drama when we went with the Vice-Chair of the NG-CDF Committee. Indeed, he was a strong man. No wonder he was given a position in the top 10 in the analysis that came. He was a very astute Member. Whenever he stood to talk to his people and enumerate the programmes he had, he did so very eloquently.

With those remarks, I pray and ask God to rest his soul in eternity.

**Hon. Speaker:** Member of Mavoko.

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you, Hon. Speaker. Indeed, the demise of Hon. James Lusweti reminds me how cruel death is. It picks the finest and most beautiful flower in the garden. The humility of the late Member is unmatched. I met Lusweti in 2008 when he was the Chairman of Bungoma and I, as Member for Mavoko. He was a member at the Association of Local Government Authorities of Kenya (ALGAK) and I was their secretary. He gave a lot of wisdom even during those days. Little did I know that I would meet him again in Parliament. I want to confirm to this House that, indeed, we have lost a very special and important person.

I thank you for how you have been of service to this House and to hon. Members. You have stood with us during good and bad times.

*(Applause)*

I want to remind this House to remember the people of Machakos. We lost the Senator for Machakos. In fact, he is being laid to rest today. I am here because of the Anti-Doping Bill. If I am missing at that funeral, I request all the Members of this House to pass this Bill. It will help Kenyan athletes go to the Olympics.

With those few remarks, I pass my condolences to the family. May God rest his soul in eternal peace. Thank you very much.

**Hon. Speaker:** Member of Mwea.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Speaker. I also want to join my colleagues in condoling with the family of Hon. Lusweti.

I did not know him much but for the few times we interacted, I saw a gentleman who had no boundaries of politics; a gentleman who had no tribal boundaries; a gentleman you could sit down with and talk like Kenyans and not people from different parts of this country. For that reason, I really miss him as a person from whom I borrowed a lot whenever we sat down to have a cup of tea.

I also want to join my colleagues in thanking you for the leadership you have provided, especially during times of hardship like when we lose our colleagues. You have been there, moving very fast in forming *ad hoc* committees and guiding them and providing the necessary resources so that families can have a lesser burden in preparing to give their deceased decent send-offs. For that reason, I thank you and believe that our colleague will rest in peace in the eternal world.

Thank you.

**Hon. Speaker:** Member of Makueni.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Speaker. I was personally known to Hon. Lusweti. At one time he had a difficult election petition which went all the way to the Supreme Court and he was victorious. I also met Hon. Lusweti in the Departmental Committee on Trade, Industry and Cooperatives. We worked together very well. He was very humble. He was a good example of a Kenyan who cuts across all people in the nation and a symbol of unity.

On behalf of the people of Makueni, I would like to share our condolences and condole with the people of Kabuchai. We hope that they are going to have another leader who is as good as Hon. Lusweti.

Hon. Speaker, I also want to thank you for the support you give to the Members of this House whenever they have challenges, especially when we are resting a Member of Parliament. It is a very challenging issue to the constituents and members of the family. You usually move very fast and give the necessary support so that they feel comforted and the burden is lessened. I would like to really thank you for that and for the support you have given the Members of this House.

Although it has been very difficult on the country as it has lost a lot of people, at least you sent a representative while we were at the funeral of our good friend, Joe Nyaga, who was also a Member of this House. He was a Member who believed in Mount Kenya East. I believe you will take up that mantle so that the people of Mount Kenya East know that they have another very good leader in you.

I thank you.

**Hon. Speaker:** Member for Tongaren.

**Hon. (Dr.) Eseli Simiyu** (Tongaren, FORD-K): Thank you, Hon. Speaker. I apologise for coming into the House late.

Thank you for the chance to also eulogise with my colleagues the departed James Lusweti Mukwe. Hon. James Lusweti Mukwe was among the three FORD-K elected MPs from Bungoma County with nine constituencies.

Hon. Speaker, you have heard everybody say about how humble he was and the humility he exhibited. I would like people to know that “humble” and “humility” are not just words. It is a way of life. James Lusweti Mukwe exhibited this trait because of his formative years. If you notice, he was actually a Quaker, like me and so is Alfred Sambu. So is Musalia Mudavadi. I think you can see that the trait of humility is a Quaker tenet. It is not an event. It is a way of life. However, one should not use their humble beginnings as a club or a big stick to cajole, bamboozle and intimidate their peers. We do not allow that in the Quaker Church. Hon. James Lusweti Mukwe exhibited those tenets very well. In fact, the church will forever be grateful to you and the Parliamentary Service Commission for what you did. Those kinds of bills would have bankrupted the family. What you and the Parliamentary Service Commission did will forever be etched in our minds. We shall always remember you for the kind of help that you gave to the family.

As we mourn Lusweti, we all need to ask ourselves: Are we humble? Do we exhibit humility or are we always different? As a leader, if you want to be approachable, you need to exhibit those traits. Lusweti was an interesting Member of Parliament. He was in his constituency every weekend. His home was right next to the new upcoming town of Chwele. So, anybody could walk in and out as they pleased. He was always in touch with his people. He never feared whether he had money or he did not. That is a mark of a servant leader.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Webuye West.

**Hon. Daniel Wanyama** (Webuye West, JP): Thank you, Hon. Speaker. Let me join my colleagues in eulogising the late Mukwe Lusweti. Most importantly, I want to thank you as the Chairman of the Parliamentary Service Commission. At some point when Lusweti was sick, his insurance expired and the family was left wondering “what next?” You came in handy and extended his insurance. As we mourn Lusweti today, the family is at peace because they have no medical bills to pay. I want to thank you because I was also one of the Members of the *ad hoc* Committee. Surely, you did a great job for us.

Finally, I want to correct that there was no Member who had any hostile crowd there. I was the master of ceremony. There was just miscommunication in the sign language which has been misconstrued by one of the Members. I thought it is important that I correct the information given because it is on record.

**Hon. Speaker:** May his soul rest in eternal peace. Next Order!



**PETITION**

## VARIATION OF BOUNDARIES OF NGONG ROAD FOREST LAND

**Hon. Nixon Korir** (Lang'ata, JP): Thank you, Hon. Speaker.

I, Hon. Nixon Korir, Member of Parliament, Langata Constituency, the undersigned, on behalf of the residents of Langata Constituency, Nairobi County, draw the attention of the House to the following:

THAT, on 30<sup>th</sup> June, 2020, I presented to the House a Petition on behalf of the residents of Sunvalley Phases I, II and III, Royal Park Estate, Shalom Estate and Forest Edge View Estate within Mugumoini Ward on alleged repossession of land in Langata Constituency;

THAT, the Petition was subsequently committed to the Departmental Committee on Environment and Natural Resources for its consideration pursuant to Standing Order 227(1);

THAT, further on 17<sup>th</sup> November, 2020, the Departmental Committee on Environment and Natural Resources, having considered the Petition, tabled a report pursuant to Standing Order 227(2) where it made various observations and recommendations. In particular, the Committee recommended that-

“The law relating to declaration that a forest area shall cease to be a forest area with respect to the area of land upon which KMA Estate, Langata Gardens Estate, Langata View Estate, Shalom Estate, St Mary's Hospital, Forest Edge View Estate, Langata Women's Prison, the Police Dog Unit, Bomas of Kenya, Kenya Broadcasting Corporation, Wildlife Clubs of Kenya and International Centre of Insect Physiology and Ecology (ICIPE) should be complied with and the land should be excised pursuant to the provisions of Section 34 of the Forest Conservation and Management Act, Act No. 34 of 2016 to support the realisation of the National Government's Big four Agenda on Housing and stop further encroachment of Ngong Road Forest through the practice of allocation and subsequent surrender of land between Government Departments, under paragraph 161 of the aforementioned Report.”

THAT, in view of the foregoing, this Petition finds its basis on the Report of the Departmental Committee on Environment and Natural Resources in seeking to implement the recommendations contained in its report tabled on 17<sup>th</sup> November, 2020;

THAT Section 34(1) of the Forest Conservation and Management Act No. 34 of 2016 provides that “any person may petition the National Assembly, for the variation of boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest.”

THAT, we therefore seek to petition the House for the variation of the boundaries of the Ngong Road Forest pursuant to Section 34(1) of the Forest Conservation and Management Act, 2016;

THAT, additionally, recognizing the requirements of Section 34(2) of the Forest Conservation and Management Act, 2016, we aver that the variation of the boundaries of the proposed area of Ngong Road Forest shall not endanger any rare, threatened or endangered species, adversely affect its value as a water catchment area, prejudice biodiversity conservation, cultural site protection of the forest or its use for educational, recreational, health or research purposes;

THAT, the residents have continuously engaged the Ministry of Environment and Forestry and the Kenya Forest Service and never received a response that was satisfactory; and,

THAT, the matter presented in this Petition is not pending before any court of law, constitutional or legal body.

Therefore, your humble petitioner prays:

THAT, the Departmental Committee on Environment and Natural Resources does recommend, pursuant to Section 34(1) of the Forest Conservation and Management Act the variation of the boundaries of Ngong Road Forest to excise therefore the 34 acres of the area of land upon which KMA Estate, Langata Gardens Estate, Langata View Estate, Shalom Estate, St Mary's Hospital, Forest Edge View Estate, the Langata Women's Prison, the Police Dog Unit, Bomas of Kenya, Kenya Broadcasting Corporation, Wildlife Clubs of Kenya and International Centre of Insect Physiology are located;

THAT, the House does direct the Cabinet Secretary, Ministry of Environment and Forestry to forthwith suspend any proposed action on the said 34 acres until the House considers this Petition;

THAT, the House does direct the Cabinet Secretary, Ministry of Environment and Forestry to commence the actualisation of paragraph (1) of the petitioners' prayers, including carrying out of an independent Environmental Impact Assessment and wide public consultation as required under Section 34(3) of the Forest Conservation and Management Act, 2016;

THAT, upon the House approving the prayers contained in paragraphs (1),(2) and (3) of this Petition and any further recommendation the House may make, the House does direct that the Cabinet Secretary for the Ministry of Environment and Forestry to submit a report to the House after every 30 days to apprise the House on the process of variation of the boundaries of the Ngong Road Forest; and,

THAT the Departmental Committee on Environment and Natural Resources does make any other resolutions that may be determined as appropriate.

And your petitioners will ever pray.

**Hon. Speaker:** I am not about to allow any comments on this. As you are aware, this Petition seems to follow another one; it seeks to actualise some of its recommendations. It would be fair to allow the Departmental Committee on Environment and Natural Resources to proceed as prayed in the Petition. I know most of you are very passionate about this matter, not least, the Member for Seme. Please allow me not to allow any comments on this so that we do not conflict the outcome. The prayers are clear and straightforward. The Petition is referred to the Departmental Committee on Environment and Natural Resources to make appropriate investigations, inquiries and act as necessary.

Let us move to the Next Order.

### PAPERS LAID

**Hon. Speaker:** The Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Memorandum on Economic Partnership Agreement between the Republic of Kenya, and the United Kingdom of Great Britain and Northern Ireland.

Legal Notice No.206 of 2020 on the Value Added Tax (Amendment of the Rates of Tax) Order, 2020 from the National Treasury.

Annual Report for the year 2018/2019 for the East African Portland Cement PLC.

Performance Audit Report on Installation and Maintenance of Road Furniture by the Kenya National Highways Authority, Kenya Urban Roads Authority and Kenya Rural Roads Authority.

Report of the Auditor-General and Financial Statements on Ethics and Anti-Corruption Authority Commission – Staff House Mortgage and Car Loan Scheme for the year ended 30<sup>th</sup> June, 2020 and the certificates therein.

Reports of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30<sup>th</sup> June, 2019 and the certificates therein:

- a) The State Department for Post Training and Skills Development;
- b) Brand Kenya Board;
- c) National Humanitarian Fund;
- d) Government Press Fund;
- e) Land Settlement Fund;
- f) National Environment Trust Fund;
- g) The Judicial Performance Improvement Project – IDA Credit No.5181-KE;
- h) Kenya Airports Authority; and,
- i) National Construction Authority.

**Hon. Speaker:** Very well. The Chairperson, Departmental Committee on Finance and National Planning.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Finance and National Planning on its Consideration of the Tax Laws (Amendment) (No.2) Bill (National Assembly Bill No. 48 of 2020).

**Hon. Speaker:** The Chairperson, Committee on Delegated Legislation

**Hon. Kassait Kamket** (Tiaty, KANU): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Committee on Delegated Legislation on its Consideration of the Value Added Tax (Amendment of the Rate of Tax) Order, 2020 (Legal Notice No. 26 of 2020).

**Hon. Speaker:** Legal Notice No. 206.

**Hon. Kassait Kamket** (Tiaty, KANU): Yes, indeed, Hon Speaker. I stand corrected. It is Legal Notice No. 206, and not 26.

Thank you.

**Hon. Speaker:** The Chairman of the Departmental Committee on Sports, Tourism and Culture.

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you, Hon. Speaker. I beg to lay the following Paper on the Floor of the House today Tuesday, 22<sup>nd</sup> December 2020, Morning Sitting:

The Report of the Departmental Committee on Sports, Tourism and Culture on its Consideration of Anti-Doping (Amendment) Bill (National Assembly Bill No. 51 of 2020).

Thank you.

**Hon. Speaker:** Next Order!

## NOTICE OF MOTION

### ADOPTION OF REPORT ON THE VALUE ADDED TAX (AMENDMENT OF THE RATE OF TAX) ORDER

**Hon. Speaker:** Hon. Kamket, you will notice that I have not approved your Report because I was still waiting to see the list of your Members who approved the Report. It was lacking in the Report that was submitted to me. However, I have been shown a piece of paper which has some

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names of your Members and some inscription of signatures. Since I am not the Independent Electoral and Boundaries Commission (IEBC), I cannot verify.

*(Laughter)*

I will assume, for the time being, that that is the correct list. You can now give notice of your Motion.

**Hon. Kassait Kamket** (Tiaty, KANU): Hon Speaker, I want to confirm to you that, indeed, the signatures are the signatures of the Members of the Committee. If there is need for verification, I am sure we have resources and qualified staff who are able to do that.

I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its Consideration of Value Added Tax (Amendment of the Rate of Tax) Order, 2020, laid on the Table of the House today Tuesday, 22<sup>nd</sup> December 2020, and pursuant to the provisions of sections 6 and 67 of the Value Added Tax, 2013 approves the Value Added Tax (Amendment of the Rate of Tax) Order, 2020 published as Legal Notice No. 206 of 2020.

**Hon. Speaker:** Very well. Next Order!

### PROCEDURAL MOTION

#### REDUCTION OF PUBLICATION PERIOD OF A SPECIFIED BILL

**Hon. Speaker:** The Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, notwithstanding the provisions of Standing Order 120, this House resolves to reduce the publication period of the Business Laws (Amendment)(No.2) Bill (National Assembly Bill No. 50 of 2020) from 14 days to 8 days.

This is a procedural matter. I believe it was already covered by the Motion that we approved at the point of adjourning the House. However, now that we are here, it is one of the Bills whose 14 days have matured. We can ratify it in the normal way. According to the Standing Orders, when a Bill is presented to this House, it is referred to a departmental committee after the First Reading to be processed for the next stage. To allow this Bill to be read with the other Bills, we are seeking the concurrence of the House to reduce its publication period so that we are neat. This will not affect its processing. We will have it read the First Time to allow for public participation and it will be debated by the House when we next meet in February, 2020. So, we are not shortening the publication to further process it today, but to have it read the First Time together with the other Bills. When we meet next, it will go to the Second Reading stage to save the House from more procedures.

I beg to move and ask the expert in the matter, Hon. Adan Duale to second.

*(Applause)*

**Hon. Speaker:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. As I second, this is a procedural matter. We have a Motion and the relevant committee of this House, with your direction, may resume its sittings earlier than the House in mid-January. This is to allow the relevant committee to deal with this Bill by doing public participation. By the time we resume in February, we will have an opportunity to dispense with it at the Second Reading and at the Committee of the whole House stages.

I advise the Leader of the Majority Party and the Clerk of the National Assembly not to only reduce the publication period of Government Bills. You know, now I am on the other side and I want to speak for the back benchers. I have a Bill in the pipeline. Moving forward, as we reduce the publication period of Government Bills, let us also look at Private Members' Bills that can get the same exemption. There will be no harm because our system is a presidential system of Government and Private Members' Bills can be sent to committees.

This is an important Bill. We have the Business Laws (Amendment) Act which has helped Kenyans in terms of ease of doing business. This Bill will tighten it up. I want to agree with the Leader of the Majority Party on this Procedural Motion of reducing the publication period of the Business Laws (Amendment) (No.2) Bill (National Assembly Bill No. 50 of 2020) from 14 days to 8 days. I second.

*(Hon. Swarup Mishra walked out of the Chamber)*

**Hon. Speaker:** The Member for Kesses is trooping out.

*(Question proposed)*

**Hon. Members:** Put the Question.

**Hon. Speaker:** Hon. Members, is it the desire of the House that I put the Question?

**Hon. Members:** Yes!

*(Question put and agreed to)*

**Hon. Speaker:** Next Order!

## MOTIONS

### APPROVAL OF AGREEMENT ON AVOIDANCE OF DOUBLE TAXATION BETWEEN KENYA AND MAURITIUS

**Hon. Speaker:** Hon. Members, debate on this Motion was concluded before the House went on recess and the Question could not be put for the reason that the House did not quorate then.

Therefore, I go ahead to put the Question.

THAT, this House adopts the Report of the Departmental Committee on Finance and National Planning on its consideration of the Agreement for the Avoidance of Double Taxation between the Government of the Republic of Kenya and the Government of the Republic of Mauritius, laid on the Table of the House on Tuesday, 1<sup>st</sup> December 2020 and pursuant to the provisions of section 8 (4) of the Treaty

Making and Ratification Act, 2012 approves the Agreement for the Avoidance of Double Taxation between the Government of the Republic of Kenya and the Government of the Republic of Mauritius.

*(Hon. (Ms.) Gladys Wanga on 3.12.2020)*

*(Debate concluded on 3.12.2020 – Afternoon Sitting)*

*(Question put and agreed to)*

ADOPTION OF REPORT ON APPROVAL OF ACCESSION TO THE AFRICAN  
CHARTER ON DEMOCRACY, ELECTIONS AND GOVERNANCE

**Hon. Speaker:** Again, Hon. Members, debate on this Motion was concluded before the House went on recess and the Question could not be put, which I hereby do since the House quorates.

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on its consideration of Accession to the African Charter on Democracy, Elections and Governance, laid on the Table of the House on Tuesday, 17<sup>th</sup> November 2020, and pursuant to the provisions of section 8(4) of the Treaty Making and Ratification Act, 2012, approves the Accession to the African Charter on Democracy, Elections and Governance by the Republic of Kenya.

*(Hon. Katoo ole Metito on 3.12.2020)*

*(Debate concluded on 3.12.2020 – Morning Sitting)*

*(Question put and agreed to)*

**BILLS**

*First Readings*

THE COMMUNITY HEALTH WORKERS BILL

*(The Bill was read a First Time and committed  
to the relevant Departmental Committee)*

**Hon. Speaker:** Hon. Members, for the information of the House, all the Bills listed to be read the First Time, as you may have noticed from the *Gazette* Notice, are listed to proceed to First Reading after the two Speakers of the Houses of Parliament resolved the question as to whether the Bills concern or do not concern county governments as contemplated under Article 110(3) of the Constitution. The matter has been resolved and, therefore, these Bills can now proceed. Many of the Bills will be taken to the other House, because the other House also wants to do a lot of

legislative work in the form of participation, if you read the words of Article 94 of the Constitution. We have no problem with that.

I am also happy that the list includes several Private Members' Bills. As Hon. Duale indicated, we need to see as many of the Private Members' Bills. There are about 17 others awaiting resolution, which I should do by the end of the day today, so that Private Members' Bills can also see the light of day.

Proceed.

#### THE INSTITUTE OF SOCIAL WORK PROFESSIONALS BILL

*(The Bill was read a First Time and committed to the relevant Departmental Committee)*

**Hon. Speaker:** Hon. Members, it is a Private Member's Bill by Hon. Martin Peters Owino. The Institute of Social Work Professionals Bill is also a Private Member's Bill by Hon. Joshua Kivindu Kimilu. I think it is important for the country to know.

Next.

#### THE BIRTHS AND REGISTRATION (AMENDMENT) BILL

*(The Bill was read a First Time and committed to the relevant Departmental Committee)*

**Hon. Speaker:** This is a Bill by Hon. Martha Wangari. Remember the rules are that upon First Reading, the Bills stand committed to the relevant committees without Question put. That is why we are not putting any Question.

Proceed.

#### THE JUDICIAL SERVICE (AMENDMENT) BILL

*(The Bill was read a First Time and committed to the relevant Departmental Committee)*

**Hon. Speaker:** This is a Bill by the Departmental Committee on Justice and Legal Affairs.

#### THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) (NO. 2) BILL

*(The Bill was read a First Time and committed to the relevant Departmental Committee)*

**Hon. Speaker:** This is a Bill by Hon. Richard Tong'i. Next.

#### THE ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL

*(The Bill was read a First Time and committed to the relevant Departmental Committee)*

*to the relevant Departmental Committee)*

**Hon. Speaker:** This is a Bill by Hon. Danson Mwakuwona.

THE PUBLIC DEBT MANAGEMENT AUTHORITY BILL

*(The Bill was read a First Time and committed  
to the relevant Departmental Committee)*

**Hon. Speaker:** This is a Bill by Hon. Sakwa Bunyasi.

THE INFORMATION COMMUNICATIONS TECHNOLOGY PRACTITIONERS BILL

*(The Bill was read a First Time and committed  
to the relevant Departmental Committee)*

**Hon. Speaker:** This is a Bill by Hon. Godfrey Osotsi.

THE CONSTITUTION OF KENYA (AMENDMENT) BILL

*(The Bill was read a First Time and committed  
to the relevant Departmental Committee)*

**Hon. Speaker:** This is a Bill by Hon. Jeremiah Kioni.

THE CHILDREN (AMENDMENT) BILL

*(The Bill was read a First Time and committed  
to the relevant Departmental Committee)*

**Hon. Speaker:** This is a Bill by Hon. Peter Kaluma.

THE TAX LAWS (AMENDMENT) (NO. 2) BILL

*(The Bill was read a First Time and committed  
to the relevant Departmental Committee)*

**Hon. Speaker:** This is a Bill by the Departmental Committee on Finance and National Planning.

THE BUSINESS LAWS (AMENDMENT) BILL

*(The Bill was read a First Time and committed  
to the relevant Departmental Committee)*



**Hon. Speaker:** This is a Bill by the Leader of the Majority Party. That means it is a government Bill.

THE ANTI-DOPING (AMENDMENT) BILL

*(The Bill was read a First Time and committed to the relevant Departmental Committee)*

**Hon. Speaker:** This is a Government Bill signed by the Leader of the Majority Party. As you can see, Hon. Members, out of the 13 Bills which have been read the First Time, only four are from either a Committee or the Government. Nine are Private Members' Bills. I want to request the committees to which those Bills are referred to give them priority so that your colleagues can get their Bills processed by the House. It will be a good thing for Members to see what becomes of their legislative proposals at the end of the day.

Next Order.

*Second Reading*

*(By leave of the House)*

THE TAX LAWS (AMENDMENT) (NO. 2) BILL

**Hon. Speaker:** The Chairperson, Hon. Wanga.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Speaker. I beg to move that the Tax Laws (Amendment) (No. 2) Bill, 2020 be now read a Second Time. We all know that when we were hit by the COVID-19 pandemic in March 2020, the government moved with speed to effect amendments to our tax laws in order to cushion our people, industries and businesses from the impact of the many restrictions that had been brought about by the pandemic which hit not only Kenya, but the world at large.

Hon. Speaker, Kenya was one of those countries that moved with speed. We were able to tame this pandemic from large scale damage to our people. In Africa, we are perhaps the only country or one of the few countries that went ahead to make reductions in our tax regime. On that basis, our economy was able to, in a large part, remain afloat during this period. Since March, we have had reliefs. During public participation for this Bill, many stakeholders told the Committee had it not been for some of the measures that were put in place by the Government, many businesses would have sunk. Many jobs were lost during this season. However, many more jobs would have been lost during this season had it not been for the measures that were put in place. When these measures were put in place, many questions arose. During public participation, people said the measures were put in in March when the pandemic began. However, they were now in a season when the pandemic was ongoing. In fact, it seemed to be expanding. Why were we taking away some of these measures? That was a big question that was in the minds of the Committee Members and others.

When the pandemic began, we all locked ourselves in our houses. First, Parliament closed. Many people also went and locked themselves in their houses. For three months, we never left our houses. There were lockdowns in Nairobi, Mombasa, Mandera and many counties. People could not move in or out of these cities. People were not going to work. The transport sector was at zero.

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Hotels, bars and restaurants were closed. These measures have since been relaxed by the Government. People can now go to their places of work. Hotels and bars are now open. They now have to follow the COVID-19 regulations. As a country, we are more or less back to our usual work stations. These measures led to a loss of revenue amounting to about Kshs80 billion yet our demands remain the same.

We want our health workers and teachers to be paid. We want the National Government Constituency Development Fund (NG-CDF) money to be paid so that we can service our development requirements. We also want the Affirmative Action Fund money to be released so that we are able to service our requirements. This is the rationale for reverting back to where we were before the COVID-19 pandemic struck. It is a delicate balance. The Government must raise revenue. At the same time, we must find ways to cushion our people. I am glad that the personal relief that was given to people earning below Kshs24,000 per month has been retained. That category, therefore, as they did during the pandemic, will not be taxed. That is an important aspect.

If you look at the Tax Laws (Amendment) Bill, Clause 12(d) seeks to delete the word “higher” and substitute it with the word “lower” as far as the minimum tax on gross turn-over is concerned. If you look at the copy of the Bill that you have on Page 1061, the Clause currently says that the installment tax payable by that person under Section 12 is higher than the minimum tax. The amendment seeks to correct that anomaly. You should pay the minimum tax when the installment tax is lower than the minimum tax not when it is higher than the minimum tax.

We received a lot of feedback during public participation on the minimum tax on gross turnover. Business representatives turned up, especially those from businesses that are of high turnover but low profit margins. If we tax them on turnover yet they run low margins, it will have an effect on the business standing. If I sell scratch cards, I do a lot, but with a small margin. If the tax is on gross turnover, then you are looking at the issue of taxing the volume I have sold and ignoring the fact that sometimes the margin is very low. Those were some of the issues that were brought forward.

The other issue that was brought forward was by businesses where Government regulate prices. Government puts prices that your product is supposed to be sold at. If you are in a petrol station, for example, every 14<sup>th</sup> of the month, the Energy and Petroleum Regulatory Authority (EPRA) will tell you the price at which you should sell fuel. If there is a minimum tax on your turnover and your price is already regulated, then you are disadvantaged. However, this Bill was trying to clean up the issue of installment tax and minimum tax, which should be higher. That is why we are deleting the word “higher” and saying if your installment tax is lower than the minimum tax, then you should pay the minimum tax.

*[The Speaker (Hon. Muturi) left the Chair]*

*[The Deputy Speaker (Hon. Cheboi) took the Chair]*

On the issue of individual income taxes, we had reduced the highest tax from 30 per cent to 25 per cent. We are trying to reinstate it so that people go back to where they were before COVID-19. There is also the issue of VAT under Section 17, notwithstanding the provisions of this Section. A registered person who is a manufacturer may make deductions of input tax. What this clause is trying to do is to protect local manufactures. Right now, if local manufacturers make supplies to eight funded projects, they are not eligible to claim any VAT. It makes their products very expensive and non-competitive. Therefore, that market has been exclusively for import.

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However, when we are trying to stir up our economy and create jobs, there must be incentives for people who manufacture locally so that they are able to claim input VAT and therefore be able to compete with the people who bring items from outside. In any case, they should even be cheaper than those who bring items from outside. However, if we do not create a conducive environment, then our factories will close and all we have to do is wait for imports from China and other places. That is a provision that even during public participation was heavily supported by the Kenya Association of Manufacturers, KEPSA, private sector, ICPAK, and others saying that this will stir up growth locally.

It is a big debate. However, we must show leadership. Paying taxes is not a popular debate. We rather people pay taxes at zero per cent, but Government must also move and provide services. Children are now going back to school. We must pay bursaries for the children using CDF and other programmes. We must provide infrastructure in those schools to enable social distancing. We are saying the children must be provided with masks. So, if we stand here and all become populist and say nobody should pay taxes, then we will all be stranded and we will all have to go back home with a Government that is grounded. Therefore, the easier path to walk today will be to say 'do not tax Kenyans, do not revert to the usual.' However, the more rational debate is: 'Can we go back to where we were so that even as we continue to stabilise and go back to normal...' We have been talking about Post-COVID-19 but, the question is: Will there ever be post-COVID-19? Or is COVID-19 a matter that we now have to live within our daily lives? We must continue to go to work, our farms, do our businesses despite or in spite of COVID-19.

There is no day we will sit and say this is the day now COVID-19 is over and we can go back to our Post-COVID-19 period. Therefore, our Committee has considered these amendments to our tax laws. We will be making some amendments based on our discussions with stakeholders, but largely, we support that we go back to the tax regime that we had so that the Government can also move. The bigger question in reduction, for example, on a tax VAT, when we debated it in this House, we asked: Is the common *mwananchi* going to benefit from the trickle-down effect of this reduction?

Additionally, in many instances, we discovered that this reduction hangs in the air. It never reaches the common *mwananchi*. If you ask Kenyans since the reduction of VAT whether their price for their basic commodities have been lowered, you find that they have not and in some instances they are even higher. The Government is losing revenue and at the same time there is no commensurate reduction in the cost of living that Kenyans are looking for. Our Committee considered these amendments. We have approved them. We will make amendments as necessary and I want to call on Members of this House to let us take the path that is not necessarily populist to ensure that the Government has sufficient revenue for service.

One of the biggest debates we had with the National Treasury when they came to us was where the NG-CDF is and whether they could make sure that Members of this Parliament have the money before January. That has to happen only when revenue is collected and some of these development needs serviced.

With those many remarks Hon. Deputy Speaker, I beg to support and I call upon the Leader of the Majority to second.

I beg to move and move. I beg to move!

**The Deputy Speaker** (Hon. Moses Cheboi): You have actually moved it many times.

*(Laughter)*

**The Deputy Speaker** (Hon. Moses Cheboi): Now let us get the Leader of the Majority to second and second it only once. If you do it twice, it will be real seconding.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Deputy Speaker. I beg to second the Tax Laws (Amendment) Bill, (No.2 of 2020). From the onset, I want to commend the Committee and the Chair including the passion with which she has moved and cajoled the House to support the Committee Bill. The Committee met under very difficult circumstances and took off part of their holidays to look at these matters. Moreover, I am sure even as the Chair moves, they are still consulting on the amendments that they wish to bring because we are confident that Members will support them at the Second Reading, so that by the time we come to the Third Reading, they will be ready in good time. Tax is a fairly technical subject and we need to ensure Members are carried along.

I do not want to repeat what the Chair has said. We all recognise that COVID-19 hit us hard, and His Excellency President Uhuru Kenyatta came up with several measures to mitigate against COVID-19. One of them was giving some tax relief to individuals and companies on the understanding that people required some extra disposable income to meet the emerging costs. Also companies required some tax relief so that they could re-invest what would have been taken off as profit in terms of retaining employees and expanding their plans. Moreover, a number of those companies actually did it and if you look at the results of the companies we have been showing, you will see that banks are fairly making some good profit. Globally, if you even look at the top-earners especially in the tech industry, you will find that their wealth has increased by over 67 per cent during the pandemic whilst the rest of the others have been shrinking. The implication of this is as we shielded the low-income earners by saying people earning under Kshs24,000 should not be taxed, we also gave relief to the high net worth individuals and reduced their tax burden from 30 per cent to 25 per cent. However, they have continued increasing their income because there are new opportunities that have come because of the pandemic.

Some companies have gone down. Others have come up and hence as much as we want to balance, we are perhaps denying an opportunity to those high net income earners to actually contribute. You may remember even when I contributed when we reduced the VAT from 16 per cent to 14 per cent with reduction at the consumption level, at the low income earners, the income may not have been much. However, for those in the high-income bracket, those who want to buy new cars, will now be able to buy their new cars at reduced tax rate yet they were going to afford it. They were not complaining. They did not need the relief, they invested in high net worth. The consumption of single malt whiskeys at 14 per cent instead of 16 per cent has only denied the poor Kenyan who would have benefited from that 2 per cent coming into the national coffers and being used to provide some services.

Therefore, the National Treasury ended up suffering. The estimate is that about Kshs172 billion may have been lost through these tax measures that we took to relieve people but it has eventually proven that perhaps we need the money more than the tax relief. If the money can come to the National Treasury, it can then be channeled towards targeted interventions; money for the poor, paying doctors, ensuring we have enough Personal Protective Equipment (PPEs), and ensuring that we would get the vaccines next year. This is so that we do not give people relief yet become unable to afford vaccines for them because they would not be able to do it. It has to be done from public coffers.

In all the other countries, it was clear that tax reliefs were only short lived. In Britain, I believe the measures expired in August. In the United States, they already expired and there is now a new Bill in the Senate asking for over USD2 trillion. The question is: Should they even be giving

money to people to spend or should they be buying vaccines for them despite the fact that vaccines would be cheaper? It has also been proved that even as people were being stimulated to spend, they ended up saving the money because they were not sure about tomorrow. Therefore, the stimulation effect that has been required in the economy to make it grow has not actually been achieved. We know that from the July to September figures, I believe the revenue collection fell short by about Kshs50 billion. We only received about Kshs378 billion instead of Kshs428 billion and that is only one quarter. If you project this, even by the time we are through with four quarters, we will be short by close to Kshs200 billion and that means a lot. It means we can only plug that hole because we have committed all the expenditure. We can only plug that hole through borrowing and every time any of us speaks, we say we are over exposed on our loans and debt levels.

So, the only way we can stop that is to try and recoup some of the revenue. Yes, it is an experiment, it worked for the nine months. We have been fortunate because of all these measures, our fatality rate is not as bad compared to other countries with the same case load. We have mitigated and people have also become more responsible and adjusted to living in the new normal. So, let us go back to the original normal in terms of our taxes. In terms of the minimum tax, I know there has been a lot of debate and the Hon. Chair has alluded to some of them. Stakeholders have asked why they should pay taxes if they make losses, but surely, how do you continue in business year in year out after making losses? It will come down to your capital. It does not make sense to continue in business if you are making losses. So, they are artificial losses. We know there are people who are very good in tax avoidance. You can avoid using the loopholes provided using the tax laws. You can avoid to pay tax. Tax evasion is a problem and a classic example is the people within the USA including the top leadership in the country where it has been proved that despite being billionaires, the amount of tax they have been paying is minimal or they even claim refunds from the State because that is allowed within the tax laws.

However, you cannot continue filling in lost returns every year and yet you are relying on public infrastructure. You are the first one to complain when there is no power, security and potholes next to your business and yet you do not pay tax and even claim a refund from the system. So, the minimum tax, and I believe it has been debated, came from that perspective. The issue within the Bill is not about the rationale whether there should be a minimum tax or not. It is just that the wording that was put was you pay the minimum tax if it is lower than the instalment tax, in which case everyone would have gone for the one per cent. However, we are correcting that wording but people have opened up a whole new floor.

Hon. Deputy Speaker, if you look at it from a quick calculation, 1 per cent of a turnover translates to your net profit at 3 per cent. So that 3 per cent becomes 1 per cent. Every business aims to cover at least the cost of inflation. The target inflation rate in this country is 5 per cent. So, nobody is in business unless you can cover the inflation rate. Otherwise, you would rather put your money in the bank instead of doing business. So, in terms of that argument that people are on a high turnover but low margin, I do not see people who are on a margin less than 3 per cent on a net basis unless on a 1 per cent should equate and get everyone to pay their contribution.

In terms of the Corporate Tax like I said, we were at 25 per cent at the tax bands. Anyone with less than Kshs24,000 is not being affected. People earning over Kshs24,000 again using the same graduated rates are expected to revert and continue except people at the top rate, which if we restate to the pre-COVID period, I know there is a discussion whether that banding should be adjusted to make it simpler by not having so many bands, but to have like three bands.

However, that is a discussion that is not before the House. It is not within the Bill. It is something we will have to figure out the framework on how to introduce that in the House and if it makes sense, the House will approve it, but if it does not make sense, then we can defer it to another day. The bottom line is that we are called upon to this House to balance between the expenditure requirements of the country. We all know that we need more and not less. We need more money for infrastructure and create the social distancing in the schools. Even with the vaccines, we are not sure about their efficacy. We are not sure whether the social distance rule will be removed just because people have now achieved hard immunity and yet there are new strains of COVID-19 also coming up. There is a new strain in the UK, the CUV 1, the SUV strain and the variant under investigations that is currently affecting Britain. We do not know what will happen and so we will still be called upon to invest in more infrastructure. We will need to continue the infrastructural needs in the country.

We will need to continue paying our medical workers. Those costs have to be met from somewhere and the natural thing is that every Kenyan who is earning an income needs to contribute their fair share. In other countries their rates have even gone up because people recognise those who earn even in this circumstance should contribute to the national good. Hence, let us not look at it like it is a reversal of something. It is a recognition that every country gave the relief for a limited period and now that we have known how to live with COVID-19, let us now get back to where we were and not result to borrowing, going around to borrow from the International Monetary Fund (IMF), asking for money to mitigate our issues or balance our books. Hence to live within our means, we can only cut so much expenditure and so we need to increase this revenue.

So, I appeal to Members not to debate a lot on this as it is a gesture that his Excellency and the Government gave to the business community and Kenyans with the understanding that when the situation improves, they would also reciprocate and say thank you for helping us when we needed you and now let us also help you back by surrendering the relief that you gave us so that we move on with the Government programme. I believe I have covered the areas and we will be discussing more on the VAT when we get there in the afternoon, but for now, I ask that we support this specific matter. We can at least be sure that our Government will continue to operate when fully funded. If not, we will be in an uncertain situation where people will not be sure whether to make commitments to the Government. This is because people can project to see where we are going and where our revenues are. They can see our commitments and it does not look good. I know that could be part of the reason why we had delays in our NG-CDF. Last week we discussed with the Cabinet Secretary to release Kshs2 billion which was released last Tuesday and agreed that even as of today, looking through the cash flow systems, there is staff to be paid, to release another Kshs2 billion so that Members of Parliament will pay in January.

Commitment is not the issue. You have already committed based on your budget, but at least pay the suppliers in January so that even the suppliers can also pay for their expenses. We will pay the bursaries in January, so that schools can start. We are trying to balance between the little funding available. I have ever been there and I know things are tight. So, let us help to enlarge the cake then we can all share a bigger piece.

With those words, I beg to second.

*(Question proposed)*

**Hon. Deputy Speaker:** Let us have the Leader of the Minority Party.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Deputy Speaker. I want to support the Bill.

First, you will remember that when COVID-19 hit us early this year people were in a panic mode. We did not know what to do including the Government. When the Executive made pronouncements regarding the various intervention strategies that would be employed to help cushion the economy and help the country in dealing with the effects of COVID-19, one of those measures included various proposals in adjusting the tax rates. The VAT was one of them. Others were the Corporate Tax and the individual tax rates. Those were taxes that were proposed for adjustment to the benefit of Kenyans. So, this House did agree with the Executive in the various measures and strategies that were developed or employed to ensure that the economy was cushioned.

Hon. Deputy Speaker, I know many people have asked whether it was the right decision to reduce the tax rate of individuals especially those who were earning the upper bracket. I would answer this by saying that unless you take your time to actually understand why it was necessary to reduce the tax rate at that time, then you may not see the benefits. The main reason why the tax rates were reduced was we were staring at drying up of liquidity in the economy when most of the companies were reducing staff. Some were actually reducing the number of staff and reducing productivity. People were becoming apprehensive. There was a possibility that we were going to have liquidity challenges in the economy. Therefore, any responsible Government would move with speed to increase liquidity. So, even if you are a high income earner and you get increased liquidity, chances are that you would spend that money in the economy to spur that growth. That was the main reason why even those who were earning income that was being taxed at 30 per cent, that tax rate was reduced to 25 per cent. You will agree with me that those who were earning, for example, a Kshs1 million a month ended up with Kshs50,000 in their pockets which they were not earning before and if they spent it on the economy, then the economy would have liquidity. That was one of the reasons.

I do not think the question that Kenyans are debating out there regarding what we are doing this morning - and we are likely to do this afternoon - is not whether to revert to the rates that were there before COVID-19. This is because even when we were debating here, we were in agreement that this is a short-term measure to help cushion the economy, cushion individuals, increase liquidity and put more money into our pockets for a period of time and then we revert when things are different. I think what Kenyans are probably debating is the timing and whether this is the right time. I heard the Chair say that really what the right time is. The right time is not known. It is not so determined.

So, the point is: Can we stand here as people's representatives and say that if we revert to the old rates, Kenyans would not be hurt so much. I must say yes. This is because where we are at the moment, there is no time that we are so sure that Corona will go. The Coronavirus may be there with us for a time. I am aware there is the vaccine that is coming soon. Maybe in February, it may land here, but we are not sure whether there will be no other flu that will follow the Coronavirus. This is because the way the world is behaving, I am not even so sure whether the vaccine will not create another problem. I leave that to scientists and Dr. Nyikal is here. He may find his time to give me assurance and confidence.

However, the point is we are not sure whether we will not have another pandemic moving forward. So, if at the moment we feel that the effects of the disadvantage of losing more revenue far outweigh the advantages gained by individuals in increasing their liquidity, then we may revert back. I agree this was not a right. It was not even a privilege. It was a way of cushioning Kenyans

to help get us to some level where now individuals will say we can survive moving forward. Whenever you are adjusting tax rates to the disadvantage of individuals, you must work on a plan to support the same individuals, maybe not the same earners but some Kenyans.

Therefore, when we were debating whether VAT should be reduced or not and whether we should reduce the rate of taxation, many of us spoke about the Government failing to direct resources to the less privileged and disadvantaged Kenyans. I must admit that the Government has made some effort. If you stand here and say that the Government has not made any serious effort from March, I think you are not being fair to the Government and you are being economical with the truth. The Government has actually made some progress. There are some poor Kenyans right from Nairobi especially in urban centres who have been helped to go through this period of the Coronavirus. Whether it is sufficient, that is debatable. We have to see continued support to the same vulnerable groups using the same revenue that is going to be collected out of this change of tax rate.

Many of us have said that we are being overtaxed in this country. I have always said it is not true that Kenyans are being overtaxed. If you look at our tax rates, they compare favourably with other tax rates in the region. In fact, our tax rates are even lower. Look at the VAT rate. It is the lowest in the region. The tax rate for VAT in the region is 18 per cent and we are at 16 per cent. There are some places where individual income tax rates the highest bracket is even 45 per cent. The problem in this country is not over taxation. The problem in this country is improper utilisation of resources that are realised out of taxation. The corruption, theft and plunder of public resources is where the problem is. If Kenyans were paying taxes at the rate at which we are paying and you go to public schools and you get quality education with all resources available and all support given to our children... If you went to a public hospital and you get quality healthcare and not what we see where doctors are going on strike almost every day; if you go back to your home and you will not miss to have clean water for all of us including those who live in rural areas and all other services that are necessary for human existence, no one would complain about the taxes that we pay in this country. This is because they are not abnormal. The rates are reasonable and within the average. The only problem we have is the appetite for plunder of public resources. This is something that has eluded this country. We try and make attempts but we go back to where we are.

I still persuade and plead with the agencies that are responsible for fighting corruption that they should continue and not lose sight. They should continue fighting this vice to help this country. That is where the problem is. I agree entirely with the outgoing Chief Justice. I think now I should even call him former Chief Justice because he has basically surrendered his functions. The former Chief Justice was spot on when he said that the biggest challenge and problem we have in this country is not even the Coronavirus. It is corruption. We are going to surrender more resources to the Government while you argue that it is what they used to get before the Coronavirus. That money is supposed to be spent on PPEs, on supporting our healthcare staff and all the other public servants in this county, but the next thing you will hear is COVID billionaires. You will hear of people stealing left right and centre, and then you are given assurance that something is being done and investigation is ongoing. Up to now, where is the investigation on the KEMSA saga? Let it come out. Kenyans want to know who these COVID-19 billionaires are. There was sensationalisation. There are so many people who talked about people, politicians and Members of Parliament. Now the whole thing has gone quiet. If a Member of Parliament walks in the streets, people think he or she is a COVID millionaire. We want to see and read the names of the Members of Parliament, politicians or Kenyans who are so heartless. We want to see action



being taken against them. We want to see the DCI arresting them on Friday and keep them until Monday. If possible, let the judges decline to release them on bail for even two weeks, so that people can know that public resources cannot just be converted to private use without any justification and you go scot-free. That is where I think the problem is.

In a nutshell as I conclude, the tax rates we are reverting back to are not unrealistic. They are realistic, reasonable, and within average. This is what other countries tax their people if not higher. The problem is not with the tax. The problem is usage. I would not mind, I am going to surrender about Kshs50,000 more every month to the Government which from April to date I have been earning. I have no problem with that. Let it go to the Government, but let it be utilised effectively and efficiently to deliver services to the people, to all of us and to our constituents. Let us see improvement in our healthcare. Let the Universal Health Care (UHC) be a reality. Let it not just be something that is in the books. Let us see real UHC taking place in our counties.

This is going to be my last comment. We want to see the governors who are given money to prepare for COVID-19 and did not prepare for it and instead embezzled those funds, taken to court because they are the ones who are causing our people to die. People in the counties are dying from COVID-19, some of whom are not even documented because of greed of a few individuals. People will never be satisfied. They eat money for roads, water and health. They eat money for everything and they want to kill people so that they can eat money. We need to see these people behind bars. I am speaking like this because the agencies that are given the responsibility are letting Kenyans down. We thought they had picked up, now they are back to where we were even before we saw some activity.

Thank you, Hon. Deputy Speaker. I support the Bill.

**Hon. Deputy Speaker:** Very well. Let us have Hon. Yusuf Haji.

**Hon. Yusuf Adan** (Mandera West, EFP): Thank you, Hon. Deputy Speaker. I rise to support this Bill. As we all know, when we were reducing the tax rates, we all thought that it was going to be on a short-term basis. However, because of the lockdown, because of lack of movement for people who were earning their living, this has to be done. Actually, it has helped so much but on the other hand, a Government only gets its income from taxation. All these services that are being done by Governments, their source of income is from taxation. If the taxes are not available, and the Government is not able to give services and the communities or citizens riot against the Government and lose the Government, it will be terrible. Some of us have seen our neighbours without governments. That is when you will realise that you better have a bad Government than not having any. So, taxes are a very essential source of money for the Government. Although COVID-19 is still with us, we are now able to move and do some little work here and there. We are able to earn some money as Kenyans and the Government must give the services that are required especially now that schools are opening. We need money to make sure that there is social distancing in schools, there are more classrooms, sanitisers, water and all the other services for our schools which are about to open fully. This is the right time to have the taxation back to where it was. Initially, there was a lot of discussion or debate on whether the reduction of taxes is helping the common *wananchi*, particularly the people who do not earn. For instance, if you reduce VAT and I have no money to buy anything, how will it help me?

*(Loud consultations)*

That was the question that was being asked. If one is not earning anything, how will the reduction of PAYE from 30 percent to 25 per cent be of benefit to them?

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I rise to support this. I think it is very timely.

**Hon. Caleb Kositany** (Soy, JP): On a point of order, Hon. Deputy Speaker

**Hon. Deputy Speaker:** What is your point of order, Hon. Kositany?

**Hon. Caleb Kositany** (Soy, JP): Hon. Deputy Speaker, I think the Leader of the Minority is having a serious ODM rally, and they are interfering with the debate. We cannot hear anything. I do not know what they have done to Hon. Kajwang'. Is this another swearing in or something else?

**Hon. Deputy Speaker:** Hon. Members, order! Even if you did not put it correctly, you have a good point. I do not know what meeting you are having inside the Chamber. I see the Leader of the Minority, the Minority Whip and even the Chair of PAC all surrounding a former classmate of yours truly. I should protect him. What is the issue? Take your seats, Members, please.

Hon. Haji, I think you had finished.

**Hon. Yusuf Adan** (Mandera West, EFP): Can I be given a minute because I have seriously been interrupted.

**Hon. Deputy Speaker:** No. I will not add you a minute

**Hon. Yusuf Adan** (Mandera West, EFP): What we shall ask for is prudent expenditure of the money as soon as taxes are adjusted and the Government gets the required money. The Government must spend the money as per the requirement of the law. We have heard cases where even money for COVID-19 has been misplaced, mismanaged, or chewed by a few individuals. This should not be entertained. Those who have stolen COVID-19 money, it is becoming too late for Kenyans to hear of what shall be done to them.

With that, I support the Bill.

**Hon. Deputy Speaker:** Hon. Wamalwa, you have the Floor.

**Hon. Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Deputy Speaker. This Bill on amendment of the tax rates is coming at a time when this country is still being faced with the pandemic. I am wondering what the Government based on to amend this law. The positivity rate is still going up. The issue is worsening like never before. At the moment, our first line defense, the health care workers are dying. I thought this was the time the Government should put more measures to cushion the country. Unfortunately, it is the opposite. It is the responsibility of the Government to ensure that its people are safe. Of course, we know we need a delicate balance. For the Government to run, it needs something. The best principle when it comes to budgeting is to look at revenue. If your revenue has reduced maybe because of the pandemic, logic dictates that you harmonise your programmes.

We know that in this country, as Hon. Mbadi has said, the big problem is governance and corruption. By returning those rates to where they were, we are not solving the problem. The other day, during a debate about the Kenya Medical Supplies Authority (KEMSA) billionaires, the Report of the Departmental Committee on Health that came to the Floor of the House was more of a public relations (PR) exercise. The same people who are speaking today supported that Report. It is time that we come out clearly.

We saluted His Excellency the President when he came up with the measures to cushion Kenyans. It was well received. I thought that those measures of cushioning Kenyans were supposed to be determined based on the COVID-19 situation in the country, the World Health Organisation (WHO) recommendations and the positivity rate. Currently, the pandemic is worsening. I thought that the Government would put more measures in place. What confirms to the Government that the positivity rate has gone down? Look at the doctors. They are striking all

over. They are dying. The situation is worsening. The Government should have given more cushions, but it is contrary to what we are seeing here.

The truth of the matter is that the major issue is corruption. It is high time that the Government rationalised and harmonised its programmes because the revenue is going down. Currently, the Government has many priorities. It is time we harmonised those priorities, focused on the important ones and forgot about the others. Otherwise, we are coming here for a PR exercise while Kenyans are dying. Doctors are dying. Many people cannot afford food. It is time that the Jubilee Government harmonised its Big Four Agenda. It should harmonise and drop some to correlate with the reduction of revenue in this country. I know it is a delicate balance. For the Government to move, it needs money.

I call upon the legislators that, as we look at this Bill, let us debate it objectively. I know that the Government is between a rock and a hard place. We should help Kenyans so that we can move. I support the Bill. Let us look at the issue of corruption that is leading to the wastages in this country.

**Hon. Deputy Speaker:** Hon. Members, the less you speak, the better. If Members can reduce their time on their own, we will have many Members speaking. Top on the list is Hon. Maanzo. I will give him an opportunity even though I am supposed to go in this other direction. However, I will now give two slots to those on my right after Hon. Maanzo.

Proceed, Hon. Maanzo. The less you speak the better. We do not need to repeat ourselves. Members have already spoken.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Deputy Speaker for giving me this opportunity.

When COVID-19 struck the world, reductions of taxes were done and, at the same time, a notification was issued that it would be for a while. Kenyans anticipated that taxes would be lowered at that particular moment to stabilise our economy for a short while and then when things improved - and they seem to - the rates would go back to normal. At all material times, there was a notification to all Kenyans that matters in relation to taxes would take that path.

Secondly, Kenya and the whole world have suffered economically. Kenya even seems to be doing better than many parts of the world now that Kenyans have adhered to a great extent to the measures to counter COVID-19, coupled with our climate. Now that we are headed into the festivities, it is important that Kenyans perform much better because when they help the country by adhering to the regulations, then the very bad economic effects are reduced and we will not go back to the same place.

At the same time, there are services which are expected to be taken care of. We have social services. The money that is supposed to go to the elderly is not there. The bursaries through the NG-CDF are not there. The counties have also suffered. Unless we pass this Bill, stabilise and go back to normal, the country will continue to suffer for a long time due to the effects of COVID-19.

Without me repeating what others have said, it is a good measure. During public participation, one thing came out very clearly. Many Kenyans felt that the reduction of taxes helped a certain section of people but not the common *mwananchi*. The price of *unga* never changed. Many other prices never changed despite those reductions. It sounds better now. It is currently an imbalance. If we allow the same, we will balance the country and everybody will be served equally.

**Hon. Deputy Speaker:** Let us have Hon. Ichung'wah.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Deputy Speaker for giving me this opportunity.

You remember that earlier this year, while I served as the Chair of the Budget and Appropriations Committee, I was seated around where Hon. Mwathi is seated. I cautioned this House that we were making a terrible mistake by sacrificing revenues at a time our economy was already battered even pre-COVID. The economy did not go wrong with COVID-19. Our revenues were terribly battered even pre-COVID. I cautioned the House. I rise today to once again caution us as the people's representatives because we have been sent to this House to represent the people and speak on their behalf because they all cannot stand and speak for themselves here.

As many Members have said, our people are suffering. Today, our doctors are on strike or threatening to go on strike over payment and other welfare issues. Kenyans are dying. Others cannot even afford a meal. Others keep texting us to send fare to go home for Christmas. Others are looking for money to pay their rent. The situation is dire. I cannot remember in my short 44 years any other time this country was in the position that it is in now. We are on the verge of being unable to meet our international obligations in terms of our foreign debt repayment in the very foreseeable future.

With regard to salaries for civil servants, we do not just have threats of reduction but delays. Members of Parliament have witnessed this even for your own staff in your constituency offices and even yourselves for those who still earn salaries. We are heading into January and schools are reopening. Close to six million Kenyan parents have no jobs. Two million who are in formal employment have no jobs. Four million others who are in the informal sector have no jobs. They have no source of income. Those people will depend and rely on part of the bursaries that we give through the NG-CDF. To date, we are being promised in other fora that some Kshs2 billion will be dispensed. I do not know whether it is to cater for arrears of the 2019/2020 Financial Year or to help us give our people bursaries for 2021.

Needless to say, the Government needs money, but it needs to target the right place to raise its money from. Raising money from people who are dying is immoral. Raising money from people who are sick is uncouth. I will give you a very good example of probable areas where we could raise money from. Members of Parliament have been beneficiaries of the new driving licences from the National Transport and Safety Authority (NTSA). You were all lining up at the Members' Lobby the other day acquiring the new driving licences. If you look at the tender for those driving licences, it came with associated services that would even enhance collection of fines and penalties on our roads. Speaking to staff at the NTSA and elsewhere, they will tell you that, that programme was not just about issuing cards and new fancy driving licences. The chip it comes with was to be integrated with the banking systems to be able to offer instant fines that would enable the Government to collect close to Kshs50 billion a year.

Today, we are seated here but you will not see a member of the Departmental Committee on Finance and National Planning. I have just spoken to a few of them. We are talking about raising tax and lying to Kenyans that we are taking them to pre-COVID-19 time. We will go to worse than pre-COVID-19 times in terms of tax.

Specifically, Hon. Deputy Speaker, I want to speak about Pay as You Earn (PAYE). If the Departmental Committee on Finance and National Planning tables what they are discussing there today, we will move people who are being taxed at 30 per cent from Kshs57,000 to Kshs32,000. Even your drivers and house-helpers will now be paying tax at 30 per cent. Thirty per cent of Kshs32,000 is Kshs9,600. I pray that whatever deliberations the meeting which is going on up here will come with will be....

**Hon. Deputy Speaker:** You have exhausted your time.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Give me one minute.

**Hon. Deputy Speaker:** So, we will have Hon. Mutua Barasa.

*(Hon. David ole Sankok spoke off record)*

I will remember that, Hon. Sankok.

**Hon. Didmus Barasa** (Kimilili, JP): Thank you, Hon. Deputy Speaker for giving me this opportunity to contribute to the Tax Laws (Amendment) (No. 2) Bill. We must agree that COVID-19 disease is still with us and factories are still struggling.

We need to ask ourselves a few basic questions. For example, why is fuel more expensive in Kenya than in Uganda and yet, they get their fuel through the Port of Mombasa? Even sugar is cheaper in the neighbouring countries than in our country. Why are factories closing down shops in Kenya and going to open them in other countries? This is because of the oppressive tax regime in this country. Some Members have said that this country has one of the best tax regimes in the region, which is not true. I say so because the cost of production and electricity in this country is double what is charged in our neighbouring countries.

*[The Deputy Speaker (Hon. Moses Cheboi) left the Chair]*

*[The Temporary Deputy Speaker  
(Hon. (Ms.) Jessica Mbalu) took the Chair]*

When those proposals were first brought in this House, we were told how they would benefit the majority of Kenyans. We supported them. However, today, the same people who supported those amendments are saying that they have not benefitted the common *mwananchi*. The role of this House is to represent the people. We should discuss how we will ensure that those proposals trickle down to benefit the common *mwananchi*. I agree with the Mover of this Bill that the Government needs money to fund its programmes. She mentioned a number of programmes that are very critical to the economy of this country. The Government must get money to fund them. We need a holistic discussion. We need to open the bag that is carrying Government's projects, look at them and then drop some of them in terms of priority, so that we can extend the cushion for a further three or four months.

His Excellency the President said that those tax revisions would be effective up to 1<sup>st</sup> March next year. What the Chair of the Committee is not telling this House is that the Government is looking for money to fund the Building Bridges Initiative (BBI) referendum, which is not a priority. There are only three ways that this House should go to protect Kenyans. One, is to reject these amendments. The second one is to oppose them. The last one is to send them back to sender. I say so because the businesses in this country are still suffering. We need to debate about what we, as a House, will do to ensure that the cost of doing business in this country is fair to all, so that we do not have a situation where factories are closing down their branches and going to open them in the neighbouring countries. We, as a House, are losing it when we begin to think as if we are the Government. Our role is to represent Kenyans and process what is in their minds. We oversee the Government to ensure that whatever it does trickles down to benefit the common *mwananchi*.

As I finish, I want to urge and beseech my colleagues to reject these proposed amendments. I thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Let me have the Member for Suna East, Hon. Junet Sheikh.

**Hon. Junet Nuh** (Suna East, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this Bill. At the outset, I wish to support the proposed Tax Laws (Amendment) (No.2) Bill. Firstly, we have to remember that, at the beginning of this year, the world was visited by the Coronavirus pandemic. When the first case was declared in our country in March 2020, this House, in its wisdom, passed certain amendments to the tax laws that gave relief to many Kenyans. As Hon. Ichung'wah has alluded to, there were varied opinions at that point in time. There were people who said that we did not need those amendments. It was better we collect that money and use it for targeted interventions. I was in this House then.

The majority who were of the opinion that we amend the law and give relief to Kenyans carried the day. I want to remind the House that this country has operated with this tax regime that we are restoring today for the last 10 years. We are not introducing any new taxes. We gave relief in the spirit of the pandemic that was facing our country. We now want to revert back to the tax regime that we have been operating with as a country. I agree with the Members that our country faces a very difficult time - which is an international phenomenon. The Coronavirus pandemic has caused havoc not only in Kenya, but also in the whole world. The world's biggest economies like the United States of America (USA) and Europe are going through recession because of the effects of COVID-19 pandemic. There are many people who have registered as being jobless in the USA today. Over 4 million people have registered with the USA Government seeking for help. Those are economies that are million times bigger than this country. There are people who have registered being jobless in the European Union (EU). Those economies are bigger than this country. You cannot compare them with our country.

The Coronavirus pandemic has affected small and big economies. Firstly, we are talking from that baseline. So, it is important to note that this is a disaster that has befallen the world. As the leaders in this country, we have to come up with measures to help the country move forward. It is debatable whether people, companies or businesses which enjoyed those reliefs passed them to the people. The Value Added Tax (VAT) was reduced from 16 per cent to 14 per cent. Can we discuss the trickle-down effect? Did that money really go to the poor people in the country? Did the people benefit? Did the cost of *unga* and *mafuta* go down? The answer is no. So, we are just benefitting traders who are getting tax relief and keeping the money for themselves. The Government does not have any money to use for its operations.

Secondly, there is a lot of redundancy in the private sector in this country. They have relieved many people of their work. Livelihoods have been lost. We give credit to the Government because no civil servant has lost his or her job. Salaries might have delayed, but you are still in employment. I have not heard of any redundancy in the public service. We must give credit to those people who are struggling to keep the livelihoods of the civil servants.

In conclusion, I want to urge the House to look at the bigger picture of the country. Let us not look at this matter in a bipartisan manner where you look at this side or the other side of the coin. This is an important issue for the country. It is a delicate balance. We need to look at it holistically. We must do what is good for the country. It must run.

I know the Jubilee Government has not done very well economically. The President and his deputy must up their game. They have failed us when it comes to economic management. However, we will not say that the country must not move forward because they have not done well. For that reason, I want to urge Members here not to look at this matter...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Your time is up. Let me have the Member for Mwea, Hon. Wachira Kabinga.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Temporary Deputy Speaker. At the outset, it is good for Kenyans out there to know that we did not come for this Special Sitting to increase taxes but rather, to revert to what was passed by this House in March this year.

I want to commend the Government. Coronavirus was first reported in the country in February and by March, the Government had moved very fast to look at measures that would reduce the pressure and impact that came with the pandemic. That was really good. The relief did not come to address it as such, but to mitigate the effects that Kenyans were expected to go through with the coming of COVID-19.

Hon. Temporary Deputy Speaker, paying of taxes is a personal responsibility and Kenyans must feel proud when they are doing so. All those who pay taxes faithfully and promptly have a reason to be proud because they are the people who hold this country together.

As a Member of Parliament in my first term, I am learning a lot from this House. In 2017, when we had the Government bringing some amendments on taxes, I saw a group of people who were supporting and those who were opposing them. Today, because of their political alignments and shifts, I am seeing the same group throwing good words out there for the public to favour them. It is high time, as leaders, we rise above some of those petty politics. You are in Government today, you support everything; tomorrow something comes up and you want to clearly align yourself with the Opposition for the simple reason that you are not in the Government. This is not the way that Kenyans would have wished to see this House operate.

We know very well that we stood out as the only country in this continent that promptly responded to COVID-19 by looking out for our citizens and relieving them of some of the taxes. What we can say now is that although COVID-19 is still with us, at least, we now know how to live with the new normal. We know how to cope and deal with it at different times. We also know that we now lack the resources to do much more to manage it. It is the same reason that we now want to collect more resources so that we can address this pandemic.

We also know that there are some people who are enjoying the fruits of corruption in this country. Some of them are talking very nicely here but, if you ask them how they gained their wealth, they cannot account for it. But, today, they are talking nicely and telling us how we need to care for *Wanjiku*. We will say shame on them because when they stand here, they are not sincere. We will collect money. We expect to address the doctors' problems, medicine deficiency in the country and all those can be done by people who are faithful to their country.

I support that we need to look at national ethos in this country. We need people to rethink about themselves and not people coming here to talk sweet things on the microphone, throwing good words and seeking favours from their communities out there. It is high time people walked the talk. *Tuache mambo ya* corruption so that our country can move forward.

Thank you and I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well, although we do not refer to Members as people. They are Members of Parliament. So, let us always check what we say. Let me have the Member for Ugunja, Hon. Wandayi Opiyo.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Temporary Deputy Speaker, thank you very much. At the outset, I support the Tax Laws (Amendment) (No.2) Bill (National Assembly Bill No.48 of 2020). As I do so, let me start by saying that the COVID-19 pandemic made us to jump from what I would call the frying pan to the fire. Why do I say so? I have always said here that we need to cut our coat according to our cloth when it comes to budgeting. The COVID-19 pandemic has found us with a budget which was, in itself, difficult to support; a budget which had serious deficits. We all know that, that is not really news. The COVID-19 pandemic compelled us to

introduce amendments to the tax regime that eventually led to a reduction in revenues. That is, again, a fact that we cannot debate. So, we find ourselves, as someone said earlier on, between a rock and a hard place, as it were. But, then, what do we do as a country?

Article 43 of our Constitution guarantees economic and social rights to the citizens of this country. The Government is under obligation to support Kenyans in meeting their economic and social rights like provision of water, health, education and other social services. However, for the Government to do that, it requires revenue or money. Therefore, even as I support this Amendment Bill to enable the Government to generate more revenue from taxation so as to provide the social services that are critical for the wellbeing of the citizens, we must also relook at our priorities. That is important. We cannot continue to bury our heads in the sand like the proverbial ostrich and assume that things are normal. We cannot continue to operate as if things are normal and yet, we are in an abnormal situation.

There is a tendency in this country for projects to be started all over. As we speak, there are projects striding the landscape from one border to the other border. The projects are either incomplete or stalled. So, the question is: What logic is there in starting projects which we are unable to finance to completion for them to support Kenyans in one way or the other? So, the starting point is, and I offer this suggestion, let us pass this Bill to let the Government generate more revenues to support Kenyans. But let us also make the Government to understand that it cannot be business as usual. First thing, let the Government avoid starting new projects if it knows there is no money to complete them. Perhaps, we could say that the only projects we should only consider are those which are supported by development partners together with Kenya.

Also important is the fact that those projects are not well thought out. We find projects which are conceived and initiated in a manner that points to recklessness. I want us to support this Bill for the simple reason that if we do not do so, we shall be getting to a worse situation as a country. In fact, we risk getting into a situation where the country's populace is going to rise up because there are people who are dying because of lack of social support. That support cannot happen if there is no money that the Government can use to support them.

Some of the projects that the Government should keep, in my view, are those of the NG-CDF. That is because it is a legal requirement to disburse those funds. It is also a legal requirement that monies should be disbursed to the counties. There are no two ways about it. The national Government must disburse monies to counties.

However, the projects that are in-between can be stopped for now so that we do what is critical for ourselves and for...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Please, plan your time. Let me have Nominee 001, Hon. David ole Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to add my voice to this important Bill that was moved by Hon. Gladys Wanga, who is a Member of the Orange Democratic Movement (ODM) Party. Nowadays, with the masks, it is very difficult to recognise faces. Those masks have taught us that *sura* is not actually the eyes and forehead. It is the mouth and the nose. Now that we are covering both of them like private parts, it is very difficult to recognise other people.

On this Bill, I rise to say that it is not the right time. We are reverting to the taxes...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. ole Sankok, I wish to confirm that the Motion on Approval of Agreement for the Avoidance of Double Taxation between Kenya and Mauritius was moved by Hon. Gladys Wanga. You seem not to understand who moved it.



**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Speaker, I oppose the Tax Laws (Amendment) Bill until the Government accounts for the COVID-19 funds - that is the World Bank money and all the donations and loans we borrowed during this pandemic. I also oppose it until the Government gets the crooks of the Kenya Medical Supplies Authority (KEMSA) heist. I oppose it until the Government gets “COVID-19 billionaires.” I oppose it until the Directorate of Criminal Investigations (DCI) brings to book the “Afya House” mafia. I oppose it until the DCI gets back the Jack Ma’s donations and apprehend all the culprits.

I will only support this Bill if Hon. (Dr.) Nyikal’s tears are wiped by using the extra taxes to pay doctors. I will only support it if the extra taxes will be used for the comprehensive health insurance cover for all the health workers. I will only support it if the extra taxes will be for the Personal Protective Equipment (PPEs) for health workers and also to pay school fees for our children who are going back to school in two weeks’ time. I will only support it if the extra taxes will be used to buy masks for our children who are about to go back to school.

Our priorities are totally upside down. If those taxes will be directed to verification of signatures, I will oppose the Bill. If the extra taxes that Kenyans will be paying during this particular pandemic when they are still dying will be used for the Building Bridges Initiative (BBI) and referendum, I will totally oppose the Bill.

Other countries like Saudi Arabia have extended the tax measures. But what are we doing here in Kenya? We are revising them. When other countries are thinking of vaccines, in this country, we are thinking about the BBI and referendum. Kenyans are dying! The pandemic is increasing and the mortality rate has also increased. We have lost colleagues, relatives, friends and children and yet, we think that we are now living normally and okay. Which “okay” are you talking about when some Members of this House are lying cold in the mortuaries? Which “okay” are we now? When did we attain stability in terms of this COVID-19?

There is development of new strains of COVID-19. We do not know whether we will lock down the country again. I heard that the United Kingdom (UK) is thinking of locking down their airspace because of the entry of a new strain of COVID-19. This House cannot be used to strangle Kenyans who are dying because we are the peoples’ representatives. Persons with Disabilities (PWDs) are suffering out there. It will be immoral for me to say that those who are earning little salaries will be taxed while our taxes will be used for the wrong priorities in this country. I will not accept that. Let us wipe the tears of Hon. (Dr.) Nyikal.

Thank you, Hon. Temporary Deputy Speaker. I oppose.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. For the Members who are just coming to the House, we are on Order No. 21. We are on Motion No. 24, the Tax Laws (Amendment) (No.2) Bill (National Assembly Bill No. 48 of 2020) as moved by the Chairperson of the Departmental Committee on Finance and National Planning, Hon. Gladys Wanga.

Let me have the Member for Ruaraka, Hon. Kajwang’. He is next on my request list. He is consulting. You know we have consultation rooms behind here. Let us have the Member for Funyula, Hon. Oundo Ojiambo.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity.

At the outset, let me say that I support the proposed amendments to revert to the tax regime that existed before the onset of the COVID-19 pandemic that has hit Kenya and the world at large. As we debate this, there are a few issues that we need to put in mind. The first issue that we need

to consider and clearly ask ourselves is whether Coronavirus is likely to go away very soon. The answer is likely that it is not going to go away very soon. We must have to adjust.

*(Hon. (Ms.) Aisha Jumwa crossed the Floor without bowing to the Chair)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Hon. Members! I know we are coming from recess or we are still on recess after today's business. But the Members who are on the corridors, please, resume your seats. Hon. Aisha Jumwa, can you go back? You were on the other side. Just do the necessary. Hon. Aisha Jumwa, I order you were on this side. You are out of order! Hon. Aisha Jumwa, you know how to do it very well.

Members, let us give a chance to the Hon. Member. When one Member is contributing, we are all equal in the House. Yes, Hon. Ojiambo.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Hon. Temporary Deputy Speaker, I hope you will add me my minutes. You have disrupted.

As I was saying, COVID-19 is going to be with us for many years to come. As a country and the world, we must adjust ourselves to COVID-19. When the President made the request to reduce the taxes, in my view, it was obviously just a hope therapy. It was essentially a therapy. We knew all along that it was not sustainable. It was not sustainable to lose that revenue that has been estimated, from VAT alone, to be Kshs50 billion. This country cannot do without that Kshs50 billion directed or collected from VAT sources.

The issue that normally comes up here and many Kenyans outside there have this feeling is that they are over-taxed. That is a palpable feeling all over the country. We are extremely over-taxed. Probably when you look at the tax regimes elsewhere, the point at hand here is whether the taxes we collect are used for the intended purposes. Do Kenyans feel that their taxes offer commensurate services compared to other places? The answer is no! Everybody who is seated here and elsewhere knows that, that is not the case. The reason for that is corruption, corruption, corruption, corruption and nothing else! If we were able to utilise all our taxes and tax revenues towards services that alleviate human suffering in this country, this feeling that we are over-taxed will not persist in this country.

Therefore, we call upon the Government to seriously go back and rethink the issue of corruption. Is it fair for the COVID-19 billionaires to still walk free in this time and era since the DCI started the process of investigations? It is very clear that people pocketed money. What has happened? That is why when you tell Kenyans that we have been summoned for a Special Sitting to increase the taxes or to revert to the past tax regime, they feel that we are truly covering corruption. If we do not address corruption, the feeling among the people there will always be negative.

As I conclude, we need to be very clear on the issue of minimum taxes on businesses that make losses. Many people continue to look for resources to pump into those loss making businesses and taxing them this much will amount to punishing them.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. The Member for Ndaragwa, Hon. Jeremiah Kioni you have the Floor.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to support this Bill. I support it because in my constituency and many other areas, there are several projects that have stalled because the Government could not collect

revenue. In Ndaragwa, we had several projects namely; tarmacking of roads, Karago-ini and Kirima water projects and the Pesi Dam. I believe that once we allow the Government to collect revenue, we shall have our projects being done in our constituencies like it is in other areas.

Hon. Temporary Deputy Speaker, when you want to bring something down, you do not need a lot of research. But when you want to construct, you must do some work. The Mover and the Secunder of this Bill gave us some figures earlier on in the morning. They stated that, as a country, we lost to a tune of Kshs172 billion for the time we gave those rebates. Unfortunately, while we did this in good faith in April, very little of that money got to the ordinary people in Ndaragwa. We must appreciate the Government for the quick response it had in giving those rebates. That money was consumed by the business people because they never passed it down to the ordinary Kenyans. It is only fair that we allow the Government to get back that revenue and use it to mitigate the difficulties that Kenyans are going through because of COVID-19. This is a global pandemic and we can see whatever is happening in the world. Just as my colleagues have said, the virus might not go away and we must prepare Kenyans for this. It is like telling Kenyans many years ago that HIV/AIDS would go away. Our behavior is the only thing that will help us deal with it.

We must embrace social distancing, wearing of masks, avoid handshakes and follow other protocols that are given by the Government. As we allow the Government to revert back to the old taxes, first, it is important for Kenyans to understand that we are not putting in place new tax measures. Secondly, we want that money to be collected so as to help in mitigating difficulties that Kenyans are going through. As Members of Parliament, we will be faced with many bursary requests in January. If we do not allow the Government to collect the revenue, we will be out there blaming it for not being able to disburse money to help ordinary people in mitigating the difficulties in the education sector by issuing them with bursaries.

In April, we mentioned that this was not the best way to deal with things. But the Government had to respond in a manner to a situation that was new to all of us. I remember the former Chairman of the Budget and Appropriations Committee, Hon. Kimani Ichung'wah spoke on this very eloquently, but he still presided over the problem that he was telling us about. Unfortunately, the economic difficulties that are facing the country may have ousted his Committee from office.

As I conclude, I want to state that it is not useful, as a peoples' representative, to take a populist pedestal. You do not have to sound a populist. You must come with solutions. Several Members have floated some ideas, but they have the opportunity given to them by Kenyans to come with proposals. They can reduce their ideas into proposals in form of Bills and let us debate them. It is not right to just shoot down everything on the Floor without a counter-proposal. It only means that your competence is in question. You have the opportunity to introduce new things on the Floor to help the country move forward.

Hon. Temporary Deputy Speaker, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Next on the request list is the Member for Navakholo, Hon. Wangwe Emmanuel.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Amendment Bill on various fronts. This is a factual Bill. It is a Bill that we need to debate when we have real facts with us, and know the situation at hand. I look at this Bill from two or three angles: One, based on the issues that have been raised in the VAT Act, the reduction in VAT, the reduction in Corporation Tax and the Pay as You Earn (PAYE). Coronavirus is here with us. It is not that tomorrow or the day after tomorrow, we shall be out of

the woods on the Coronavirus menace. Therefore, whatever we do must be looked into in terms of posterity and what informed the Head of State and Government to reduce taxes through the interventions that have been sent to this House. We have matured in terms of playing around with the gains that were intended to be achieved with the reduction of taxation. I got this Bill about 10 days ago. I reviewed it to understand the parameters that inform what goes to the common man in the sugar industry. When a farmer produces sugar-cane, a quarter of the gains are paid to him and 75 per cent of the gains go to factories. The cost of labour, machine production and sales production is catered for by the factories.

Therefore, the benefit that was supposed to accrue to the common man cannot be passed on to him. Instead, it stays with the manufacturers. I support the Bill because the gains that would have been obtained normally can still be realised if we revert back to 16 per cent. There was no realisable gain transferred directly to the individual citizens of this country. As a result of the reduction from 16 per cent to 14 per cent, the Government to date has made a deviation in summation of Kshs78 billion.

I wish to give the realisable figures in Corporation Tax, Income Tax, VAT, Excise Duty and Import Duty. I did my summation. As a result of the reduction from 16 per cent to 14 per cent of VAT, what has not been realised is Kshs46.3 billion. That is good money. As Members have said in this House, let us set our priorities right. Members have itemised their priorities and they have a right in the Constitution to vary them in the Supplementary Budget. The gain that we intend to collect of Kshs46.3 billion – which we have lost since July – can be redeemed in the next five to six months. The Income Tax for the few months was supposed to be Kshs27 billion; Excise Duty, Kshs12 billion and Import Duty, Kshs4 billion. If those are adjusted upwards, what the doctors have claimed that they do not have can be provided.

As Hon. Member Nominee 001 has said, the cry of Dr. Nyikal can be considered here. At least, we can direct the money to a useful cause like the COVID-19 pandemic. Frontline workers like doctors and nurses are the people who are suffering. What those workers will bargain for – should they negotiate their agreements properly – and come out with in their Collective Bargaining Agreement (CBA), can be taken care of.

My take is that we have the pandemic with us, but it is the duty of the Government to collect and direct the realisable resources to the correct uses.

**The Temporary Deputy Speaker** (Hon. Jessica Mbalu): Let us have the Member for Nambale, Hon. Bunyasi John.

**Hon. Sakwa Bunyasi** (Nambale, ANAC): Thank you, Hon. Temporary Deputy Speaker. The amendment is really a double-edged sword. Tax is an essential evil. We need to pay tax to run Government. By paying tax, we deny household income from doing other things. As we discuss moving VAT back to 16 per cent and other taxes to a maximum of 30 per cent, let us first ask ourselves: In whose hands are Kenyans better off with this money? Is it in household hands or in the hands of the Government? When we reduced VAT from 16 per cent to 14 per cent, we were recognising that, in times of a pandemic, the use of funds is better in the hands of households than it would be in the hands of the Government. We have got into a little corner where the Government does not have enough revenue, largely because of misuse. And we are not addressing that problem conclusively! We get headlines and then the stories disappear. Our priority at this moment would be to ask the Government, through the Committee, to demonstrate that there is a good and optimal resource use with the VAT it is collecting now at 14 per cent.

In trying to grow, many economies do lower taxes. They do not increase them. Do not assume that collection is going to be better when you increase the rate from 14 per cent to 16 per

cent. On the face of it, it looks possible. But it is also possible you will not collect the revenues you were collecting pre-COVID-19. There were many underlying factors that made revenue collection decline pre-COVID-19 from a high, at one time, of 23 per cent of the GDP to below 15 per cent where we are now. Some of the underlying factors have been raised by colleagues on the Floor.

I know the CS for National Treasury is in a tight corner because of the out turn of revenue. But if we are going to grow the economy, we should ask ourselves: When do we increase taxes to collect revenue and do something else, assuming that resources in the public sector can be used efficiently? We have not demonstrated that. In fact, it looks like for every shilling you transfer from a household to the hands of the Government, probably 60 per cent of it will disappear somewhere along the line. It may not be visible when ordinary people in the village spend. But they spend because they have a bit more money in their hands. We sustain the economy, as it were. So, let us not rush and agree that increasing taxes is the best thing to do.

This would have been a good time for the Departmental Committee on Finance and National Planning, apart from giving us the mathematics of the argument, to get some data on what has happened during the time of the reduction. What would it have been in terms of growth of the economy if we had not reduced the taxes? So, I am uncomfortable completely at a time when we are not yet at the peak of COVID-19 challenges to move back VAT to 16 per cent. We are not anywhere near a flat curve. Those who think we might be there will completely be surprised. Therefore, this is not probably the right time to attempt to move the taxes back high up. So, this Bill needs to be considered very carefully. It is limited to the arithmetic of revenue collection based on percentages. But I think the impact to the economy is far from being properly assessed.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Jessica Mbalu): The Member for Saku, Hon. Rasso Ali, you have the Floor.

**Hon. Ali Rasso** (Saku, JP): Thank you very much, Hon. Temporary Deputy Speaker. I rise to make my voice heard on this particular Bill. First of all, without a blink, reading through this Bill, it is very difficult for a common person to understand it. A Bill that is given to this House and is intended to get money from the pockets of Kenyans must be easy to understand. It should not have any interpretation and it should be clear. This is so that even as we move out of this House to speak to our supporters and constituents, we should tell them clearly what is in this Bill for them.

Hon. Temporary Deputy Speaker, what has changed for this Bill today for us to be told it is almost like post-pandemic? The pandemic is with us.

Last Sunday---

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): There is an intervention by the Member for Alego Usonga.

*(Hon. Samuel Atandi removed his card)*

Ooh! It was not a point of order. He has already removed his card. Carry on please.

**Hon. Ali Rasso** (Saku, JP): Last Sunday, we lost the immediate former Deputy Governor of Marsabit, Hon. Omar Abdi Ali. May God rest his soul in eternal peace. He succumbed to COVID-19. As far as we are concerned, COVID-19 cases are rising. They are not going down in any way.

There are issues about this Bill. The Chair who moved this Bill did so eloquently. She said that the Government does not have money. It is fair to say that. Since the Government does not

have money, it is attempting to mop up that money at the easiest of places it can find it – in peoples' pockets. Those are salaries. In business, it is where they can reach but this comes with some ambiguity. Which ambiguity? When you talk about installment tax and minimum tax, why has this Bill not expressly said what they are about?

We are facing hard economic times. Even as Members of this House, let us be honest to ourselves. Not many people have money in their pockets. It is not because you are not doing what you should do, but it is because there is no money. When there is no money and you are suddenly faced with a taxing case, one thing I cannot stand and oppose is to say that the Government must run and there must be money for Government. That is necessary.

Businesses have been affected. The international supply chains have been affected. So, we need things like tax reliefs, debt reliefs and debt re-scheduling as a country. For that reason, I want to listen to more explanations so that we are convinced beyond doubt that this Bill is necessary, timely and good for Kenya.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let me have the Member for Nakuru Town East, Hon. Gikaria David. Kindly have the Floor for the remaining time.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute towards this important Bill.

At the outset, I support the Bill. First of all, it is just to address the fact that tax debate is usually not a very good debate for parliamentarians. In the last Parliament, a few of our colleagues lost their seats because of some of the issues that they were raising on matters to do with tax.

Moreover, even biblically, the tax collectors were never liked by anyone. Therefore, it is not an easy debate. It is one that we have to think as leaders, rise up to the occasion, look at where the country is and make decisions. Those decisions are very important as we try to look at the effects of Coronavirus that has affected this country and the whole world. Every country has tried on its own to come up with measures to address this. The President came up with the tax relief move. This was advised by the suffering of Kenyans. As other speakers have already indicated, everybody did panic, including the Government. Everybody panicked because of the pandemic. In addition, each person and every government were unable to make decisions at that time. However, of course with time, the country has now been able to articulate and address what is...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order! Hon. Gikaria, I can see a lot of consultation by the leadership. Hon. Gikaria, because this is a House of rules and procedures, you will have three minutes to debate on the same after the House... In fact, you will have seven minutes to debate on the same after the House resumes.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Members! The time being 1.01 p.m., this House stands adjourned until this afternoon at 2.30 p.m. Thank you.

The House rose at 1.01 p.m.