



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

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## THE HANSARD

Wednesday, 16<sup>th</sup> August 2023

The House met at 9.30 a.m.

*[The Temporary Speaker (Hon. Martha Wangari) in the Chair]*

### PRAYERS

### QUORUM

**The Temporary Speaker** (Hon. Martha Wangari): Sergeant-at-Arms, ring the Quorum Bell for 10 minutes.

*(The Quorum Bell was rung)*

*(Hon. Mark Mwenje withdrew from the Chamber)*

**The Temporary Speaker** (Hon. Martha Wangari): Order, Hon. Mwenje! You should not leave when the bell is ringing. Hon. Members, that is disorderly conduct.

**Hon. Temporary Speaker** (Hon. Martha Wangari): Sergeant-at-Arms, you may halt the ringing of the Bell.

### QUESTIONS AND STATEMENTS

#### ORDINARY QUESTIONS

**The Temporary Speaker** (Hon. Martha Wangari): The first Question is by the Member for Malava, Hon. Malulu Injendi.

*Question 334/2023*

#### INSTALLATION OF MICROPHONES IN KENYAN COURTS

**Hon. Malulu:** Hon. Temporary Speaker, could the Judicial Service Commission:

- (a) Explain why all Kenyan courts, excluding the Supreme Court, are yet to have microphones installed in the courtrooms, which would enhance the efficiency of the court system in the lower courts?
- (b) Provide details on what caused the discontinuation of the program for installing microphones in courtrooms after its initial commencement?
- (c) State whether the Judicial Service Commission (JSC) has developed a plan to install these essential components in courts and provide the estimated costs of implementing the system in all courts across Kenya?

**The Temporary Speaker** (Hon. Martha Wangari): That Question will be replied to before the Departmental Committee on Justice and Legal Affairs.

Hon. Members, on the next Question, Hon. Tandaza Kassim had requested for the indulgence of the Speaker. We will get back to it later.

**An Hon. Member:** He is in the House.

**The Temporary Speaker** (Hon. Martha Wangari): Oh, he has made it to the House on time. Hon. Tandaza, I got your communication about the indulgence. Please, ask the Question.

*Question 365/2023*

COMPENSATION FOR PERSONS AFFECTED BY THE  
DONGO KUNDU BYPASS PROJECT PHASE 3

**Hon. Kassim Tandaza** (Matuga, ANC): Hon. Temporary Speaker, could the National Land Commission:

- (a) Provide a list of persons affected by the construction of the Dongo Kundu Bypass Project Phase 3 and the corresponding compensation awarded to each one of them?
- (b) Explain why the persons affected by the project in Matuga Constituency, whose land was compulsorily acquired for the construction of the Dongo Kundu Bypass Project Phase 3, have not been paid despite being issued with award letters by the Commission in 2019?
- (c) Consider factoring the inflationary changes to the compensation awarded since 2019 to date and state the time-frame within which the persons affected by the project will be compensated considering that the Bypass Project Phase 3 has since been completed?

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Martha Wangari): The Question will be replied to before the Departmental Committee on Lands.

Next is the Question by the Member for Turkana North, Hon. Paul Nabui. Is he in the House? We will defer this Question.

*Question 369/2023*

REVOCATION OF TRANSFER OF MR. EMURIA MOSES EBONG'

*(Question deferred)*

**Hon. Kangogo Bowen** (Marakwet East, UDA): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Martha Wangari): What is out of order, Hon. Kangogo?

**Hon. Kangogo Bowen** (Marakwet East, UDA): Thank you, Hon. Temporary Speaker. The gadgets we are supposed to use have passwords. Some people or the Information Communication Technology (ICT) Department have installed passwords. These gadgets should be free for any Member to use. When I sit on the other side, I should use them as when I am in my seat. We cannot access the Order Paper.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Kangogo, first of all, you will be assisted in opening yours. I thought it is accessible. When I sit there, I can open mine. I do not know whether Members have the same problem.

Hon. Makali Mulu.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you very much, Hon. Temporary Speaker. I agree with my colleague, Hon. Kangogo. I used to sit in the seat next to me here. I could not access my machine when I moved to this seat. I can log into that machine, but I cannot on this one. During the last Parliament, you would log in on any machine using the exact details, but it is impossible now. The ICT Department needs to check what is happening.

Thank you.

**The Temporary Speaker** (Hon. Martha Wangari): We direct the ICT team to look at it. From the experience of the last Session, as Hon. Makali Mulu says, we would access any machine with our credentials on any seat. You would use your password, and you would unlock the screen. We will take it up later and report the progress to the House.

Next Order.

## MOTIONS

### ESTABLISHMENT OF NATIONAL CANCER PREVENTION AND CONTROL FUND

THAT, aware that Article 42(1)(a) of the Constitution provides for the right of every person to access the highest attainable standard of health, which include the right to health care services; further aware that cancer is among the leading causes of death in the country; noting that, although the budgetary allocation for health care services is progressive, it is inadequate to cater for cancer prevention and care across the country; further noting that cancer control in the country is hampered by inadequate cancer care infrastructure and limited specialised human resource capacity; recognising that a significant number of cancer patients do not complete prescribed treatment due to the high cost of cancer management; further recognising that the Cancer Prevention and Control Act, 2012 seeks to promote access to quality and affordable diagnostic and treatment services for persons with cancer and to ensure sustainable capacity for the prevention and control of cancer; this House resolves that the Government, through the National Treasury, establish a National Cancer Prevention and Control Fund to promote prevention, control, and treatment of cancer in the country.

*(Moved by Hon. Timothy Kipchumba  
on 2.8.2023 – Morning Sitting)*

*(Debate concluded on 9.8.2023 – Morning Sitting)*

**The Temporary Speaker** (Hon. Martha Wangari): We will defer the putting of the Question on this Motion under Standing Order 53.

*(Putting of the Question deferred)*

### DEVELOPMENT AND IMPLEMENTATION OF CHILDCARE PROGRAMME FOR CHILDREN WHOSE PARENTS ARE IN LAWFUL CUSTODY

THAT, aware that, Article 53 of the Constitution provides for the rights of children, including the right to free and compulsory basic education; further aware

that Section 22 of the Persons Deprived of Liberty Act and the Childcare Policy provides for the care of a child whose parent is deprived of liberty, until the child still require parental support; further recognising that majority of these children often suffer from emotional distress, social stigma and economic hardships; cognisant of the fact that all children should be accorded a means of maintaining their relationship with their incarcerated parents; noting that, children have restricted economic resources available for their support which in turn negatively impacts their lives; this House therefore urges the Government, through the State Department for Social Protection and Senior Citizen Affairs, to develop and implement a programme for the care of children above the age of four years whose parents are under lawful custody.

*(Moved by Hon. Brighton Yegon  
on 9.8.2023 – Morning Sitting)*

*(Debate concluded on 9.8.2023 – Morning Sitting)*

**The Temporary Speaker** (Hon. Martha Wangari): The same fate falls on this Motion. It is deferred to the next day.

*(Putting of the Question deferred)*

NATIONAL POLICY ON DEWORMING  
OF SCHOOL-GOING CHILDREN

THAT, aware that Article 43(1)(a) of the Constitution provides that every person has the right to the highest attainable standard of health including the right to health care services; further aware that the relationship between health and education plays a significant role in school attendance rates; concerned that the negative effects of poor sanitation such as parasite infestations, particularly among school children lead to anaemia, stunted-growth and other salient problems which in turn lead to low school attendance and impact education standards; recognising that according to research, school-based deworming is one of the most cost effective interventions that provides a huge range of holistic and social benefits, such as increased school attendance and healthier kids who do better in school, while utilising already existing school structures in administering deworming treatments to school pupils; recalling that previous programmes conducted by the Ministry of Health in partnership with a non-governmental organisation called Evidence Action have only been piloted in a few selected counties and that the deworming efforts have been uncoordinated and dependent on external support with no clear policy or budgetary framework. Now, therefore, this House urges that the national government, through the Ministry of Health, develop a national policy on deworming school-going children as a crucial part of mainstreaming healthcare access in the country.

*(Moved by Hon. John Waithaka  
on 9.8.2023 – Morning Sitting)*

*(Resumption of debate interrupted  
on 9.8.2023 – Morning Sitting)*

**The Temporary Speaker** (Hon. Martha Wangari): Is Hon. Machua in the House? Member for Kiambu.

**Hon. John Waithaka** (Kiambu, UDA): Thank you, Hon. Temporary Speaker. Allow me first to thank all the Members who have so far supported this important Motion. They have demonstrated their love and care for our children. If we care about the future of this country, we have to take care of our children by investing in their future and removing any barriers to their education and health.

When I decided to table this Motion in this House, I did so knowing that Intestinal Parasitic Infection is regarded as a severe public health problem. It is among the most common infections affecting human beings in the world. Therefore, we cannot develop without a well-educated human resource. The United Nations created the 17 Sustainable Development Goals in 2015 as a blueprint for improving the world. Goal Number 4 is quality education. It is, therefore, essential to put measures in place to keep our children in school. Deworming is one such measure.

A few weeks ago, when I was explaining this necessary Motion to the people of Kiambu, one vernacular radio station took me out of context. They decided to spread propaganda that this was not a priority. They discussed me on their radio for two good hours. I want to call out that vernacular radio station and tell them we must speak about the problems affecting our communities without shame. Worms are a problem for our children. The problem primarily affects their health and education. We must, therefore, speak about it openly and without shame.

Hon. Temporary Speaker, allow me to remind journalists of one of the rules of journalism, which was written in 1914 by Walter Williams - the founder of the Missouri School of Journalism - which I now quote: "I believe that a public journal is a public trust that all connected with it are to the full measure of their responsibility, trustees for the public. That acceptance of a lesser service than the public service is a betrayal of this trust." If this House passes this Motion, it will be in line with the spirit of Article 43(1)(a) of our Constitution, which guarantees the right to the highest attainable standard of health with a state of the complete physical, mental, social and emotional well being, and not merely being without disease.

Thanks to all the Members of this House for their contribution to this Motion.

I beg to reply.

**The Temporary Speaker** (Hon. Martha Wangari): Thank you, Hon. Machua. We will defer the putting of the Question of this Motion.

*(Putting of the Question deferred)*

Next Order.

**The Temporary Speaker** (Hon. Martha Wangari): Member for Langata, Hon. Phelix Odiwuor.

#### PUBLIC HEALTH CONCERNS AT LANGATA CEMETERY

**Hon. Phelix Odiwuor** (Langata, ODM): Hon. Temporary Speaker, I beg to move the following Motion:

THAT, aware that Article 42 of the Constitution provides for the right of every person to a clean and healthy environment; further aware that, Article 69 of the Constitution obligates the State to ensure sustainable utilisation of the environment and natural resources including land; recognising that the Fourth Schedule to the Constitution assigns to the National Government the function of

land planning including the general principles of land planning and the coordination of the planning by counties, as well as matters of health policy; further recognising that there is ongoing public outcry regarding the neglect of Langata public cemetery, which was declared full close to two decades ago; Concerned that this matter has been left unaddressed and poses a significant health risk to the public; deeply concerned that, this situation has led to overcrowding and double-allocation of burial sites with bodies being buried in shallow graves leading to frequent uncovering by wild animals from the nearby National Park; Further concerned that, this has caused untold anguish, pain and suffering to the bereaved families, and psychological torment to the neighbouring community; Now therefore, this House urges the national Government through the Ministry of Health, to urgently conduct an assessment of the public health risks posed by the continued use of the Langata Cemetery, and to institute mitigatory measures and collaborate with other stakeholders, including the Nairobi City County Government, to identify suitable alternative land for use as a cemetery.

I beg to move and ask Hon. Charles Onchoke, the Member for Bonchari, to second.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Onchoke.

**Hon. Charles Onchoke** (Bonchari, UPA): Thank you, Hon. Temporary Speaker. I rise to second this Motion.

We all need to be alive to the requirements or the need to take care of our dead. All over the country, you do not find any well-maintained cemetery. That is something that needs to be looked into by the two levels of governments urgently, so that our dead can have decent and respectful places where they rest in peace and bless us so that they do not turn in their graves cursing us.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Onchoke, for the record, just put up the microphone.

**Hon. Charles Onchoke** (Bonchari, UPA): Thank you, Hon. Temporary Speaker. I have had the privilege of working in the defunct Nairobi City Council, and I am very familiar with Langata Cemetery. It is an old facility that was created before Independence. The projection was to take a small number of people, but over the years, the number of people who have died who required that service is very high. Therefore, there is need to reassess its suitability so that it can be enhanced or an alternative site identified for taking care of our dead people.

The way the world is moving is that we have decent cemeteries where the families of the deceased can go and visit, lay flowers at every anniversary, and have peace and communication with their loved ones who have since passed on. The time is right. We cannot advance the argument more than the Mover has presented it. We need an alternative site to lay our dead instead of Langata Cemetery, which is not currently available.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Onchoke, kindly second the Motion.

**Hon. Charles Onchoke** (Bonchari, UPA): I second the Motion.

*(Question proposed)*

**The Temporary Speaker** (Hon. Martha Wangari): Member for Rangwe.

**Hon. (Dr) Lilian Gogo** (Rangwe, ODM): Thank you, Hon. Temporary Speaker. I rise to add my voice to this debate. Langata Cemetery has been in use for as long as I can remember. I want to thank the Member for Langata for bringing this matter to the House.

Unfortunately, we bury our dead in shallow graves and expose them to be mutilated by wild animals. The African culture is to the extent that it respects the dead. It is unfortunate that when we expect our dead to rest, they do not, and instead, their bodies are mutilated by wild animals.

It is an important Motion. I rise to support it and urge the Government to get an alternative burial site. That notwithstanding, it is an environmental hazard. When we have bodies that decompose in estates where people live, it is a problem even for our children. It is a problem when we have the stench of our dead coming from the backyards of where we live. It is important that this matter is expedited. Even without conducting an environmental impact assessment, we should have a cessation of taking more bodies to Langata Cemetery. Kenya is a land of plenty, and we can always get an alternative burial site outside the city. Better still, we can secure it with a fence that is well taken care of. It is appropriate to allow the dead to rest in peace. This will allow members of the bereaved families to visit their dead.

It is important that we have more than one site because, so far, we have Langata Cemetery only. We should have as many as ten burial sites to bury the dead to avoid congestion, which will be good for us. We have enough land. It is just a matter of putting aside some land for this use.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Rindikiri Mugambi, Member for Buuri.

**Hon. Mugambi Rindikiri** (Buuri, UDA): Thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute to this Motion by my Member of Parliament because I reside in Langata. This cemetery is, indeed, over-utilized. According to African customs, we cannot exhume a body to create space to bury somebody else.

As you know, this cemetery saga led to a former Principle Secretary and Chairman of Nairobi City Council being jailed. The population in Nairobi is increasing. Some slum dwellers do not know where they came from, while others have permanently settled in Nairobi with no intention of returning to their rural areas. Therefore, where to rest our loved ones should be addressed as a matter of national importance. The cost of transporting bodies to the rural areas, since there is no space at Langata cemetery, is causing strain on the urban poor. So, the Government has a responsibility to provide larger spaces.

This also poses a security risk because many criminals reside at Langata Cemetery at night. Why? One, because it is not very well secured. Two, it is dirty and has many bushes. Three, some criminals have made coffins in their homes at night. I think we need to be a very serious country. We need to dispose of the bodies of our loved ones with dignity. As you drive along Langata Road as early as 7.00 p.m., you will always see hyenas crossing and ask yourself where they are going. If you look carefully, you will notice that they are entering Langata Cemetery to feast on the bodies of our loved ones. They know when there is a fresh burial taking place.

It is high time that the national Government and Nairobi City County took this matter very seriously. The Government is busy putting up houses without provision for burial sites in those areas. The Governor of Nairobi City County is busy putting up other facilities, but he has forgotten that we need cemeteries in this city. It is high time that each constituency in this county is allowed to have a cemetery. Members should allocate a specific area for burying our people. Members of Parliament are taking a lot of responsibility on behalf of the non-performing Nairobi City County and the national Government.

I urge the Ministry of Lands, Housing, and Urban Development and the Governor of Nairobi City County to take full responsibility for the mess at Langata Cemetery. Thank you very much my Member of Parliament. I am still waiting for you to give me my bursary.

With those remarks, I support.



**The Temporary Speaker** (Hon. Martha Wangari): Before we hear more horror stories from Members of Parliament and residents of Langata, allow me to introduce pupils seated in the Public Gallery. They are from Ridges View Academy, Naivasha Constituency, my county of Nakuru. On my behalf and that of the House, I welcome them to observe the proceedings of the House.

Next is the Member for Mandera West, Hon. Adan Haji. Is he not in the House? Member for Tharaka, Hon. Gitonga Murugara, you may take the Floor.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker. I rise to support the Motion by Hon. Felix Odiwuor alias Jalang'o. He is a well-known legislator in the country and a media personality.

A short history of Langata Cemetery is that it was the only cemetery set aside since the advent of colonialism for burial rituals. As you know very well, Africans did not bury their dead. It does not surprise many to hear that hyenas are feasting on dead bodies because that was the norm in those days. Dead bodies were a recipe for hyenas.

If you carefully look at Langata Cemetery, it is segregated as it was then. There was a section for Europeans and Asians. The Africans were allocated the far-flung corner, where not many bodies were buried there in those days. The European section was the first area to be overused while the Asians cremated their dead. Eventually, Africans adopted the practice of burial. Since they were many, this overstretched the land available for burials.

What the Europeans do today, which I have witnessed, is reuse their graves. This is common practice in the European culture. If a father died long ago, followed by the mother and children, they are all buried in one grave by recouping the soil. The Asians have taken up cremation, while Africans are now overstressing the piece of land available to them. As a result, there are no procedures. If they are there, they are not well planned. That is why we have shallow graves to bury bodies. If you are not careful, two things will happen. Hyenas will feast on dead bodies if coffins are not well done. You must be careful if you use a very good coffin at Langata Cemetery. The following day you may find your relative's body outside because a thief snatched the coffin. The practice is quite common. Those are the horror stories we hear about Langata Cemetery.

The government needs to look at the issue of cemeteries. We have other nearby towns which possibly have land that can be set aside for burials for us to give our people dignified send-offs. Kiambu is one such town. There was a time when there was a hue and cry about grabbing the cemetery land in Kiambu. There is an interesting story of a Member of Parliament who defected in the 1990s, and he was rewarded with a piece of land which eventually was traced to the Kiambu Cemetery. This is how uncaring we are as regards how we treat dead people. That we can give out land set aside for them is unimaginable. As a result, we now crowd the Langata Cemetery burying people in an unplanned and undignified manner. That is un-African.

As I sum up, we should extend graveside planning into the countryside. There is a bad practice of cementing graves in the countryside. The consequence is that in 50 years, we will have no arable land because we filled our land with cemented graves. That is not good practice. It should be discouraged. The county governments and the national government should come up with acceptable policies on burials and gravesides.

With those remarks, I support.

**The Temporary Speaker** (Hon. Martha Wangari): Thank you. The next chance will go to the Member for Lugari, Hon. Nabii Nabwera.

**Hon. Nabii Nabwera** (Lugari, ODM): Thank you, Hon. Temporary Speaker. I rise to support the Motion by the Member for Langata.

A health hazard is the biggest danger ongoing at the Langata Cemetery. This can cause an epidemic that has never been witnessed before. As we are all aware, the cemetery is within

the vicinity of an informal settlement and an army barrack. Most of the graves in that cemetery are already open. That is a national catastrophe in waiting. We all know that Nairobi has a problem with drainage. That means some body parts are swept into settlement areas and rivers whenever it rains. That is a health hazard to the population in Nairobi. I am worried that the World Bank might stop funding Nairobi City under the Kenya Urban Support Programme (KUSP). The World Bank requires that a city or an urban center they fund must have a proper cemetery. I would not define Langata Cemetery as a proper cemetery. Therefore, I call upon the Ministry of Health to close Langata Cemetery and force the Nairobi County Government to identify another land and allocate it for cemetery use if they want to continue accessing money under the KUSP arrangement.

I associate myself with my colleague in urging each constituency in Nairobi to have a cemetery because of the upsurge in population. I come from Western Kenya. I have been forced to carry bodies of young children, who would ordinarily be buried at any public cemetery, to Western. The lack of a proper cemetery in Nairobi necessitates people to carry the bodies of their dead to Western Kenya. If the body is buried at Langa'ta Cemetery, it may be washed away or eaten by wild animals. Also, the relatives of the dead cannot conduct an annual ceremony as it is in our tradition.

This House went through a very demeaning situation when we recently lost one of our own. He was a Muslim, and their culture demanded that they are buried immediately. We stood on graves and bodies. It was so demeaning to some of us. I call upon the Ministry of Lands and the Nairobi County Government to identify and set aside another piece of land for burials and shut down Langata Cemetery. Under the Public Health Act, I call upon the Ministry of Health to declare Langata Cemetery a health hazard.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Martha Wangari): The next chance will go to the Member for Kilifi North, the Deputy Majority Leader.

**Hon. Owen Baya** (Kilifi North, UDA): Thank you, Hon. Temporary Speaker. I congratulate my brother, Hon. Phelix Odiwuor, alias Papa Jalas for bringing this Motion. The people of Nairobi have suffered for a long time. The people of Langata bear the burden of the whole City because everything is taken there. It takes a great leader to solve this problem. That is why I congratulate Papa Jalas for bringing this Motion to the House in an attempt to get a solution for Nairobi and not just for the people of Langata. God bless you for your kind thoughts.

The issue of Langata Cemetery is about urban planning. For many years, this country has used land without proper planning. The colonial masters planned Nairobi City then, but after that, no one thought of urban planning. Things are just being set up all over. This is one of the greatest problems in this country. At one time, the Langata Residents Association came up with the idea of enforcing controls on buildings. They also suggested the zoning of that area. They even went to court about it. After that, we are seeing high-rise buildings coming up in Karen. Kilimani was a beautiful area to live in previously, but nowadays, everyone is putting up buildings everywhere. The problem is the lack of land planning.

In the Ministry of Lands, we have a state department whose work is just physical and urban planning, but nothing is being done. During the previous regime, the department would be given a budget of about Ksh34 million for a whole year for land use planning. That amount is peanuts. Planning cannot be done with that amount of money. Hon. Odiwuor, I would like you to sit down with the Governor of Nairobi. We will call him to this House if he cannot sit down with you. This City belongs to all of us. Planning for this City and ensuring that it is properly governed is the responsibility of everyone, not just the people of Nairobi. We should ensure that land use planning is done properly and that people are given decent burials.

We all know of the horror stories of the Langata Cemetery. We need to respect the dead. Some of us have land, and we bury our people within our compounds. However, other Kenyans cannot afford to transport their dead upcountry. They have to bury them in Nairobi, yet no land exists for that purpose. People are forced to exhume bodies to bury their own. The good news is that if we do not have a place to bury our people, we can allocate land in Kilifi where bodies from Nairobi can be buried. That could include the Shakahola area. We can give you enough land to do so.

*(Laughter)*

This is an important Motion, and the county...

**Hon. Kassim Tandaza** (Matuga, ANC): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Tandaza, what is out of order?

**Hon. Kassim Tandaza** (Matuga, ANC): Thank you, Hon. Temporary Speaker. Is the Deputy Leader of the Majority Party in order to suggest that bodies of people dying in Nairobi should be carried to Kilifi, yet he knows very well that he does not have land for such purposes? He knows very well that such an eventuality will create many inconveniences for the people of Nairobi.

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Temporary Speaker, I am also encouraging domestic tourism for the good of the people of Kilifi. Many people will be coming to Kilifi County to bury their dead.

This is a serious national issue. Previous governments did it dishonestly, and we lost money when people tried to buy land in Ukambani. This is one of the most honest attempts to ensure we get another grave site for the people of Nairobi.

I thank Hon. Odiwour and ask him to sit down with the Governor of Nairobi City County to ensure that the people of Nairobi get a decent send-off site when they die.

I support.

**The Temporary Speaker** (Hon. Martha Wangari): Member for Embakasi West, Hon. Mark Mwenje.

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you, Hon. Temporary Speaker. I rise to support this Motion.

I can tell you that Nairobi's population has exceeded four million. Sometimes it is even more, depending on the season. Since Nairobi was founded, the only public cemetery that has existed is the one used at Langata. I can give you statistics of the population we have. I represent Embakasi West, which has a population of about 300,000. Embakasi North Constituency has a similar number of people. Embakasi East Constituency carries 360,000 people, the same as the population of Embakasi South Constituency. Embakasi Central Constituency has another 300,000 people. Kasarani Constituency has 400,000 people. Roysambu Constituency has 300,000 people. I have spoken about the constituencies on this city's Eastern side. We all bury our dead at Langata Cemetery when we cannot take them upcountry. It is impossible. Those numbers are too high.

Secondly, we have land further down towards the end of Nairobi. We can even cross over to the Ukambani area nearby. From that end, we do not need to bury our dead in Langata. It is upon us in this House to correct the mistakes that have happened for decades. We have refused to plan for this city. I will be coming up with a Motion demonstrating how we have failed this city. Failure to plan for our city has led to uncontrolled development. That is why you see the issue of Langata. When you go there to bury somebody, you can see an open grave and even the casket itself. We have been there to bury our friends. That is the most degrading thing we can do to our departed.

This Motion is very timely. This should not be a matter that should be taken for granted. I remember that previous governments even tried to buy land - I do not know whether it was in Mavoko - where we were taken round in circles. As much as we say we want to leave this matter to the Nairobi City County, the Nairobi City County cannot handle it. Now that Hon. Jalang'o has brought this matter to the House, it is important that we support him because Nairobi belongs to all of us. Our government should be able to find land in the surrounding counties. We have Kajiado to the South. We also have Machakos to the South-East and Kiambu to the North-East. Those are counties that border us. It is important that we liaise with them. This can only be done through the national Government so that we find land in those counties and bury our dead.

The Motion by Hon. Jalang'o is important. It is time we closed Langata Cemetery. Some time back, the County Government of Nairobi tried to close it. However, it is important that we have an alternative by the time we close it. If we do not come up with a solution, we are left with no choice but to bury our dead in Langata.

With those remarks, I beg to support.

**The Temporary Speaker** (Hon. Martha Wangari): Thank you. Next is the Member for Kangundo, Hon. Fabian.

**Hon. Fabian Muli** (Kangundo, GDDP): Thank you very much for allowing my voice to be heard on this Motion brought by our colleague, Hon. Phelix Odiwour, *aka* Jalang'o. I support the Motion.

Greek philosophers note that the living must take care of the dead. If we are living today and cannot care for our dead brothers and sisters, whom are we living for? What are we living for? Before I continue, I would like to send my condolences to the brothers and sisters whose parents and other family members are lying at Langata Cemetery. May their souls rest in peace. If you see the happenings within Langata Cemetery today, you cannot believe the space there. When you go there for burial, you cannot even believe there is space because other bodies are there. Immediately after you finish burying your loved one, they remove the body to create room for another burial to take place. That is only caused by poor planning.

The Nairobi City County has not failed only through Langata Cemetery. We have seen many happenings within this city where there is a total failure in planning. People are given the right to build buildings on riverbeds. After they finish constructing, the buildings are demolished. Sometimes you see people's buildings being demolished on the claim that they are on road reserves. It is the same as what is happening in Langata. Not only are we saying we move to the Ministry of Health, but is also high time we placed matters of land at the national Government level rather than at the Nairobi City County.

As we speak, we have a huge disaster coming to Karen. Parliament purports to be building a 32-floor house in Karen. The Nairobi City County has already approved it. You ask them what brain they use when approving some things. Karen is an aviation area. That is why we do not have high-rise buildings there. Langata Cemetery was gazetted a disaster a long time ago. As we pass nearby, we see crazy things. You see bodies of human beings, and not cows' or dogs' carcasses, strewn all over the place. You will see a body lying in the open in broad daylight in the Capital City of Kenya. You also see other people pushing their bodies for burial there. Then the Nairobi County Government continues to say they have a physical planning department.

I join my colleagues by saying that Langata Cemetery should go to the national Government. It is high time that this House put funds aside to cater for the respect of the dead. We should set funds aside for the purchase of land. It should not be in one place only. We should tackle the many corners of Nairobi. Death is within us. We are walking with it. We cannot stay and say that our only option is Langata Cemetery. Physical planners at the Nairobi County Government should be in jail for what they are doing to this city.

Thank you very much.

**The Temporary Speaker** (Hon. Martha Wangari): Thank you. Hon. Dorothy Ikiara.

**Hon. Dorothy Muthoni** (Nominated, UDA): Thank you for allowing me to support this very important Motion by Hon. Odiwour, the Member for Langata.

I begin with an adage that says the best brains lie in the cemetery. Indeed, we are not just talking about Langata. We are talking about a place where bodies are just dumped in a shallow or permanent grave, depending on one's means or the discretion of the people left behind. We are talking about the next temporary or permanent residence of children, the youth, men, women, and legislators seated here when we exit this world. That begs the next question. Do the dead have dignity? The Bill of Rights in the Constitution of Kenya confers the right to inherent dignity, which should be respected. The dead should be protected. If you walk around Langata Cemetery today, you wonder whether we adhere to the Constitution, which states that even the dead have and deserve dignity.

I am perturbed that we are talking about a place that was set aside by our colonial masters. As a country, we should feel ashamed to be talking about Langata Cemetery, which since Independence, we have not taken any steps to either improve or maintain what the colonial masters left us. I say this with much pain because of the people lying at Langata Cemetery. All of us seated here today may one day be there because nobody has immunity from death. It is high time we prepare that final resting place for ourselves while still alive. That is the responsibility of the legislators seated here today. That is why I give a thumbs-up to Hon. Odiwour. He is not just thinking about himself but also about future generations. We should not look at the graves and think they are only graves. Those were people who were known to us.

If you go to Langata Cemetery today, you will find plaques on each grave with titles and names. Unfortunately, because of the double allocation of graves, the person buried in a particular grave may not be the person whose name appears on the mounted plaque.

The County Government of Nairobi is obligated to ensure that it takes immediate steps to improve that cemetery. We should not talk as if there is nothing we can do to improve the cemetery's status, whereas we have all the mechanisms we need to improve it. We should be aware that the cemetery should be well taken care of. It should have toilets, wash areas, and water points. Bushes must be cleared so that when people go there to check on their loved ones, they have a dignified place to relax and have fine memories of their relatives and friends.

My time is up. The Constitution obligates the County Government of Nairobi to ensure it sets aside areas where people can be buried with dignity.

**The Temporary Speaker** (Hon. Martha Wangari): Thank you, Hon. Dorothy. Your time is up. Member for Alego Usonga, Hon. Samuel Atandi.

**Hon. Samuel Atandi** (Alego Usonga, ODM): Thank you, Hon. Temporary Speaker. This Motion by Hon. Jalang'o is very important. It is a fact that the Langata Cemetery has reached its full capacity. It is also a fact that attempts have been made to create a new cemetery for Nairobi residents. It was also highlighted by the Member for Buuri Constituency that the defunct Nairobi City Council tried to buy land in Machakos County to support cemetery activities for Nairobi residents, but the exercise became scandalous. The Ethics and Anti-Corruption Commission (EACC) has been pursuing those involved in that scandal.

Hon. Temporary Speaker, it is time that leaders urged Kenyans to pursue various other methods of burying the dead. Burying the dead in the ground is outdated. We need to think of other ways. As leadership, we need to champion other methods of burying the dead because there is no reason we should carry a casket from Nairobi to Suba or Alego. What is the purpose of doing that? Instead of pushing for the creation of more burial sites, let us think of other methods like cremation, which is now very popular and easy.

The fact that Langata Cemetery is full has brought a lot of problems for some of us who come from very traditional families and who represent very traditional constituents. They believe you must carry a casket to Siaya, hold overnight prayers, feast, and bury the dead. It is costly to bury somebody today, especially if that person is Luo. You have to come up with an unnecessarily big budget. As leaders, we need to champion other cost-effective methods. I have told my family that if I die, I should be cremated. It will be very easy, and there will be no expenses.

Whereas we urge the Nairobi County Government and the National Government to look for other pieces of land for burial sites, we need to pursue other methods of burying the dead. It will be very cheap for us. I do not know which option between burying or cremating is better for the environment. We need to find out through research. Scientists in this House should tell us the impact of the Langata Cemetery on the environment. I think it has some environmental impact on us. Should we find that those graves are environmental hazards, we may need to abandon them.

Whereas I support the Motion presented by Hon. Jalang'o, we need to think outside the box and pursue other burial methods.

**The Temporary Speaker** (Hon. Martha Wangari): Thank you. Before we allow the next Member, allow me to recognise a delegation seated in the Speaker's Gallery of Machakos County University Students Association from Machakos Town Constituency, Machakos County. On my behalf, as a product of student leadership alongside many others in this House, allow me to welcome them to observe the proceedings of the House.

Next is Hon. Farah Maalim.

**Hon. Farah Maalim** (Dadaab, WDM): Thank you very much, Hon. Temporary Speaker. It is very interesting to have a Motion that discusses the state of our cemeteries in Nairobi. Whereas I appreciate that we need to seriously respect the dead, the big question that one needs to ask is whether it is the dead who are encroaching on the living or the living who are encroaching on the dead. The cemetery was very well-planned by the colonialists.

*(Technical hitch)*

What is the problem?

*(An Hon. Member spoke off-record)*

**The Temporary Speaker** (Hon. Martha Wangari): Go on.

**Hon. Farah Maalim** (Dadaab, WDM): This place was very well-planned, but there have been very ambitious developments in the city, which have led to it expanding to 10 times what it was at Independence. I do not know whether the Member is trying to find dignity for the dead or this will create a situation where developers will see this as prime land. The cemetery can be expanded because it is next to a big forest. It was invaded from both the North and the other side, which has a freeway. I still agree with what Hon. Odiwuor said; dignity for the dead has to be there.

Hon. Temporary Speaker, another question we should ask ourselves is why we find bodies out there. Is it because people have invaded the graves to look for valuables or because they are shallow? The other day I read that the grave of a famous historical settler in Ol Donyo Sabuk, Macmillan, who has a library named after him, was raided, and his body is no longer there. I do not know what to say about that. However, I know about the grave thieves. We need a security arrangement where police officers, as a function of the national Government, also protect the dead. The citizens cannot protect them. Standards for graves should also be established. They have to be, at least, five feet deep. They should not be shallow. Who makes

them shallow? Is it the county government, the national Government, or Kenyans? The families that will bury the dead there must be told that the graves have to be of a certain standard that has to be regulated. The regulations have to be reinforced.

Some people want us to have a situation like something we witnessed when we introduced cremation. Hon. Atandi, as much as cremation appeals to you, it is in line with the faith of the Hindu Community. I do not think Muslims, Christians, and Jews can consider it because they follow Abrahamic faiths or moral theism. We have to bury our dead somewhere, and they must have graves. We should not see it very simplistically and say we close this place. We cannot do so. If I lose my relative tomorrow—which I do every other day—or my fellow religious men, where will I take them when the cemetery is closed? We cannot send them to our home areas because that is not part of our culture and faith. It is the directive of our faith that the body should be buried on the same day a person dies. As you live, you have a name - Farah, Awuor, Martha, John, or Joseph - but you cease to have a name when you die. You become a body that must be interred. In our case, it must be interred on the same day. It does not matter whether you come from Mandera or Germany. If I die in Germany, my body will not be brought home. I will be buried there. The same applies to Muslims all over the world. We cannot close the cemetery.

Do we have a lot of land there, and is there encroachment by developers? Why was this allowed in the first place? Why were the developers allowed to encroach on the land set aside for the cemetery from colonial times? The county or national Government should create dignity by having standards and ensuring the cemetery land is protected. There should always be people moving around the cemetery to protect it. We do not have to reinvent the wheel.

I agree that burying the dead in Kenya for my Christian brothers and sisters is expensive. We all sympathise and empathise when we see the problems that families suffer. A family that does not have the bare minimum of three meals...

**The Temporary Speaker** (Hon. Martha Wangari): Your time is up. Next is Hon. Ken Chonga, the Member for Kilifi South.

**Hon. Ken Chonga** (Kilifi South, ODM): Thank you, Hon. Temporary Speaker. I rise to support this Motion by Hon. Jalang'o.

Historically, we were told that some communities never used to bury their dead. They threw them in the bush to be eaten by wild animals. There are only two methods of burying the dead today the world over - cremating and burying as we do. The Nairobi City County is cosmopolitan. All communities live here. The only respect we give our departed souls is by burying them. Langata Cemetery was declared full in 2008. The Nairobi City Council was supposed to find an alternative site where people could be buried. Pathetically, up to today, we are trooping back to Langata Cemetery.

Hon. Temporary Speaker, allow me to use the term “greed,” which is too much among our people, more so among our civil servants. Something should have been done if Langata Cemetery was declared full in 2008. It is on record that in 2010, almost US\$13 million was released to purchase a piece of land to extend Langata Cemetery. It was alleged that 48 acres were brought. However, it came out clearly that it was a scam. It was only 10 acres that were procured. Over 38 acres where we could bury our people were taken away by greedy people.

So much has been said. People will look at the issue of relocating Langata Cemetery to a different place. However, it must be understood that as long as a solution is not found, we shall keep punishing our dead ones. We do not bury people at Langata Cemetery because everybody wants to do so. Imagine the cost of transporting a body from here to Kilifi. It is honestly cheaper to bury the person at Langata Cemetery. We also bury people there because some do not have anywhere else to bury their people apart from there. We also do so because some people are homeless. Those are the reasons why we bury the dead there. The good, bad, and ugly are all buried at Langata Cemetery, and we do not have an alternative.

Hon. Temporary Speaker, this Motion is timely. There is need for the county government to come up with measures as soon as possible so that the dead can have the respect they deserve when they are laid to rest.

With those remarks, I support the Motion.

**The Temporary Speaker** (Hon. Martha Wangari): Member for Embakasi North.

**Hon. James Gakuya** (Embakasi North, UDA): Thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute to this Motion. I have been an elected Member of Parliament for three consecutive terms. I also served in the City Council of Nairobi, now the Nairobi City County. It is true that back in 2008, the City Council of Nairobi appropriated money to buy land for a grave site. Unfortunately, corruption took away all the money appropriated to buy the land.

I am one of the Members who alluded to the misuse of funds. It is true that after buying the land for the grave site in Mavoko, those who planned and those who went to assess the land did not consider one factor - the quality of the soil, which is cotton soil.

Hon. Temporary Speaker, during the rainy season, cotton soil is easily washed away by heavy rainfall water thereby uncovering the caskets that were buried and this makes the land unsuitable for burial. There was a cemetery land case and the former Nairobi Town Clerk was sentenced to a three-year jail sentence but he met his death while serving the sentence. Nairobi is a cosmopolitan city which many term their home. They are referred to as Nairobians and they must be taken care of as they are the people we represent.

*(Hon. David Pkosing crossed the aisle without bowing)*

**The Temporary Speaker** (Hon. Martha Wangari): Hon. Pkosing, you are totally out of order. You are totally out of order and you are aware of it. Go to the Bar and bow. Continue Hon. Gakuya.

**Hon. James Gakuya** (Embakasi North, UDA): Hon. Temporary Speaker, it is quite unfortunate that up to date we only have Langata Cemetery as the only option for burial for our departed friends. Nairobi County should take this as a priority and appropriate money for this exercise. Enough research should be conducted on any other site that is found to ensure the soil profile is appropriate to have a cemetery so that we do not have a recurrence of the previous saga we found ourselves in 2008. This will guarantee our friends a dignified place of rest. Otherwise, the current state Langata Cemetery is in today is deplorable. I cannot advocate for its closure because we have no alternative.

As I have alluded to here before, those who call Nairobi home have nowhere to bury their departed ones. What I, therefore, ask is that the national Government and the County of Nairobi hastily finds an alternative cemetery site.

With that Hon. Temporary Speaker, I support.

**The Temporary Speaker** (Hon. Martha Wangari): Thank you. Member for Kwanza, Hon. Ferdinand Wanyonyi.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Temporary Speaker, I take this opportunity first and foremost to thank our colleague, Hon. Jalang'o for having come up with this particular Motion. It is very embarrassing. I have buried a relative there. It is embarrassing and painful. For the time being Hon. Jalang'o, do something on that side even if it means building a concrete fence around the place because as stated by the Member, animals get to the site and exhume particularly the fresh graves and feed on the dead. As Kenyans and Africans, we respect the dead. I buried a relative there who did not have land upcountry. We later found his exhumed body possibly done by youths who remove the coffins. It was a very expensive coffin. They threw the body away because they have nothing to lose. Do something about it so that you can secure the area.



First, build a wall around it if you can and if not we have to call the Cabinet Secretary for Health. This has nothing to do with the County Government of Nairobi as it is unable to do anything. Unless we go to the Senate to force the County Government of Nairobi to look for land, we are going to go round the whole thing but we want to give you the shortest time possible. We will support you to the end to get, at least, an alternative for the Langata Cemetery which is very old.

Secondly, there are those who will want to cremate their dead. That is not in our African culture as somebody else has just mentioned. We should come up with the budget and money to undertake this exercise. We should look for land approximately 20 acres to be an alternative site to bury the dead. The site particularly in the mornings is unbelievable and you would never wish to go back there again. Most of the people being buried here have no land upcountry. I have helped a few people to transport bodies to upcountry where I come from in Trans Nzoia and it is expensive. It can cost about Ksh300,000 to transport a body there. Nairobi is a national city; it is not only for Nairobian. We all belong to this city. Some of us have been in Nairobi long enough so you can consult us for help with locating a good site even if it means going to Ngong'. This can be termed as Langata B.

An alternative would be to go the Asian way of cremation which again is not in our African culture. You will be cursed. I believe if I burned the body of my grandson instead of burying him, it will haunt me the whole year. It will haunt me for the rest of my life. Therefore, Hon. Jalang'o we are with you. Come up with a budget. Let us move to Langata B.

I support your Motion.

**The Temporary Speaker** (Hon. Martha Wangari): Thank you. Member for Mandera South.

**Hon. Abdul Haro** (Mandera South, UDM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. At the outset, I fully support the Motion by Hon. Felix Odiwuor, Member for Langata. I will particularly zero in on the prayers that are in that Motion where the Member is urging the National Government, through the Ministry of Health, to urgently conduct an assessment of the public health risks posed by the continued use of the Langata Cemetery and to institute mitigating measures and collaborate with other stakeholders, including the Nairobi County Government, to identify suitable alternative land for use as a cemetery. That prayer is well put, timely and most welcome.

The Langata Cemetery is the largest cemetery in the country and serves the entire Nairobi and its constituencies. I know Muslims take most of their people who die in Nairobi to Langata Cemetery for burial. The question about overcrowding is key. I agree with the Member who said it is a bit pathetic when you go to bury your dead and you step on other graves of dead people. The question of decency and decent send-offs of our beloved ones is a question which is very dear to our hearts. This Motion is coming at a time when, as a country, and also as a city, we are dealing with increasing population. Although we have made a lot of gains in terms of health improvements of our people, we are also having an increase in mortality and, therefore, there is increasing as well as competing need for land use with burials being one of them. Therefore, we will need more land for burials, and as one Member put it earlier, land will not only be required for burying the dead and just digging the graves, but also for some parking space for the people who come to bury their loved ones and some sanitation facilities too. There is bigger demand for burial land in Nairobi and particularly in Langata which is the main burial site for the people who die in Nairobi.

I support this Motion fully and once again thank Hon. Phelix Odiwuor for bringing this timely Motion.

I thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Martha Wangari): Member for Matuga.

**Hon. Kassim Tandaza** (Matuga, ANC): Asante Bi Spika wa Muda kwa kunipa fursa hii kuchangia kwa hii Hoja muhimu.

Kuna aya katika Quran, na haya ni maneno ya Mwenyezi Mungu kwa sisi Waislamu kwa kitabu chetu kitukufu Quran, inayosema *kullu nafsin dai katul maut*. Sote tutaionja mauti. Kwa hivyo, hili si suala la mjadala na sote tunajua hasa kwa sisi Waislamu kwamba mtu anapokufa, mambo manne lazima yafanyike. Haya ni kumwosha, kumvika sanda, kumsalia na hatimaye kumzika. Hili tulifahamu vizuri, kumzika sio kumchoma kama vile wengine wanaozungumza. Kwa sisi ambao tuna imani dhabiti ya dini na hii nina imani ni sote Waislamu na Wakristo, tunajua ukifa hima utaenda peponi ama utaenda motoni. Sasa hata ikawa moja ana imani kwamba yeye ni mtu wa motoni, sioni haja kwamba aanze kuchomwa akiwa hapa. Hili pia ni jambo lingine ambalo linashangaza. Pengine mwenyewe unajua kwamba moja kwa moja utaenda motoni lakini unatuambia tuanze kukuchoma hapa hata kabla siku ya hukumu. Hili ni jambo la kushangaza na halipo katika imani ya dini zote ambazo zinatumika. Pengine wenzetu Wahindi ama wale wanaotaka kuchomwa labda tayari hao hawaamini kwamba kuna njia nyingine isipokuwa tu kubaki motoni. Lakini kwa Mkristo na Muislamu, hili ni jambo ambalo haliingii akilini. Kwa hivyo, kuzika ni lazima.

Nina imani kwamba wakati Langata ilipoanzishwa, haikuanzishwa kwa watu wa Langata. Ilianzishwa wakati huo ikiwa Nairobi na Nairobi ilikuwa na watu wachache mwaka wa 1958. Na ninaimani ilipowekwa pale iliwekwa ikiwa mbali na mji, haikuwa katikati ya mji kama vile ilivyo. Haikuwekwa pale kama *Constituency ya Langata*. Langata haikuwa eneo bunge mwaka wa 1958. Iliwekwa kama sehemu mbali na mji wa Nairobi yote. Kwa hivyo, Mhe. Mbunge mwenzetu Jalang'o, ni jambo la kuhuzunisha kuona kwamba sehemu yake kubwa pia inatumika kwa wafu ambao moja kwa moja hawamsaidii kupiga kura. Wale walioko pale hawamsaidii. Lakini kama watu wanavyochangia, bado aendelee kupelekewa watu kuzikwa sehemu ile na aone ni vipi atasaidiwa.

Maoni yangu ni kwamba, kila eneo bunge la Nairobi hii, kwa sababu Kenya hakuna mahali ambayo sio eneo bunge, wakati *County Government* ikianza kufikiria suala hili, iweze kutengewa mahali pa kuzika watu. Kwa sababu watu watazika na hali ya Nairobi ilivyo, matatizo ya msongamano ya magari, mimi nadhania mtu ambaye atakuwa ametoka sehemu za Kasarani na mahali pa kuzika peke yake ni Langata, kitambo magari yatoke Kasarani yakuje Langata na msongamano wa magari ni huzuni hata kabla ya kufikiria kwamba umefiwa... Kwa hivyo, suluhisho ni kwamba kila pembe la Nairobi iweze kupata maeneo ya kuzika. Na hili pia zitoe nafasi na serikali ya ugatuzi Nairobi kama ilivyotokea wakati ule, kwamba sasa hao wamepata nafasi ya kupata mchongo pale ndani kwa sababu tunajua ikiwa ni kuzika wafu, mnahitaji ardhi ambayo inafaa. Sielewi kwa nini wakati walinunua shamba la mawe ni kama watu wa Nairobi walikuwa wanataka ujenzi wa mawe ilhali ilikuwa ni sehemu ya kuzika watu. Kwa hivyo, hili pia isiwe imetoa nafasi ya kununua sehemu ambazo moja kwa moja tunajua kwamba hazitafaa na ilhali tunajua kwamba Langata ni mahali ambapo inafaa kufungwa, kuhifadhiwa na kama kuna uwezekano kitaalam, iweze kufanyiwa marekebisho ili watu wa Langata waweze kuishi kwa hadhi inayofaa na waweze kuongezeka.

Mhe Spika, ninaunga mkono Hoja hii. Asante kwa kunipa nafasi.

*[The Temporary Speaker (Hon. Martha Wangari) left the Chair]*

*[The Temporary Speaker (Hon. David Ochieng') took the Chair]*

**The Temporary Speaker** (Hon David Ochieng'): Thank you. Member for Kirinyaga Central.

**Hon. Joseph Gitari** (Kirinyaga Central, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I want to be on record supporting my brother Mhe. Jalang'o,

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for this timely Motion. Where I come from, we normally say that death is an appointment that you cannot avoid. Since I was born, I have never heard of people trying to plan and preparing for their death apart from the late Hon. Martin Shikuku who had prepared his graveyard.

Before I joined politics in 2008, I remember there was a case that a former Permanent Secretary by the name Sam Kirui and others like John Gakuo were jailed for three years over misappropriation of Ksh283 million or something like that for a cemetery. I think it is the duty of this House to make a follow-up because they were jailed for three years, and I remember John Gakuo, the then Nairobi Town Clerk who had planted many trees around Nairobi, died in prison. What happened to the money and that piece of land? I would like to fault the Urban Planning Department at the Nairobi City County. If we are only approving housing and extending our roads, it means our population is growing. My question is: Why are we not planning for the dead because we need to give them dignity?

I was a victim. We were laying somebody very close to me to rest in Langata Cemetery and it is a bit worrying when you go there because you are asked what kind of grave you want — whether a temporary or a permanent one. The temporary one is where they can bury today, and you do not have any control. Because of what my brother Hon. Jalang'o has talked about, like double allocation of graveyards, if you take a dead person to Langata and you bury him or her with a good coffin, it is normally stolen before the close of the day. This is something that we need to follow up because Nairobi belongs to all of us even if we come from rural constituencies because we do not plan when we will die and anything can happen and we land in the same Langata.

I also want to echo the sentiments of our colleagues who have indicated that every constituency should, at least, have a cemetery where they can bury the dead. Where I come from, we have about 25 colonial villages. All these colonial villages do not have any cemetery and so if we were to segment per constituency for each to have a common cemetery, I think we will be sorting out this problem. I urge my brother, Hon. Jalang'o, to sit with the Governor of Nairobi, have a chat and talk about it. By bringing this Motion, Hon. Jalang'o, as much as I am not the appointing authority, I would say that your sins have been forgiven and you will not be called for those things in the Orange Democratic Movement (ODM).

I support.

*(Laughter)*

**The Temporary Speaker** (Hon David Ochieng'): Hon. Jalang'o, do not be fooled; he does not speak for ODM. Member for Suba South.

**Hon. Caroli Omondi** (Suba South, ODM): Thank you very much, Hon. Temporary Speaker, for the opportunity to add my voice to this Motion. I was supposed to second it but I was delayed somewhere. My apologies to *Mheshimiwa* Jalang'o.

Something always captures my mind when it comes to deaths and the way we as Africans relate to it. There is a lot of mysticism associated with death yet I see it simply as a natural biological process. However, we tend to get into a certain state of mind when we experience death that even our rationality becomes questionable. On the economic side, the poor are the most affected when we suffer death. If you attend a rich man's funeral, it may be elegant but if you look at the expenses involved, they tend to be very manageable as opposed to a poor man's funeral which tends to be very expensive.

With respect to this particular Motion, it is timely and we should support it. I also understand that managing cemeteries is a devolved function. However, Nairobi being a capital city and a pacesetter, this House and the National Government should take a keen interest to see how to support the Nairobi County Government in getting additional land for a proper cemetery. If you visit many cities, cemeteries are not burial sites. Some of them are tourist

attraction sites. In many countries you will go to, you will find cemeteries where heroes and famous people are buried. If you go to Arlington National Cemetery in the USA, a lot of tourists visit it to see the grounds where the Kennedy family and the rest of the other people were buried. They also serve as national archives, family memorials and historical sites.

I would also like to encourage all of us to begin to think differently about burials. I have been recently informed that my community, the Luo nation, spends about Ksh27 billion a year on funerals, on transportation and food. I do not know whether that is sustainable. Luhyas probably spend more but, Ksh20 billion in a year on funerals is quite an expense.

*(Laughter)*

We should discourage individual home-based burials where we have separate burials because of the present land titling system that we have and instead encourage homesteads to have cemeteries as opposed to individual burial sites. It is important that we encourage the administrative units, be they in sub-locations or locations and churches to have burial grounds for members who live around there.

When the Nairobi City County Government acquires new land for a cemetery, it should consider licensing multi-storey tombs. If you go to New Orleans in Louisiana in the USA, you will find tombs *za gorofa* that are multi-storeyed so, the newly dead are put in coffins at the lower level and after a while there is a cleaning process of the bones. They are packed and put in the next level and so on. So, if you go to New Orleans - I have visited those cemeteries - you will find a family from the 1860 Civil War to the present time with one tomb with all their names. We should consider that. We should also encourage the devolved units including the Nairobi City County Government to consider licensing entrepreneurs to establish private cemeteries.

Finally, let me encourage the general population to consider alternative methods of disposing dead bodies like cremation, donating our bodies to science and other methods that will make burials affordable to everybody. I support the Motion.

Thank you.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you. I cannot see the Member for Mandera West and the Member for Kitui East. Where did they go? The Member for Marakwet West.

**Hon. Timothy Kipchumba** (Marakwet West, Independent): Thank you, Hon. Temporary Speaker, for giving me the opportunity to contribute on this matter. I thank the Member for Langata, *Mheshimiwa* Felix Odiwour, for this important Motion that he has brought on the Floor of this House. It is unfortunate. Looking at the substance of the Motion, it has been said that Langata Cemetery was declared fully utilised two decades ago. That means that 20 years ago, this cemetery was declared fully utilised. Currently, the same cemetery is being used to bury dead people.

In this country, we have failed to plan. A country that fails to plan, plans to fail. The Langata Cemetery plan was set up during the colonial period in proportion to the population of Nairobi at that particular time. However, the population of Nairobi has since increased significantly. Therefore, there is need to set aside a section of this city so that we can respect the wishes of the dead people. This begs the question: Under Article 26 of the Constitution there is right to life but do those rights extend to dead people?

Article 12 (1)(b) of the Constitution says:

“Every citizen is entitled to—

(b) a Kenyan passport and any document of registration or identification issued by the State to citizens.”

Every person in Kenya is issued with a death certificate upon death. That means that the State recognises that once, a certain person lived. A dead person in this country is entitled to human dignity and respect so that that person is interred with a lot of respect.

I support this Motion to the extent that even a dead person is entitled to human dignity and protection as provided for in the Constitution. This matter also deals with the issue of health. Health is a devolved function and we have a right as a country to take care of a person who is born up to the very end of his life. I know that a dead person in this country is not entitled to inherit property but he is entitled to equal protection by the law even upon death. The county governments' assemblies in this country are independent. I, therefore, call upon them to enact legislations, bring Motions before their assemblies and pass resolutions that will make it mandatory for them to set up cemeteries. This matter that has been raised by Hon. Felix Odiwour is a reflection of what happens in the entire country. In Eldoret, we have Kiplombe Cemetery. It is full. It is time that as a country we look at the rights of the dead so that they are respected posthumously.

Thank you.

**The Temporary Speaker** (Hon. David Ochieng'): Member for Narok North.

**Hon. Agnes Mantaine** (Narok North, JP): Thank you, Hon. Temporary Speaker, for giving me this opportunity to support my brother Jalang'o. It is important for us as Kenyans to have a place where we can bury our parents and loved ones. There are two days that are important to a human being: the day he comes to this world and the day he goes. When you come to this world, you will want to own land. The Government and the law give you the right to own land. When you leave, you will be issued with a death certificate which of course means that you will be put somewhere to rest. It will be bad if you bury your father, son or loved one today, then tomorrow as you move around, you find that animals have removed the body. You will really feel bad. So, it is important for county governments to look for money and buy land that can be set aside to bury our loved ones. We love our daughters or relatives when they are alive but, when they die, they turn to be something else. You cannot stay with their bodies in your house. Even if you stay with them, for how long can you do so? Some cultures do not allow cremation in order to keep the memory of their loved ones. If you do not believe in cremation, you will want to give your loved ones decent burials. For that reason, I support my brother in saying that we need to set aside land for cemeteries. A few people have land to bury their loved ones. Rural areas, like where I come from, still have land. In towns which are more densely populated, like Narok North, we will soon lack a place to bury our people. This Motion has come at the right time. It is important that county governments set aside money and look for land where we can bury our loved ones.

I thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng'): Thank you. Hon Members, the time allotted for this Motion is spent. I, therefore, call upon the Mover to reply.

**Hon. Phelix Odiwour** (Langata, ODM): Thank you, Hon. Temporary Speaker. I thank every single Member who has contributed to this Motion. Before I reply, let me donate time to Hon. Tim Wanyonyi, Member for Westlands, because he is from Nairobi and understands this issue.

**The Temporary Speaker** (Hon. David Ochieng'): Hon. Kodhe, you have five minutes. Therefore, indicate how much time you are donating to Hon. Wanyonyi.

**Hon. Phelix Odiwour** (Lan'ata, ODM): I donate to him two minutes, one minute to Hon. Wangwe and two minutes to Hon Caleb. *Tafadhali*.

**The Temporary Speaker** (Hon. David Ochieng'): That means that when they finish, you will not say a thing.

**Hon. Phelix Odiwour** (Langata, ODM): I will have one minute left.

**The Temporary Speaker** (Hon. David Ochieng’): You will not have any minute left. Go ahead, Hon. Wanyonyi.

**Hon. Tim Wanyonyi** (Westlands, ODM): Thank you, Hon. Temporary Speaker. When I was a councillor at the Nairobi City Council, we set aside money to buy an alternative cemetery but some people embezzled the funds. The current county government has a duty, a moral one for that matter, to set aside money to buy land for a cemetery. The Langata Cemetery is currently infested with criminals. You cannot bury people without criminals coming and exhuming the body to steal things such as the coffin and clothes. It is good to give our loved ones decent burials and be assured that they are resting in peace.

I thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): Who was next?

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Thank you, Hon. Temporary Speaker. I salute my colleague, Hon. ‘Jalas’, for his wonderful thoughts. It is good to think for those who cannot think or speak for themselves. Hon. Odiwuor, it is great that you thought wisely on behalf of the dead, who cannot speak.

Why am I supporting this Motion? It is because when you are dead, you cannot talk but within the provisions of the Constitution, you have a right for protection in your dead state. Abuse of the dead should not be tolerated. It is a good thing to think and invest on behalf of those who cannot be heard. Those who might have spent the money wrongly should come out clearly and say this is the route to take. After all, all of us are in the same journey as those who have left.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Amisi.

**Hon. Caleb Amisi** (Saboti, ODM): Thank you, Hon. Temporary Speaker. I thank Hon. ‘Jalas’ for his timely Motion and for giving me an opportunity.

**The Temporary Speaker** (Hon. David Ochieng’): Order! Who is Hon. ‘Jalas’?

**Hon. Caleb Amisi** (Saboti, ODM): Hon. Temporary Speaker, I thank Hon. Phelix Odiwuor, Member for Langata. He is not just my good friend but also my area Member of Parliament as well as my former voter in Saboti before he shifted.

Langata Cemetery was started in 1958. That was before we gained Independence as a country. This is a cemetery that was started by the colonialists. Of course, their intention was well informed. At that particular time in the history of this country, the population was not as it is. This is a menace that has been created partly by urbanisation, which has increased the population of Nairobi. People who have come to seek a fortune in this city end up becoming permanent residents. Eventually when they die, they are buried at the cemetery. It is paramount that we try and restructure that cemetery by increasing the acreage. Twenty years ago, the place was declared full and a number of suggestions...

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Amisi, your time is up. You actually only had one minute. Hon. Jalang’o, you have 30 seconds.

**Hon. Phelix Odiwuor** (Langata, ODM): Thank you once again, Hon. Temporary Speaker, and every single Member who has contributed to this timely Motion. We hope that we could have the Governor for Nairobi brought to this House. This is because in their budget for this financial year, they did not allocate any money for the maintenance or procurement of any other space as an alternative burial site.

I thank every single Member. May God bless you all. *Asante*.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Member, when you are replying, say you beg to reply.

**Hon. Phelix Odiwuor** (Langata, ODM): I beg to reply.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you. Hon. Members, we will not put the Question on that particular Motion for obvious reasons. I, therefore, call for the next Order.

*(Putting of the Question deferred)*

DEVELOPMENT AND IMPLEMENTATION OF A PROGRAMME  
FOR VOLUNTARY REGULARISATION OF LAND OCCUPIED BY  
SQUATTERS FOR A PRESCRIBED PERIOD

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Mark Mwenje.

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you. Hon. Temporary Speaker. I beg to move the following Motion:

THAT, aware that lack of access to ownership of productive assets, in particular to land, is one of the very serious sources of economic and social insecurity for Kenyans; further aware that many communities, particularly rural-income dwellers, the only way of accessing land to put up their dwellings has been to take up residence on land that is unfit for human habitation; aware that the Bill of Rights under Chapter 4 of the Constitution guarantees every citizen the right to adequate housing and reasonable standards of sanitation; noting that there are very many squatters who have settled on land that belongs to absentee landlords, un-adjudicated land, public land or community land for long periods of times, with some disputed while others are undisputed; concerned that the issue of land settlement in many urban areas, particularly in informal settlements, has remained unresolved, with numerous persons remaining squatters; further aware that Section 7 of the Limitation of Actions Act, 2010 provides for the right to claim for settlement on certain land after the prescribed period; recognising the need for the Ministry of Lands to hasten the process of identifying parcels of land occupied by squatters where there are no disputes from any party; this House resolves that the government develop and implement a policy for voluntary regularisation of land occupied by squatters for a prescribed period, including negotiations for financial settlements across the country to address the challenges facing the said squatters.

Hon. Temporary Speaker, this Motion, to summarise, is purely about regularisation. Let us look at the value of land. It is the golden child of investment in this country. When our forebearers fought for Independence, they were fighting for land and self-rule. That was the main issue. Wealth in our country is attached to land and we all know it. It secures livelihoods. Why does land evoke such emotions in our country? It is because it is a measure of wealth...

*(Hon. Rindikiri spoke off-record)*

I am presenting the Motion, Hon. Temporary Speaker. I wonder why Hon...

**Hon. Mugambi Rindikiri** (Buuri, UDA): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Rindikiri, what is out of order?

**Hon. Mugambi Rindikiri** (Buuri, UDA): He has presented the Motion as it is. He is supposed to read it as it is and thereafter we can...

**The Temporary Speaker** (Hon. David Ochieng’): What is out of order?

**Hon. Mugambi Rindikiri** (Buuri, UDA): He is debating...

**The Temporary Speaker** (Hon. David Ochieng’): That is what he did. The Motion is his and he has done the right thing. He has presented the Motion and he is moving it. That is how it is done. Resume your seat Hon. Rindikiri.

**Hon. Mugambi Rindikiri** (Buuri, UDA): I stand corrected, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): Go ahead Hon. Mwenje. Do not allow Hon. Kirima to keep misleading you.

*(Laughter)*

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you, Hon. Temporary Speaker. I think Hon. Rindikiri was just taking a jibe at me. I am presenting the Motion in context to allow for debate.

**The Temporary Speaker** (Hon. David Ochieng’): He cannot be allowed to bully you at all.

*(Laughter)*

**Hon. Mark Mwenje** (Embakasi West, JP): Hon. Temporary Speaker, land secures livelihoods and it is also about food security. It causes conflicts between communities and gives them identity. As Africans, land is all about personhood and it gives us our full humanity. Allow me to note some points from the National Land Policy of 2009, a document that has been brought before this House.

It provides that the National Land Policy is supposed to guide the country towards efficient, sustainable and equitable use of land for prosperity and posterity. The overall objective of the National Land Policy is to secure rights over land and provide sustainable growth, investments, reduction of property. Those are the issues that have been highlighted in this Policy. All citizens must have the opportunity to occupy land, to do economically viable projects on the land and we need efficient and effective operation of land markets and transparent land dispute resolution mechanisms.

On the issue of informal settlements, the National Policy states:

“The essence of informal or spontaneous or squatter settlements is the absence of security and tenure of planning.”

In order to address the challenges of informal settlements, the same National Land Policy stipulates that we take an inventory of the genuine squatters, determine the land occupied by these squatters, establish appropriate mechanisms for removal of squatters and their subsequent resettlement, planning for land that is found to be suitable for human settlement, and ensure that informal settlements are developed in an orderly manner. I want to emphasise on the next three points under the National Land Policy:

1. Facilitate negotiations between private owners and squatters in cases of squatter settlements found on private land.
2. Facilitate the regularisation of existing squatter settlements found on public and community land for purposes of upgrading development.
3. Another key one is to establish a legal framework and procedures for transferring unutilised land belonging to absentee land owners to squatters and people living in informal settlements.

Hon. Temporary Speaker, I brought this Motion because 40 per cent of land is un-adjudicated. The Government has not come up with a regularisation plan. I hope to bring a Bill that will substantively deal with this issue. There are over one million people residing on land that either belongs to absentee landlords or un-adjudicated public or community land. It is also worth noting that there are settlements where the occupants and the owners of the title deeds have ongoing disputes. There is room for negotiations to resolve some of the matters. There are court orders that cannot be implemented. Some of these people cannot be evicted because they have developed the land and have stayed there for years. The demolitions that have been done have been inhumane. We talk about inadequate housing yet we want to demolish. Our failure to regularise land will lead to inadequate housing especially for us in



Nairobi. It has given conmen a chance to con people who are trying to get title deeds of some of the land. The use of such land has been ineffective.

Hon. Temporary Speaker, this Motion shall have some benefits. The Government shall be able to issue more title deeds and create wealth. We shall have tripartite regularisation where the owner, the occupant and the Government check that it is done properly. County governments shall benefit by collecting more rates. The Government shall be able to collect more taxes and we shall sort out the issue of housing. Further, we shall prevent uncontrolled developments. Sewage and water, which is a problem in Nairobi, shall be sorted out once this Motion is passed. In addition, we shall stop demolitions. The President himself guaranteed that he does not want to see demolitions. Let us not forget how it was in 2016 to 2018, when we saw all manner of demolitions going on especially in the Eastlands area. This must come to an end.

It shall discourage land invasion because this is for a prescribed period and people will know there is nothing for free. We shall be able to do roads, new towns shall come up, public utilities, schools and hospitals will be provided for because when we regularise, we must provide for the required public utilities. We shall also be able to reduce the court workload and encourage out of court settlements. As I conclude, demolitions, which is one of the issues that plagues our county especially here in Nairobi, have led to loss of lives and property. We have a chance to stop that with this Motion.

Court cases have been ongoing for 20, 30 or 40 years but will never recover that land. I saw one court order where the police requested for 3,000 police officers to evict close to 20,000 people. That is impossible and it will never happen. We have a chance here, through regularisation, to sort out the issue. We must be brave enough to face this problem. Let us not postpone it. Every government that has come before has postponed this problem. In Mowlem Ward, Embakasi West Constituency, 60 per cent of the land is un-adjudicated yet it is one of the most populous wards in this city. In Kariobangi South Ward in Alezin Village, we need regularisation and title deeds given out.

Hon. Temporary Speaker, I hope you will add me some three minutes to conclude.

**The Temporary Speaker** (Hon. David Ochieng’): A few more seconds, Hon. Member.

**Hon. Mark Mwenje** (Embakasi West, JP): Hon. Temporary Speaker, I just need to say that Embakasi gave birth to six constituencies courtesy of the late Muchiri, the late Mwenje and Hon. Waititu. We need to solve these issues. We should sort out the land problems once and for all. The President promised to support...

**The Temporary Speaker** (Hon. David Ochieng;): Just conclude

**Hon. Mark Mwenje** (Embakasi West, JP): Hon. Temporary Speaker, as I conclude, we are looking for a win-win solution for everyone. That is the purpose of this Motion.

I beg to move, and ask Hon. Maungu to second this Motion. Thank you.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Maungu.

**Hon. Dick Oyugi** (Luanda, DAP-K): Thank you very much, Hon. Temporary Speaker, for the opportunity that I have this morning to second this all-important Motion on development and implementation of a programme for voluntary regularisation of land occupied by squatters for a prescribed period.

Land is a very emotive matter in this country. Year in, year out, we have experienced cases where demolitions have happened, causing people to be homeless, at times maiming and even killing people because there has been some contestation on matters land. It is true that we may need to have a policy that will regularise the way these unsettled people are settled. As pointed out by the Mover of this Motion, some of these lands may be community land that has never been adjudicated, public lands or absentee landlords.

We have a few people who hold large parcels of land, and many others who end up squatting on this piece of land. Therefore, having a policy that will prescribe the minimum or maximum period under which land can be given to the squatters is important to avoid cases where people are invaded in the wee hours of the morning and left homeless. Mothers and kids are left without a house when we know that housing is one of the basic requirements for decent living as captured in our Constitution and the Bill of Rights. It is important that these people are given decent accommodation, and that can only happen when such people do not have their houses, however good or bad they may appear, destroyed in the wee hours of the morning.

I beg to second the Motion. Thank you.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you.

*(Question proposed)*

The first person to have a bite at this cherry would be the Member for Central Imenti.

**Hon. Moses Kirima** (Central Imenti, UDA): Hon. Temporary Speaker, thank you very much, for giving me this opportunity to contribute to this important Motion.

First and foremost, I support the Motion by my colleague, Hon. Mwenje as it relates to the people who are squatting in various parts of the country. There is no land which comes from heaven like manna. Every land has its origin, the owners and its occupiers especially in rural areas where we know land is owned by clans and communities.

No one in Kenya came from nowhere. Every person has his own origin, but Kenyans have a way of expanding and occupying what does not belong to them. Therefore, there must be checks and balances. There must be a policy on how to regulate and take care of those who are genuine and non-genuine squatters. There must be a way of counter checking who has been born... There is a law which talks about when one can acquire land which does not belong to that individual. In common law, we have what we call adverse possession. That is well provided for in law where one occupies a piece of land for 12 years and if that occupation is not disputed, or with the permission of the owner who is not bothered, then the person occupying that land can go to the court and have his occupation validated. He will then be given a title for that piece of land.

There is another issue where one occupies a piece of land, but the owner of the land starts claiming that you are occupying his land wrongly. I refer this to a piece of land which is mainly owned by a certain community, and another community just comes in and settles in the same land. They will then start disputing or squabbling about it. If not handled well, it can even lead to bloodshed.

I have a piece of land owned by the people of Central Imenti in a place called Kiamurimbi in Meru. It is between Meru and Tharaka but in due course invaders or squatters came from very far up, from Kitui and Tharaka. They have occupied the same land and there have been fights now and then, and people have been killing each other. The said land cannot be said to be an adverse possession because there are those who are disputing while others are on the same land by force. Therefore, there must be a differentiation when it comes to government policies so that it is known who has been occupying what part of the land and with whose consent. If this land has previous ownership, what can be done? Is it a monetary compensation? If not, can these two communities be talked to, as a matter of policy, to live in peace in such a manner? What happens in a situation where squatters just get in and occupy somebody's plot? The Government cannot just come up with a policy of protecting a squatter who will just migrate from nowhere, get in and start occupying somebody's plot by force. Kenyans like to do things which are outside the law in one way or the other.

Genuine squatters must be considered, but there is nobody who comes from heaven. They are all Kenyans and there is no land which comes from heaven. It is owned by somebody

or by a clan. There must be a policy, therefore, which will protect both the owners of the land and the squatters at the same time.

I support the Motion.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you. Member for Kanduyi.

**Hon. John Makali** (Kanduyi, FORD-K): Thank you, Hon. Temporary Speaker, for giving me this opportunity to also contribute to this Motion.

At the outset, let me thank the Member for Embakasi, Hon. Mwenje for bringing this Motion at this particular time.

The fight for Independence for this country could be equated to the fight to recover lands that had been taken by the white settlers. The 2010 Constitution, which we gave to ourselves, dedicates Chapter Five to matters touching on land and environment.

As clearly pointed out by the Mover of this Motion, land is a very emotive issue; a factor of production; and is a measure of somebody's status and wealth in this particular country. If we look at the Constitution, it says that land belongs to all the people of Kenya, either collectively, as communities or as individuals. In the usage of land, if we look at Article 60, it says that land shall be used in an equitable manner. The issue of squatters in our country is a time bomb which we need to tackle as a matter of urgency, otherwise, it is going to create a security problem in our country. It is unfortunate that at this time, we have many Kenyans who still live as squatters. Some of them courtesy of having worked for the former settlers. Others because they got employed and worked for some people but have no title deeds. In this country, you will come across many people who have stayed on parcels of land for over eight years but have no title deeds for their land and are literally squatters.

If you move around the country, the Constitution created the Environment and Lands Court. These courts are clogged up with many cases of people claiming for title deeds for their land. People have ended up being killed because of disputes over title deeds. Our land registries have not been very fast in generating title deeds. So, it is important as proposed by the Mover of this Motion that we develop a comprehensive policy.

I know if we move to the courts, there is the concept of adverse possession. Where if somebody has stayed on a parcel of land for a period of more than 12 years peacefully without interruption from anyone, he is entitled to claim that land. Although a person is forced to incur expense of going to the court so as to declare his/her rights. In my view, once the concept of adverse possession has accrued, a person ought to technically get a title deed without having to move to court to declare.

Hon. Temporary Speaker, I support the Motion by Hon. Mark Mwenje. We need to revisit our land laws and have a comprehensive regime to settle Kenyans staying on parcels of land as squatters in their own country. I hope this Motion sees the light of day.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng): Thank you. Hon. Members, join me in welcoming pupils from Suswa Lerai School, Narok East Constituency, Narok County; and students from Mumtaz Academy, Matuga Constituency, Kwale County. They are welcome to follow our proceedings this morning and afternoon.

The next chance goes to the Member for Lugari. Hon. Members, if you approach me and are next in line, I will not give you a chance. Just remain seated because I follow the list so everyone gets a chance to speak based on the time they logged in. Thank you.

**Hon. Nabii Nabwera** (Lugari, ODM): Thank you, Hon. Temporary Speaker, I want to add my voice to this Motion by Hon. Mwenje. First, I thank him because in this country, we have a group of Kenyans we have dehumanised by calling them squatters.

It is over 54 years since Independence and land is not being put to economic use simply because a group of Kenyans are holding it hostage yet we have food insecurity. Also, some people in urban centres are unable to eke a living because they do not know whether their land

belongs to them or not. I will give you an example. In Eldoret, Langas area, there is land measuring over 1,000 acres and it is occupied by people who are unable to use it economically because it has not been regularised and they do not have title deeds. Therefore, even if they wanted to develop it, approach a bank or financial institution, they cannot. They have been rendered economically useless as citizens of this country.

I come from a constituency where 34,000 families live on land which, since 1992 when it was given to them by President Moi, has not been regularised and they are called squatters. Anytime, a mad man may wake up and decide that land belongs to Mwenje or Nabii and chase them out yet they are Kenyans. We have developed schools, hospitals, markets and other facilities in that area

I was disturbed last week because we got a donor who wanted to develop a very big market there but he could not because that land has no title deed and so the county government could not allocate land that does not have papers. I request this House not to stop at this Motion. We must have a timeframe within which all these people settling on land that is not regularised will be regularised. We must go further and define regulations and rules that will be adopted by this House so the Ministry of Lands can regularise these lands.

Hon. Temporary Speaker, I support this Motion. Thank you.

**The Temporary Speaker** (Hon. David Ochieng): Thank you. Member for Likoni. Commissioner, you can use the microphone right in front of you or the one next to you.

**Hon. Mishi Mboko** (Likoni, ODM): Asante sana Mhe. Spika wa Muda. Hata mimi ninampongeza Mhe. Mwenje kwa kuleta Hoja hii ambayo ni muhimu sana. Haswa, tukizingatia ardhi ni kiungo muhimu sana katika uchumi wa taifa na pia katika mambo ya kilimo. Hata sisi Wakenya lazima tuwe na makaazi katika taifa letu kama Katiba inavyosema katika Sura ya Nne, kwamba lazima Serikali ihakikishe imepatia Wakenya makao. Hatuwezi kupata makao ikiwa hatuna ardhi.

Kwa hakika ardhi imekua tatizo nyeti na sugu sana kwa kiasi cha kwamba jamii kwa jamii wameweza kuingia katika vita na mapambano makali. Hata tumeona familia pia zimeweza kupambana na kuwa na mizozo kwa sababu ya suala la ardhi. Serikali iliyoko na pia za nyuma zilizopita, zilijaribu sana kuhakikisha kwamba zimefanya ile tunaita katika Kiingereza *Settlement Scheme* ama mpango wa makaazi. Hii ni kuhakikisha kwamba Wakenya wamepata ardhi na pia hati miliki.

Hivi sasa tukiangalia katika nchi yetu ya Kenya, ukienda sehemu ya bonde la ufa ama mwambao wa Pwani na sehemu nyingine katika taifa letu la Kenya, utapata tuko na maskwota wengi sana. Wengine wako katika ardhi tunazoita kwa Kiingereza, *Government Land* (GL) ama ardhi za Umma. Kuna wale ni maskwota katika ardhi za watu binafsi ama za watu ambao hawajulikani na hawaonekani. Hii ni kwa sababu tukiangalia historia yetu, hapo nyuma mabeberu walipokuja Kenya, waliweza kunyakua ardhi zetu. Na wengi baada ya kupata uhuru wetu, waliweza kurudi kwa nchi zao na kuacha zile ardhi na kuna watu ambao wameenda na kuishi huko kama maskwota. Mpaka sasa hawajapata hatimiliki. Kuna watu wajanja wanapitiapitia kule wakikusanya pesa na kusema wao ndio wana hatimiliki za zile ardhi ila si kweli. Wanatoza watu pesa nyingi. Imekuwa ni njia ya wahalifu katika taifa la Kenya kupata pesa. Hivyo basi, ni muhimu sana tuangalie takwimu mwafaka kutambua ardhi za Umma zilizo na maskwota, tujue ni ngapi. Je, ni kiasi gani katika kaunti zote 47 za taifa letu? Ardhi ya Umma ambayo Serikali haina matatizo au utata nayo, ipewe Wakenya. Wapewe hatimiliki. Vilevile, Serikali inaweza kutumia fedha ya Land Trust Fund kununulia Wakenya ardhi kwa kuwalipa wanaomiliki zile ardhi lakini hawaishi pale. Ardhi hizo ni maskwota wanaishi mle. Mfano ni ile ardhi ya Waitiki. Mnakumbuka Serikali ya nyuma ilivyofanya. Ninaona Serikali ya sasa iko na mpango na ile ardhi ya Mazrui kule Kilifi. Serikali inanuia kulipa familia ya Mazrui ili maskwota wale wapate ardhi ile. Hili ni jambo ambalo litasaidia Wakenya kupata makao na hatimiliki.

Vile vile, kwa sasa tunaona miradi mikubwa mikubwa ya Serikali inayodhihirika katika sehemu tofauti tofauti. Kwa mfano, kule kwangu kuna mradi wa Dongo Kundu Bypass. Ni barabara. Pia, kuna ile Special Economic Zone. Wakaazi wanaoishi pale wamekuwa hapo kwa miaka mingi. Wameishi hapo kana kwamba ni ardhi ya Umma pasi na kuwa na hatimiliki. Sasa Serikali imetumia *compulsory land acquisition*. Kwamba, Serikali itachukua ile ardhi ili kutengeza ule mradi wa Umma utakaofanyika pale.

*(Hon. Mishi Mboko spoke off record)*

**Spika wa Muda** (Mhe. David Ochieng'): Mwongeze sekunde 30.

**Hon. Mishi Mboko** (Likoni, ODM): Ahsante sana Mhe. Spika wa Muda. Suala hili ni muhimu. Ninajua umeniongezea dakika chache. Kuna pahali muhimu ambapo nilitaka sana kuzungumzia. Tukifanya hivi, kwanza tutapunguza ufisadi wa wale wanaoangalia ardhi ambazo si zao - ardhi za Umma na *absentee landlords* -ili wazinyakue. Pili, tutapunguza mambo ya *professional squatters*. Yaani, Wakenya kuwa maskwota kwa muda mrefu. Tutafanya wawe na ardhi. Hivyo basi, kilimo kitaendelea, uchumi utaendelea, na kazi tutazipata. Kwa hivyo, tuzingatia sana kile kipengele cha sheria kinachoweza mtu kumiliki ardhi anapokaa kwayo zaidi ya miaka 12. Hufanyika hivyo ikiwa mtu hatojitokeza kudai kwamba ardhi ile ni yake. Twawaita, *occupants in good faith*. Watu hawa wapewe hatimiliki za ardhi hizo kwa msingi huo. Hiyo ndiyo njia pekee itakayotuondolea mizozo, siasa ya mashamba, na kutatua *historical land injustices* katika sehemu nyingi. Tutaweza kumaliza dhuluma ya kihistoria ya ardhi tukifuata njia kama hizo.

Ninakushukuru sana, Mhe. Mwenje. Isiishie kama Hoja tu. Tutengeneze Mswada mwafaka ambao utazingatia na kuwezesha masuala ambayo tumejadili hapa. Sisi kama Wabunge tunafaa kuzika hili tatizo la ardhi katika kaburi la sahu. Ahsante sana Mhe. Spika wa Muda.

**Spika wa Muda** (Mhe. David Ochieng'): Kwema kabisa. *Member for Chepalungu*.

**Hon. Victor Koech** (Chepalungu, UDA): Thank you very much for this opportunity.

Equally, I would like to congratulate the Member who has come up with this Motion. He has enabled us to discuss, in detail, what can be done so that the Ministry identifies the real owners of these lands. After identification, the Government can move with speed to give proper documentation to owners occupying land legally, and take action against those occupying land illegally.

May I take this House back as I thank the Member who came up with this Motion. It is to a Question I had asked the Cabinet Secretary, Ministry of Lands, Housing and Urban Development when he was in the House to answer Questions. I had given particular attention to squatters living in my constituency. Although squatters are mostly in urban centres, Members of Parliament coming from rural constituencies equally face the same challenge. I am particular about owners of the land next to Siongiroi, in a small village called Legetetiet. They gave out land to the Government and they were promised title deeds for their land, but it is now three decades and nothing has been done. I asked whether the Cabinet Secretary could take action on the same so that people living there can get proper documentation of their land. That would help the people and the squatters.

The husband to the Member for Njoro Constituency passed on yesterday. May his soul rest in peace. He was still fighting for his people, who are squatters. They are not even squatters! They have titles but their land has three terms, as was mentioned by Hon. Ng'eno of Emurua Dikirr. The land there still has beacons and the people cannot use the title deeds because their land is under caveat. It is about time the Ministry of Lands, Housing and Urban Development and the Cabinet Secretary came up with a clear policy on lifting the caveat because our people cannot continue living with the same challenges. It is the same challenge

faced by our people in Kuresoi North. I really wish their Members of Parliament were here to debate and fight for them. I will say it because I am here. This issue was in the courts. I am not certain how the process and the proceedings happened.

There was a case in Bomet County recently. As we fight people who occupy land without proper ownership, let us know that even the Government can occupy public land illegally. The case in Bomet County is between the Kenya Prisons Service and the County Government of Bomet. The matter has forced the county government to dump waste next to St. Michael's Secondary School. This fight has been ongoing for the past five years. That is why this Motion is very important. The Kenya Prisons Service claims that the land is theirs. That has prevented the county government from constructing a road that will lead to a dumping site. You can imagine the smell coming from the waste dumped outside St. Michael's Secondary School. That is why we are so particular about this case. We really urge the Ministry to come up with a policy as quickly as possible so that such cases can be handled as urgently as possible.

Thank you, Hon. Temporary Speaker. I support.

**The Temporary Speaker** (Hon. David Ochieng'): Thank you. Member for Aldai.

**Hon. Marianne Kitany** (Aldai, UDA): Thank you very much, Hon. Temporary Speaker. I stand in support of this Motion.

First, allow me to thank Hon. Mwenje for bringing up this matter on land issues and squatters. The truth of the matter is that Kenyans have had issues with land for a long time, ever since Independence or even before Independence. It is the very reason the National Land Commission (NLC) was set up when the 2010 Constitution was being promulgated. There was a feeling that the Ministry of Lands, Housing and Urban Development was not able to tackle land matters that had come up. The NLC was tasked with, among other issues, to settle squatters. However, it is still a problem up to today. We still experience the issue.

That is why we have a Motion in this House today, in the year 2023, when this office has been around for about 13 years. It begs the question: When then will these issues ever be sorted out? If Kenya is not home to the people called squatters, where else can be their home? I stand to speak here because of the community I come from, that is, Aldai Constituency. They may not be called squatters, but they do not have title deeds. Any time, they can also be evicted from the very land they have called home for centuries. It is the land they have buried their relatives and also invested in. They cannot even use that property to get loan facilities from banks like any other Kenyan. As much as Hon. Mwenje is talking about specific squatters, a commission should be set up to look into all squatters and all untitled land.

The Kenyan Government had once taken action to give people titles deeds, but that exercise faded away. We are now talking about automating community, public, or individually owned land. However, that has not sorted out the problem, which continues to grow. We continue getting new squatters on people's land because of adverse possession of land. The courts normally rule, and then an individual is perhaps denied land. Even in a particular community, someone can come and decide that a particular parcel of land belongs to them. If they get their way in court, they are awarded the land at the expense of the community that lives on that piece of land.

Going forward, as much as we want to sort out these specific squatters, I propose that we come up with a commission that specifically looks at every parcel of land in every part of this country. The commission should be segregated to various regions because land issues are localised. Communities within those localities, chaired by older men who know the history of the land, together with the leadership in those areas, can help resolve land issues. For example, in my constituency, many portions of land are untitled, which is all that is required. If that process is done, then the issue will be sorted out. If you go to areas like Nairobi or other town centres, you will find that squatters have settled in certain areas. Demolishing homesteads

which people have called their homes for years would return them to poverty. Those homes are the only properties and assets they have. We are supposed help them grow so that they progress from poverty to the next level of life.

I support the Motion. I thank Hon. Mwenje for bringing it. We look forward to a better solution for squatters.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you. Members, I wish to recognise, in the Speaker’s Gallery, pupils from Kwakulu Primary School. Hon. Eckomas, how does one read this name? Is it Kwakulu or Kwakyulu? Kwakulu Primary School from Yatta in Machakos County.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): It must be Kwakulu.

**The Temporary Speaker** (Hon. David Ochieng’): Kwakulu Primary School from Yatta in Machakos County. They are welcome to follow our proceedings this afternoon.

Member for Seme.

**Hon. (Dr) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I rise to support this very important Motion.

Humans are terrestrial beings. We live on land and nowhere else. You find that a few people own very large tracts of land. Many times, that land is unutilised. Those large unutilised tracts of land and the presence of people who have no land to live on leads to the emergence of squatters. They have to live somewhere. Because squatters do not own those lands, that leads to the development of slums, particularly in rural areas. We keep saying that squatters do not legally own that land, their residency is illegal, and therefore, no development can take place. That disadvantages them in every way possible. At times, their houses are demolished. Their children come home and find places that they have lived in and have known as home for many years being demolished. They end up with nowhere to go. This Motion to regularise possession is important and I support it.

However, there are many practical issues that we have to address. One is the current legal statutes relating to land and our slow judicial process. Like other civil cases, land cases take long to be resolved such that generations pass while cases are still in court. That is an issue that we have to look at.

There is also the issue of the Government’s commitment to resolve land issues because of vested interests. The Member who spoke before me said that we need a commission to look into land issues, yet we all know that the Ndung’u Land Commission Report looked at all issues of land possession, squatters, illegal and suspect acquisitions, and got a way forward. That Report has never been discussed. Perhaps if it had been, that would have solved some of these problems.

We also know that the lack of commitment by the Government has led to a situation where there are doubts about the land acquisition process and the integrity of title deeds. Buyers follow legal processes laid down in Government procedures, but at the end, their possession of land is questioned, and there are even efforts to evict them from pieces of land for which they have title deeds.

Therefore, this Motion is timely. A policy should be developed to cater for private land, absentee landlords, community land, and adjudicated land. Adjudicated land and public land should not have a problem because people who live there as squatters are Kenyans and, therefore, should be supported. The principle of adverse possession of land may be helpful, but if we have to consider it, this Motion should be progressed to an Act of Parliament that looks into all land issues, existing land statutes, and processes, so that those regulations can be practised.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you. Member for Isiolo County. I am aware that she does not have a card.

**Hon. Mumina Bonaya** (Isiolo County, JP): Thank you, Hon. Temporary Speaker. I rise to support this Motion. I thank Hon. Mwenje for his efforts in bringing up this matter.

While we discuss existing squatters and why we need to regularise the land that they currently occupy, our inaction or mismanagement of land in this country continues to create more squatters. If we are unable to address this matter conclusively, we will have squatters occupying every piece of land across the country. This problem can only get bigger and more complex. I say that because in the area that I come from in Isiolo County, 80 per cent of the land is considered community land.

Hon. Temporary Speaker, we require registration of the community land to be done because the law is in place and it is clear on what needs to be done. We have continued to experience laxity and inaction from the institutions that are mandated to undertake this registration. What we see currently is the fragmentation of rangeland that is supposed to support free-ranging in pastoralism. It creates different competing use of land and that undermines pastoralism. Conservancies are coming up which take up big chunks of land. We have big projects like Lamu Port South Sudan Ethiopia Transport (LAPSSET) Corridor and the Horn of Africa Road which have taken up big chunks of land. Individuals carve off big chunks of land and try to register them as private land. All these activities disorient how pastoralists undertake pastoralism on this community land. Fragmentation keeps on destroying the movement and access to key natural resources that pastoralists have always been using.

As these projects, for example, the LAPSSET and the Horn of Africa Roads continue, we are disadvantaged when it comes to compensation. Every time community members come up for compensation, they are told this is undeveloped land. There is a reason we do not develop our land. It is for practising pastoralism. In that sense, they tell us that there is no reason for compensation, since it is undeveloped community land. For the few who have developed properties on this land, they are told that they cannot be compensated because they do not have registration certificate. The only thing they can compensate is the properties on the land.

As we consider regularising land across this country for purposes of protecting the squatters, let the institution mandated take keen interest on ensuring that community lands are registered and secured. Unless registration is done, there is no security that we can talk about of community land.

I support this Motion. Thank you, Hon. Temporary Speaker, for giving me time to contribute.

**The Temporary Speaker** (Hon. David Ochieng’): Well done. Member for Westlands, Hon. Tim Wanyonyi.

**Hon. Tim Wanyonyi** (Westlands, ODM): Thank you, Hon. Temporary Speaker, for giving me the opportunity to contribute to this Motion. I want to congratulate my colleague, Hon. Mwenje, for bringing it.

The issue of land has been mishandled for a long time in this country. The first Government of this country is the one that mismanaged land at the outset. When the colonialists handed over the Government, the Independent Government was supposed to regularise land and resettle people who had been thrown out of their land by the settlers. Instead of doing that, they went on a grabbing spree. They grabbed land left, right and centre. Many communities were displaced. People lost their homes. They have been squatters permanently all over the country. We have the largest number of squatters in informal settlements in Nairobi. The Nubians in Kibra have lived there forever. Every Government that comes in promises to give them title deeds or ownership of that land, but it has never happened.

It is about time we got serious to see how we can resettle Kenyans who are living on land that does not belong to them. You find that there are some people who speculate with some of that land. There are no known owners but there are people who collect rent from it.



The National Land Commission must take stock of this and regularise how Kenyans are going to settle.

There are many people who have been displaced from their homes because of political alignments. For example, in 1992 and 1997 after elections, some people were thrown out of their land because they voted in a particular way. That left them as squatters up to now. The Government must look into issues of settling Kenyans. I just want to refer to a case in Zimbabwe when the former President, Robert Mugabe, decided to regularise land and gave it back to the natives. He was condemned by everybody around the world. He was misunderstood. However, he was solving a problem that would have overblown with time.

The squatters in the country are a time bomb. If we do not manage them properly right now, it will happen some other way and it will not be good. Kenyans are on the land and they are procreating. No Kenyan should live in this country when he does not know where he belongs. Sometimes, children are born in those places but they have no home. Some of them have no known home where they can go. It is only that place because they were born and live there. Everything else is around there. It is upon the Government and us to legislate and make sure that no Kenyan lives as a squatter in Independent Kenya.

Hon. Temporary Speaker, I support this Motion. Hon. Mwenje should move further and make it into a Bill and then we can make it a law. We should not pass some of the issues we are talking about here and then they remain on shelves. They can be implemented and Kenyans can benefit from this legislation.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you. Member for Kibwezi West.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): Thank you, Hon. Temporary Speaker, for giving me the opportunity to contribute. At the outset, allow me to thank our colleague, Hon. Mwenje, for bringing this very important Motion for discussion in this House.

As you and many Kenyans know, land is a very emotive issue. The problems that we, as a country, face relating to land emanates from historical origins. You are all aware that when the colonialists came to our country, they took away our land. The freedom struggle that we had by Mau Mau was majorly about land. When we gained our Independence, land problems did not end. You will recall that at Independence, when those who were in the forests fighting came back, they found that their lands had been taken away by the black settlers, our people. They took money from the British Government under the Mackenzie Programme. They took away the land of our people who continued being landless. They were taken to different parts of the country to be resettled and the problems continue up to date.

During the 24 years of President Moi’s regime, land was used as a political tool. Those who were loyal and supported the system were rewarded by being given land and continued the inequalities that we face to date. This House should also note that from 2005, 2006, up to about 2012, there were concerted efforts in this country to initiate genuine land reforms through the National Land Policy which was adopted. When we promulgated a new Constitution of Kenya later, Kenyans thought all the problems that we had experienced about land would be solved. Sadly, many years after the promulgation of the Constitution 2010 and enactment of many laws by this Parliament to resolve land problems, we still have land issues in our country. That is why Hon. Mwenje came to this House with a Motion seeking regularisation of land occupied by squatters, so that it becomes legally and rightfully theirs.

Hon. Temporary Speaker, as we support this Motion, there are two key issues that we need to look at. There are genuine squatters. These are genuine people who occupy land, but do not have titles to that land. We are also aware that there are people who formed themselves into groups, invaded land so as to create a semblance of ownership so that they can get title to that land in a manner that is fraudulent. As we support Hon. Mwenje’s Motion, we must, as a

House, separate... That is why I gave the historical genesis. We should separate between people who genuinely occupy land and those who have invaded land for the purpose of acquiring it fraudulently.

Hon. Temporary Speaker, you are aware that in this country land is categorised into three major categories; private land, public land, and Community land. When we get into this issue, we must also look at people who have settled on private land and determine whether the land is actually theirs or not. There are people who have invaded Government land because they think it is easy to invade and fraudulently gain ownership using cartels working for the Government. There are also people who may have obtained titles to community land because maybe the communities occupying the land are complacent or may not know their land rights.

In my Constituency, as I finish, at Emali and Kinyoo, there are farmers who have historically been occupying that land. They have been farming on the land all these years. However, recently, somebody came from Nairobi with a title and said that the land does not belong to the farmers. That he has the title to the land. These are the issues we need to resolve. I have people in Nguu Settlement Scheme who for many years have been fighting for their land rights, but up to date, they have never received their title deeds. As we welcome Hon. Mwenje's Motion we want to encourage that the land issue be taken seriously. Kenyans cannot keep fighting for land for almost 60 years after Independence. Time has come when we must put the land question to a close so that every Kenyan can occupy land, get a title, and transact using their land.

**The Temporary Speaker** (Hon. David Ochieng): Member for Roysambu.

**Hon. Kamande Mwafrika** (Roysambu, UDA): Thank you Hon. Temporary Speaker for giving me this opportunity to contribute to this Motion. Let me start by saying that in Kenya, land is considered to be very valuable and Kenyans are attached to land very much. We all know that in the life of a human being, in the final analysis, when one exits this world by dying, the remains have to be taken back to a piece of land that is three by six in size. You can see how land is valuable in the whole world and not just in Kenya.

When the Ministry of Land was created to manage land, we thought that it would be up to the task. I can see all the major problems we have in this country are as a result of mismanagement of the Ministry of Lands. We have heard of double allocation of land in this country. Land disputes in this country are quite emotive. Most Kenyans take the law in their own hands, especially where the Ministry of Lands is unable to streamline or settle a dispute. Any land disputes taken to court take a very long time to be determined.

On the matter about squatters, every Hon. Member who has contributed to this Motion has mentioned something about adverse possession of land. It is a very clear law about land. We have very nice laws governing land, but we have never implemented them. I suggest that the Ministry of Lands be added another department, one on enforcement. If only the Ministry of Lands could enforce that law on adverse possession, I believe land disputes would be far much less than what we have today. The issue of squatters could be sort out. I congratulate and thank His Excellency the President. In Roysambu Constituency, we have an area occupied by squatters who have been there for over 30 years. Some time back, Kenyatta University claimed that the land belongs to them. There has been a dispute in court, but I thank His Excellency the President for his intervention because Kenyatta University has agreed to hive that land occupied by Kamaya Squatters, which is approximately 191 acres. We are happy that all those squatters will be settled and the issuance of their titles is on course. Concerning issues of land, we believe the Ministry of Lands has not done as expected.

**The Temporary Speaker** (Hon. David Ochieng): Let us have Hon. Chonga. Member for Kilifi South.

**Hon. Ken Chonga** (Kilifi South, ODM): Thank you for this opportunity. I join the rest in congratulating Hon. Mwenje for this Motion. The challenges that have risen up for Hon.

Mwenje to think of coming up with such a Motion are those that the entire country is grappling with. We all know land is a basic necessity and as many have alluded, the issue of regularisation being historical is very embarrassing. It is 60 years after Independence and we are still discussing this matter. While this problem could be historical, in quite a number of instances, it is actually deliberate by our own Civil Service.

Kilifi South is not an exception in terms of its land being affected. Surprising enough, 80 per cent of Government land, if you do a serious audit, you will find out that it came from the Coast. Individuals and cartels have really taken advantage of that. We have very many people who are landless. We also have very many people owning large chunks of land having acquired them illegally. Some are speculating on it while others have their own usages. I have two cases in Kilifi South which I would wish to give as an example in debating this Motion. Vipingo Trading Centre is within Junju Ward. This centre has come up very fast. It started during the colonial era when Vipingo Development Company started sisal plantations at Vipingo. Communities from very many parts of East Africa came to seek work at Vipingo Development Company. Over time, Vipingo has really grown. Then came Vipingo Ridge, Centum, and many others.

Vipingo area is one area that has potential. Sometime in 2013, just as my colleague said here, title deeds were issued to the people of Vipingo. But these title deeds were issued haphazardly. It was more of political interest than for the people to have title deeds for their land. In that hurry, some people were given pieces of land where they do not belong. There are instances where title deeds came out without the names of those who occupied the land and had even constructed on it, buried their people there, and were even doing farming. You find a title deed has been issued to a person, but he or she does not even know where the land is. When we talk about regularisation, we are talking about a serious matter here. This is a matter that needs a clear policy from the Ministry of Lands, Housing and Urban Development so that eventually, everybody can get somewhere they can call home.

The worst that has been happening is that the Provincial Administration charged with the responsibility of security in areas where people are living, is the one taking advantage. Someone has a title but he knows very well that it is not his piece of land. He then uses the Provincial Administration to harass people and...

**The Temporary Speaker** (Hon. David Ochieng’): Ten seconds.

**Ken Chonga** (Kilifi South, ODM): There are people who are genuinely suffering because of land that rightfully and legally belongs to them. There is need, therefore, to support this Motion and, if possible, escalate it further to a Bill.

**The Temporary Speaker** (Hon. David Ochieng’): Member for Magarini.

**Hon. Harrison Kombe** (Magarini, ODM): Asante Mhe. Naibu Spika wa Muda.

*(A Member spoke off the record)*

**The Temporary Speaker** (Hon. David Ochieng’): Honourable, you shall not call the Chair from your seat.

**Hon. Harrison Kombe** (Magarini, ODM): Asante, Mhe. Naibu Spika wa Muda kwa kunipatia nafasi hii. Kwanza nimpongeze Mhe. Mwenje kwa kuleta Hoja hii kwa wakati unaofaa. Kuhalalisha mashamba kwa maskwota ni jambo la busara na niseme limechelewa kwa sababu wananchi wengi wa Kenya wanaishi katika ardhi ambazo wamezimiliki kwa muda mrefu lakini bado wanaitwa maskwota katika ardhi zao.

Utapata kwamba, ardhi nyingi ambazo zimekaliwa na wanaoitwa maskwota ni ardhi za jamii. Ardhi hizi ni za jadi, za mababu na mababu, ambazo kwa sasa inastahili wanaozimiliki waweze kuhalalishiwa.

Vile vile, hali hii imechangia unyakuzi wa mashamba. Nikipeana mfano, Magarini kuna mashamba mengi ya chumvi. Mashamba hayo ni ya kukuza chumvi. Lakini baada ya muda, watu wamejiongezea sehemu za ardhi kwa kutumia nguvu zao za kifedha kule katika Wizara ya Ardhi. Wamechukua mashamba ya wenyeji ambayo yamejaa minazi, miembe na mimea mingine. Hali hii imezusha sintofahamu na ugomvi kati ya wenye mashamba ya chumvi na wenyeji. Hoja hii itasaidia mahali pakubwa iwapo tutaipitisha na kuitekeleza. Kupitisha peke yake haitoshi. Tunastahili kuipitisha na kuitekeleza. Kamati ya Utekelezaji ichukue hatua haraka kuhakikisha kwamba huu uhalalishaji wa mashamba kwa maskwota unapata kutimia.

Vile vile, hali hii ya uhalalishaji ikaweze kusambaa mpaka kwa mashamba yale ambayo yanamilikiwa na watu ambao hawaishi hapa nchini, kwa kiingereza, *absentee landlords*. Wengi Magarini, wananchi wamekalia mashamba ya mabwenyenye ambao hawajaishi nchini kwa miaka zaidi ya 100 ilhali bado wanaitwa maskwota. Ninaipongeza Serikali maana imejitolea kununua mashamba hayo ili kuhalalisha maskwota ambao wanakaa humo. Kwenye mashamba hayo tumejenga mashule, misikiti, na makanisa. Ajabu ni kwamba hata makanisa na misikiti ni skwota juu ya mashamba hayo. Iwapo Hoja hii itapita na pia kutekelezwa, basi tutakuwa tumesaidia wananchi wengi.

Kuna watu binafsi ambao wamejitolea kutoa mashamba yao kwa Serikali ili iweze kuyanunua mashamba hayo na kuhalalisha maskwota wanaoishi humo. Ningeuliza tu Wizara ya Ardhi iharakishe uhalalishaji wa mashamba ya jamii katika maeneo ya Adu, Bungale, na Chakama. Hali hii ya kutohalalisha haya mashamba katika eneo la Shakahola, ndiyo imeleta matatizo. Iwapo mashamba yangehalalishiwa wenyewe, ninatumai wengine hawangepata nafasi ya kupenya na kufanya uhalifu ndani ya mashamba hayo.

Kwa hayo machache au mengi, ninasema asante kwa kunipatia fursa hii.

**The Temporary Speaker** (Hon. David Ochieng’): Member for Dagoretti South.

**Hon. John Kiarie** (Dagoretti South, UDA): Hon. Temporary Speaker, I thank you for the opportunity to contribute to this Motion. I must congratulate the Hon. Member for Embakasi West, Hon. Mwenje.

This Motion brings a very critical matter that goes beyond even the issues that he is raising: Policy. Hon. Mwenje is a Member of Parliament in a Nairobi constituency and so am I. The history of land in this city is scary. To imagine that there are squatters in Nairobi in a place that has been a city with a history replete of disinheriting of people... The people we call squatters in Dagoretti South Constituency today, were actual owners of the land where they are being called squatters today. In fact, in the city, they are not called squatters. They are called people living in a place called ‘parking’. I never get to understand how these places are called ‘parking’. That you are packed in an area by the colonialists so that you can be unpacked whenever they wish to unpack you. We cannot discuss about land issues or bring about new policies without revisiting history.

The reason we have such big problems with land in Kenya is because we suffer from colonial policy hang-ups. The Crown Land Ordinances of 1902 and 1915 are the founding documents that led to disinheriting people of their land in Kenya. These are the laws that inform the historical injustices that we suffer from since the colonial era to date. So, I commend Hon. Mwenje, who is a ranking legal practitioner. By bringing this Motion, he pierces our conscience to start re-looking at our land policies wholesomely. We have had this practice that when a matter on land comes up, we come up with some law at some small corner to try to resolve the small mischief. We have never attempted to attend to the broader land issues. Those issues are bigger than the small laws that we make in those small corners.

I encourage Hon. Mwenje to take up this matter further and draft a Bill. That way, we can start attending to land issues which are not only limited to historical injustices, but also to small issues about squatters and big thuggery happening in lands offices across the country. We need to address land issues in this country holistically, once and for all. Land titling in this

country is a big matter. Hon. Mwenje will tell you that he is not in a position, as a legal practitioner, to verify what a proper title is. You could be holding a legal title, thinking that you own land, only to find out there are photocopies or copies of other titles on that same piece of land that claim to be legal.

I want to accord time to other Members. I know there is a lot of interest in this matter. I do not want to say more than this. I encourage Hon. Mwenje to develop this Motion into a Bill so that we can address land issues more holistically rather than using small pieces of legislation to attend to land issues. Let me spare some time for other Members.

Thank you very much, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): This seems to be an issue for Members from Nairobi County. I will give this chance to the Member for Starehe.

**Hon. Amos Maina** (Starehe, JP): Thank you, Hon. Temporary Speaker, for giving me the opportunity to support this Motion by my colleague, friend and the Deputy Whip of the Minority Party, Hon. Mwenje. Thank you for bringing up this issue. We have always had issues with land in this country. The 13<sup>th</sup> Parliament should go down in history as one that addressed the issues of land in absoluteness. We have a very big challenge. Our people have been demeaned by being called squatters in the 21<sup>st</sup> century. These are human beings entitled to dignified life. Basically, this is a very emotive issue.

I take issue with NLC; they have slept on the job. Most of these issues we are talking about happened under their noses yet they have not taken adequate measures to address them in absoluteness. Recently, we had a debate on matters to do with digitising land operations. A Member noted that there is need to address the issue of land ownership in absoluteness. We need to give title deeds to our people so that, even if they pay land rates and rents, they are content that they absolutely own the land. There is a company from America called Google. I have interest in how they have been able to map out all the roads, lanes and places in Kenya yet the Government of Kenya cannot even map out the pieces of land in Kenya and give people titles. We need to address land issues using the wisdom of Google Maps.

There is a challenge with big corporations that own huge chunks of land that lie idle for a long time. The land attracts people who take over ownership and make it productive. After such people occupy the land for some time, we start calling them squatters and evict them yet they have invested. They make the land profitable and a source of income for too many people. We have a corporation like the Kenya Railways with huge chunks of land, some bordering Wakulima Market in my area. That land is lying idle while Wakulima Market is congested. We have been requesting them to cede some land so that people in Wakulima Market can use and stop displaying their wares on the road.

We live in a progressive society where the population grows every single day. Land is an issue that we should tackle progressively. Some Government corporations should cede more land to squatters. Squatters in informal settlements should be given title deeds so that they can develop their plots. Cases of fire outbreaks will stop once and for all and interests for these lands will be known.

We have many people who have grabbed land in Pangani through the County Government. The County Government of Nairobi is offering land to unscrupulous landgrabbers in the name of Public Private Partnership. They end up erecting high-rise buildings on public land. That does not benefit the public.

On the issue of economic unlocking, many people in Nairobi own parcels of land but do not have title deeds. Some are business people. If they were to be given title deeds, they would go to banks get money and develop this country. That would unlock this country economically. This is an issue that should be incorporated in a Lands Reforms Bill so that we can move this country forward.

I thank you, Hon. Temporary Speaker. I support this Motion by my friend, Hon. Mwenje. I will offer support *hadi dakika ya mwisho*.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Members, allow me to recognise, in the Public Gallery, pupils from the following schools: Bright Future Academy, Lari, Kiambu County; and Chepketeret Primary School, Keiyo South, Elgeyo Marakwet County. They are welcome to follow the proceedings this afternoon.

Member for Kibra, two minutes.

**Hon. Peter Orero** (Kibra, ODM): Thank you, Hon. Temporary Speaker. This matter of land...

*(Hon. David Gikaria spoke off record)*

**The Temporary Speaker**: Hon. Gikaria, you are not logged in to speak.

**Hon. Peter Orero** (Kibra, ODM): This matter of land is a Nairobi affair. All the Nairobi Members of Parliament, we are the most affected as Nairobi citizens. It is very emotive. I must thank my good friend, Hon. Mwenje, for having brought this Motion. He is a first-hand person who knows what land problems are. His constituency, for a long time, has had land issues. That does not mean that all the other constituencies are good. I am from Kibra Constituency where we have the highest number of squatters. At the same time, it is in Kibra where the land rate value is the highest in this country. People do not know that Upper Hill is in Kibra a place with the highest value of land.

Squatters pay rent to absentee landlords who do not have title deeds. It is about time the Government came up with a policy that those who have stayed in places for a long time should be given title deeds because they have been born and bred in those places. We cannot have a country where after 60 years of Independence people are still being called squatters. In my constituency, every successive Government has always promised to give people title deeds. This has been happening at the whims of the leadership and after a Government has gone out, the problem persists.

The leadership of these constituencies must be consulted and involved so that the distribution and regulation of land ownership is sorted once and for all in this country. This has been a problem since Independence. It is unbelievable that some people in this country are still landless and are called squatters. They live without knowing what tomorrow...

Hon. Temporary Speaker, allow me to continue, you know Kibra is the biggest slum in this country.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Kagiri.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Jane Kagiri.

**Hon. Jane Kagiri** (Laikipia County, UDA): Thank you, Hon. Temporary Speaker for giving me an opportunity to contribute to this very important Motion.

I want to thank Hon. Mwenje for a very timely Motion. ‘Squatters’ sound like a Nairobi issue only, but it is an issue affecting the whole country. In my county, Laikipia, which is the Texas of Kenya, every person who finds money in this country rushes there to buy property. These people turn out to be absentee landlords who want to speculate land for more than 20 years. They allow squatters or people to occupy those pieces of land but never give them free occupation or allow them to progress on those pieces of land. These are Kenyans who can be very productive. However, with the uncertainty, they are not able to do much.

I support this Motion because we need to discourage the culture of unattended land. In the County of Laikipia, absentee landlords have caused a lot of insecurity. When you leave a person who is not the owner of the land to occupy it and illegal grazers come on that land, you cannot justify why you are chasing them away because the land is also not yours. I support this

Motion considering that only 33 per cent of Kenyans own land. The remaining 67 per cent, where are they supposed to live or occupy if your business is to buy land and just live it there?

Finally, the issue of title deeds must be taken care of. In my county we have Kandutura, Manguo, Maina, Leakey, and too many other areas that require title deeds. I believe if that is done, Kenyans will be productive and Laikipians will be successful.

Thank you, Hon. Temporary Speaker. I support the Motion.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Mwenje, this is your chance to reply because the time for the Motion is spent.

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you, Hon. Temporary Speaker. Am I able to donate, perhaps, a minute each to Hon. Rindikiri and Hon. Chief Chiforomodo?

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Chiforomodo will get a minute, but next time he puts his card he should be in the House. We called his name earlier and he was not in.

Hon. Rindikiri.

**Hon. Mugambi Rindikiri** (Buuri, UDA): Thank you, Hon. Temporary Speaker. Indeed, land is an emotive matter. I really support the Motion by my friend, *Wakili*, Hon. Mwenje. This is not only a Nairobi matter. I come from a rural constituency in Kenya with the largest number of squatters. We have squatters in the rural areas. They are people who used to work in forests and in large scale farms. They were forced to live as squatters.

In my Constituency, Buuri, we have Gichagi, Riverside, Machaka, Kahiriri, and very many others. I am looking forward towards Hon. Mwenje drafting a Bill on how to regularise squatters. It is very important that every Kenyan be given the right to own land so that they can receive the best development activities.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Chiforomodo.

**Hon. Chiforomodo Mangale** (Lungalunga, UDM): Thank you, Hon. Temporary Speaker. I want to confirm that I have been here all the time. I want to take this opportunity to support Hon. Mwenje for this very important Motion. This is a chance where Kenyans can be assured to sort out the issue of historical land injustices.

In my constituency, there is the issue of absentee landlords. The people living in Kichaka-mkwaju, Majoreni, Kiwambale, Jego, Kiwegu, Yungi, and Mnanasini in Zombo area, ought to be guaranteed that they will be settled there. This is the chance to stress that Hon. Mwenje should turn this Motion into a Bill. That way, the issue of absentee landlords will be addressed, once and for all. We need to ensure that the issue of land is addressed once and for all because it has been a thorn in the flesh of Kenyans for very long, especially in Lungalunga Constituency.

Thank you, Hon. Temporary Speaker.

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you, Hon. Temporary Speaker. I want to thank all the Members for their contribution, including the senior Members. When I first joined Parliament, Hon. KJ advised me that you pick a course and stick to it. This is my course, and you can clearly see it as well.

Hon. Temporary Speaker, there is the issue of identifying genuine squatters. This Motion is crafted in a way that will enable us identify genuine squatters so that people do not take advantage of this issue. Due to absentee landlords, possession takes forever as has been noticed. So, who do we sue in court? This is one of the issues my constituents have raised.

Regularisation should not be done informally in bars and hotels. This Motion is meant to create an office where regularisation is done in a tripartite manner and the Government is involved. That is why we have success in places like Embakasi Ranch where the former and current presidents got involved in the issue and participated. That is why you have seen title deeds for that area coming out. People have been conned in hotels when regularisation is being

done as Hon. Mishi Mboko highlighted is happening in her constituency. That is what we are trying to stop.

We all agree that the National Lands Commission has failed and that is why I brought this Motion. I am working on a Bill and look forward to Members joining me because it will address these issues, once and for all. Let us be brave and give squatters their title deeds so that we can sort out this problem, once and for all.

With that, Hon. Temporary Speaker, I beg to reply. Thank you.

**The Temporary Speaker** (Hon. David Ochieng'): Well said. Hon. Members, the Motion is well spent and the Question will be put the next time this matter is scheduled on the Order Paper.

*(Putting of the Question deferred)*

### ADJOURNMENT

**The Temporary Speaker** (Hon. David Ochieng): Hon. Members, the time being 1.00 p.m., this House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.



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