

**Address by Dr. Joan Clos Under-Secretary-General of the United Nations and Executive Director of UN-HABITAT at the ISK Annual Dinner, 26 April 2013**

Mr Chairman,

Invited Guests,

Ladies and Gentlemen,

It is a great honour for me to share my thoughts with this relevant gathering of Land Professionals in Kenya, and especially on a topic that is very close to my heart, **“the Role of Land Professionals in Tackling Informal Settlements”**.

I am sure you are aware that UN-Habitat is the United Nations agency mandated to promote socially sustainable urbanization in towns and cities. This includes tackling informal settlements, without which sustainable urbanization cannot be attained.

From the onset, it is important to accept that tackling informal settlements is a very complex process and requires a huge commitment at all levels. Political, technical and professional efforts are needed and the professionals should therefore facilitate involvement of the communities through simplification of technical jargon into ideas and language that is comprehensible to non-professionals, especially the poor. The good news is that the recent experience in **Kenya’s Land Reform** has shown how Land Professionals can facilitate broad stakeholders’ engagement in the land agenda. You have to

maintain that spirit going forward with the next phase of implementation.

In order to effectively tackle informal settlements, the land professionals have to maintain and adhere to very high standards of professional integrity. Most land reforms around the world fail to achieve expected goals due to poor land governance and lack sufficient trust between participants, regardless of good intentions. It is therefore vital for professional bodies such as ISK to ensure that professional standards and integrity are ensured in order to generate trust and legitimacy. Non-professionals are looking up to professionals for guidance, impartiality and wisdom.

Mr Chairman, Ladies and Gentlemen,

In order to properly position ourselves to tackle informal settlements, let us first recall the prevailing environment in the land sector and specifically the informal settlements situation. The **National Land Policy** and the **Constitution of Kenya**, to which, as I said, the land professionals have contributed greatly, ushered in a favourable environment for addressing informal settlements. UN-Habitat, through support from the Swedish International Development Cooperation Agency, has participated in the process serving as the **Chair and Secretariat for the Development Partners Group on Land**. The National Land Policy **brings to bear** some of the principles that conform to international conventions and values, such as;

gender equity, secure land rights, effective regulation of land development, transparent democratic governance. These are bolstered by the Constitution mainly under the Chapters on the Bill of Rights and Land and Environment.

The Government of Kenya has long realised the need to tackle informal settlements, first through the **Kenya Slum Upgrading Project (KENSUP)** and, lately, the **Kenya Informal Settlement Improvement Project (KISIP)**. The Kenya Informal Settlement Improvement Project (KISIP) reflects the Government of Kenya's appreciation that the "Cities Without Slums" slogan does not imply elimination of slums, but an incremental improvement of living conditions and security of tenure in informal settlements. This realization is derived from lessons learned during the implementation of the Kenya Slum Upgrading Project (KENSUP). The underlying principle introduces a paradigm shift in an environment where **formal land registration and land titles are perceived as the ultimate signs of secure tenure**. It is therefore important to continuously sensitise stakeholders so that the **continuum of land rights concepts** is accepted and assimilated into professional approaches.

For the purpose of the **Kenya Informal Settlements Improvement Programme (KISIP)**, informal settlements are defined as those that lack at least two of the following: **secure tenure, adequate infrastructure, planning at the settlement, and quality housing.**" This is a wise and

pragmatic definition which avoids political connotations and apportioning blame about informal settlements. Yet, it provides an outline of roles that land professionals can play in improving tenure security, providing relevant infrastructure and promoting adequate urban planning and providing socially acceptable housing.

Mr. Chairman,

We should keep in mind that only about 30% of properties worldwide are properly registered. And a pragmatic and incremental approach is required in order to be effective, not disruptive. It is clear that land policies have often created a perception that sustainable land management can only be achieved through formal land registration. However, we now know that formal land registration very often creates an **exclusive environment** in which all other land rights are not recognized and, in some cases, are considered **outright illegal**.

The philosophy behind **Kenya's National Land Policy** introduces a paradigm shift in stating that "**it adopts a plural approach, in which different systems of tenure co-exist and benefit from equal guarantees of tenure security**". The rationale for this plural approach is that the equal recognition and protection of all modes of tenure will facilitate the reconciliation and realisation of the critical values which land represents". As land professionals, your role is to lead in

the implementation of this philosophy, which embraces the “continuum of land rights” concept. Without this, Kenya, like some other developing countries, will be perpetually chasing an elusive goal of a **complete cadastral coverage** and thereby **excluding communities in informal settlements from tenure security**.

UN-Habitat, through the Global Land Tool Network, is developing the **Social Tenure Domain Model (STDM)** to support actualization of the philosophy and the continuum of land rights. Implementation of the **Social Tenure Domain Model** is a **pro-poor and inclusive approach** for representing the **person-to-land relationship along the land rights continuum**. It acknowledges the slow pace in achieving comprehensive formalisation of land rights, especially in developing countries. As the best proven strategy it thus provides mechanisms for bridging the gap between formal registration and other **person-to-land** relationships. Some ISK members have been introduced to the Social Tenure Domain Model and there are on-going initiatives to support the use of the Social Tenure Domain Model in the Kenya Informal Settlement Improvement Project.

Ladies and Gentlemen,

Financing infrastructure in cities, let alone in informal settlements, poses some of the greatest challenges to upgrading initiatives. UN-Habitat is developing a number of

approaches to use land for financing infrastructure. These are piloted under different situations, in partnership with Member States. In these piloting initiatives, there is strong realization of the inadequacy of existing legal instruments to support them. Some of the best policies cannot be implemented without the minimum and necessary laws and regulations.

For example, one of the most traumatic elements for communities, in informal settlements, is when people have to be relocated to allow passage of infrastructures. The experience is less daunting when the rules for compensation, relocation and resettlements are clear, well known, adhered to and perceived as fair and equitable. We realise and appreciate that the Government of Kenya, in consultations with stakeholders, is developing laws to address evictions and resettlement in the search of this fairness and transparency.

The National Land Policy, together with the Constitution, stipulate that compensation for "*property of any description, or of any interest in, or right over*" should be paid, and thus "*requires prompt payment in full, of just compensation to the person*". The question for the Land Valuers is: can property valuation on unregistered land be performed? This means that as professionals you will be challenged to adopt inclusive approaches that recognise property value even in informal settlements, thereby ensuring economic enhancement and facilitating a rise on the property ladder. At the other end of the questions, it is clear that good urban planning increases the

value of the land and here is the ethical question of value sharing between the owner, the occupant and the community at large. And who is in charge of the buildings and maintenance of infrastructure. As wealth and land value increases in parallel a just system of value sharing, including taxation, will be necessary for social justice and for urban service provision.

Another development that UN-Habitat is piloting in partnership with different governments and local authorities is Land Readjustment. The approach has been pursued in different countries with very interesting outcomes. In land readjustment, landowners or land holders act collectively, in cooperation with the planning authority, to pool their land so as to implement a clearly defined redevelopment project. This is in order to avoid expropriation and to substitute it with interchange or “readjusted” value, equating value of land with value of buildability rights (floor-area-ratio). Some of the benefits that can be accrued from land readjustment include: increasing the supply of serviced land at the urban fringes, through an orderly and negotiated process; increasing density and rationalizing land use in inner city neighbourhoods and urban fringes according to citywide strategic planning; and providing finances for part of the infrastructure costs.

The key to the success of land readjustment is the acceptance and concurrence of land owners and occupiers. The land professionals – and I mean the complete spectrum of ISK members – could play a catalytic role to ensure that

stakeholders comprehend the proposals and the ultimate benefits. This is where professional integrity is essential, requiring you to look for the best interest of the community. In these situations, the benefits include value gain from re-planning, infrastructure development, tenure security and neighbourhood improvement. It is important to ensure that land owners and occupiers are not coerced into joining the development without understanding the social and collective gains of the exercise.

These interventions can never succeed without adherence to the basic principles of urban planning. The key considerations for successful urban planning include, but not limited to: planning with a long term vision; ensuring adequate public spaces; ensuring better connectivity; and planning to enhance inclusivity and social integration. The planning process should likewise work along the **continuum of land rights**. It should not only focus on the formally registered land, but should also ensure that informal settlements are not blank gaps on the development plan.

Mr Chairman, Ladies and Gentlemen,

In defining your policies and key objectives for the year, I implore you to recognize that ISK has an important role to play in ensuring the realisation of the Government and Citizens of Kenya's ambition of socially, economically and environmentally sustainable villages, towns and cities. **The National Land**

**Policy and the Constitution**, to which the professionals' contributed, **reflect the willingness to move** beyond accepted wisdom, beyond norms that have proven to be flawed and serving only a small percentage of the population. ISK's contribution in the development of new laws should continue to reflect the paradigm shift, thereby ensuring that the philosophy of the **National Land Policy is implemented**. UN-Habitat stands ready to share experiences and support your initiatives in tackling these very complex issues of informal settlements. I thank you for your attention.