



THE PERMANENT MISSION OF
SOUTH AFRICA
TO THE UNITED NATIONS

PF 12 MASENJANA 288

333 East 38th Street
9th Floor
New York, NY 10016
Tel: (212) 213-5583
Fax: (212) 692-2498
E-mail: pmun@southafrica-newyork.net

**STATEMENT
BY**

**DR. MASENJANA SIBANDZE
DEPUTY DIRECTOR-GENERAL
DEPARTMENT OF TRADITIONAL AFFAIRS OF THE
REPUBLIC OF SOUTH AFRICA**

**DURING THE 11TH SESSION OF THE UNITED NATIONS
PERMANENT FORUM ON THE
INDIGENOUS ISSUES**

**UNITED NATIONS
NEW YORK
16 MAY 2012**

Please check against delivery

Chairperson,

The Constitution of the Republic of South Africa and the Bill of Rights are a living testimony of the ability of a nation to rise above the historical injustices of colonialism and apartheid to a progressive and human rights based democracy, where the human rights of all South Africans enjoy primacy.

Since the advent of democracy in 1994, substantial progress has been recorded in addressing the devastating political, social and economic consequences wrought by colonial and apartheid policies through systemic and institutionalised racial discrimination, and the denial of basic rights to the majority of South Africans through policies of exclusion.

Government efforts, in partnership with social partners, including business, labour and civil society have focused on building a united, prosperous and democratic South Africa where all citizens enjoy equal rights, irrespective of race, gender, colour, ethnicity, religion, cultural beliefs, language and creed.

The South African Government has through policy and legislative frameworks in such critical areas as land reform, rural and agricultural development, promotion of cultural rights and indigenous knowledge systems, empowerment of rural women, governance and others, instituted measures aimed at restoring past injustices and granting opportunities for citizens to improve their economic livelihoods thus contributing to South Africa's socio-economic development.

These efforts by the South African Government are underpinned by the core values of equitable, fair and inclusive justice as enshrined in the Bill of Rights.

Chairperson,

In the South African context, there has been recognition of the great harm caused to the Khoi and San communities from past historical injustices arising from the Doctrine of Discovery that led to the dispossession of land, geographical displacement, loss of cultural identity and the attendant socio-economic hardships suffered by those directly affected.

In recognition of the multiple challenges facing the traditional communities, the South African Government has established a legal framework for the institution of policy and legislative interventions in identified areas enabling full, equal and inclusive opportunities for communities to participate in political and economic processes at local, municipal, provincial and national levels.

In this regard, the Traditional Leadership and Governance Framework Act, 2003 (Act No.41 of 2003) has granted recognition to the traditional communities and their attendant leadership and governance structures in accordance with South Africa's constitutional provisions.

However, in the case of the Khoi and San where historical injustices have contributed to the denial of the existence of distinct cultural communities who have identified themselves as the South African Khoi and San communities, there has been no past statutory recognition of the Khoi and San communities, leadership and structures.

In this regard, the South African Cabinet took a decision on 3 November 2004 providing a mandate to relevant national departments to work with the Khoi and San

communities on a range of issues towards the promotion and protection of the rights of the Khoi and San people.

In support of this process, the South African Department of Traditional Affairs is currently processing the Traditional/Indigenous Affairs Bill, which provides for the recognition of the Khoi and San communities, leaders and councils, as well as their representation in houses of traditional leaders and participation in municipal councils.

Chairperson,

In an effort to redress past historical injustices, the South African Government has within the broader framework of the South African constitutional framework, instituted concrete steps to address the needs of Khoi and San communities on the basis of norms for self-identification as applied by themselves, and in accordance with principles of international best practice and international jurisprudence.

A process of consultation by the Government and the Khoi and San communities commenced in 1995 leading to the successful establishment of the National Khoi and San Council in 1999. The National Khoi and San Council represent the Cape Khoi, San, Nama, Korana, and Griqua communities.

The South African Government is currently engaged in a process of developing the required national legislative framework in consultation with all relevant stakeholders to engender legal recognition of the Khoi and San communities, leadership and authority structures, and also to provide for their full participation in governance structures at local, provincial and national levels.

In this regard, the draft Traditional/Indigenous Affairs Bill when promulgated will replace the existing Traditional Leadership and Governance Framework Act and the National House of Traditional Leaders Act.

Constitutional democracy is a dynamic and evolving process. We are therefore confident that with the passing of this draft Bill in the near future, an enabling legislative framework will be put in place to support the inclusive participation by all Khoi and San communities in political, economic, social and cultural activities and processes at all levels of society.

I thank you.