



**SOUTH AFRICAN NATIONAL STATEMENT TO THE
EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES**

11TH SESSION

10 JULY 2018,

GENEVA

PANEL ON RECOGNITION, RECOGNITION AND REPARATION

Check against delivery

Chairperson,

South Africa thanks panellists for their presentations. We were moved to hear the personal accounts of indigenous peoples and the discrimination faced by them and the call to restore respectful relationships.

Indigenous peoples are citizens of the countries in which they live and cannot be treated as second class citizens in their own countries. International human rights law is predicated on the cardinal principle of non-discrimination. It is therefore impermissible to discriminate against indigenous peoples merely on their existence and their way of life.

Madame Chair,

South Africa has come a long way since the adoption of the Declaration giving practical effect to the rights enshrined therein and indeed using it as a framework for reconciliation and recognition.

Several initiatives are being undertaken by the Government in consultation with indigenous communities and upholding the principle of free, prior and informed consent which is paramount. Ensuring that their human rights in terms of development, service delivery, governance, access to indigenous knowledge systems, traditional courts and indigenous law, traditional healing and medicine; and rural development and land reform are adequately met is a high priority. Furthermore, the dispossession of the land of the indigenous people continues to constrain the realisation of the potential of our people. Fundamental to the transformation of our society is to address land reform.

The South African Constitution provides an extensive framework for the protection, enforcement and advancement of the interests of all South Africans, including the

Khoi-San. Many of the rights contained in the Bill of Rights are of relevance for the expression of the identity of communities through culture, religion, language and education. Social cohesion programmes in South Africa is important.

Much progress has been made on the Traditional Khoi-San Leadership Bill following extensive research and public consultations including with the Khoi-San groupings. The Bill seeks to recognise the Khoi-San or indigenous leaders, structures and communities and is currently subject to parliamentary process. . The Bill is of historical value as for the first time ever, statutory provision is made for the recognition of Khoi-San communities and leaders.

We agree with the Chief Littlechild on the importance of indigenous justice system. The policy framework for the traditional justice system under the South African Constitution also plays a crucial role in promoting social cohesion, peace and harmony in communities. In this regard, The Traditional Courts Bill aims to affirm the recognition of the traditional justice system and its values based on restorative justice and reconciliation, and to provide for the structure and functioning of traditional courts in line with constitutional imperatives and values. The Bill will improve access to justice, as these courts are easily available to local communities and will dispense justice speedily and affordably. The Protection, Promotion, Development and Management of Indigenous Knowledge Systems Bill is also currently subject to parliamentary processes. The Bill seeks to provide legal protection for indigenous knowledge, i.e. knowledge generated and owned by communities. Such knowledge includes medical practices, the production of food products and cultural expressions, songs and designs. It also aims to an end to that anomaly and the exploitation of indigenous knowledge by transnational companies

I thank you