



THE PERMANENT MISSION OF  
**SOUTH AFRICA**  
TO THE UNITED NATIONS

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**STATEMENT  
BY**

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REPUBLIC OF SOUTH AFRICA**

**DURING THE 11<sup>TH</sup> SESSION OF THE UNITED NATIONS  
PERMANENT FORUM ON THE  
INDIGENOUS ISSUES**

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*Please check against delivery*

**Chairperson,**

At the outset, allow me to join those who spoke before me in congratulating you and members of the Bureau on your election. We wish you, Chairperson, every success and remain confident that the Forum will benefit under your stewardship.

**Chairperson,**

South Africa welcomes the theme of this Session, namely **"The Doctrine of Discovery: its enduring impact on indigenous peoples and the right to redress for past conquests"**. This theme is important for South Africa as we, the Government, have policies in place aimed at addressing the inequalities created by the past, and towards ensuring a better life for all South Africans.

In this regard, the South African Government has taken very deliberate policy positions that affirm the equality and human dignity of all South Africans, based on the principle of non-discrimination, regardless of the groupings or communities to which they belong.

The Preamble to the Constitution of the Republic of South Africa, 1996 ("the Constitution") states that "we, the people of South Africa, recognize the injustices of our past; honour those who suffered for justice and freedom in our land; respect those who have worked to build and develop our country; and believe that South Africa belongs to all who live in it, united in our diversity..."

The Constitution requires the State to pass legislation and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis; to provide secure tenure or comparable redress to persons or communities that had insecure tenure of land as a result of past racially discriminatory laws or practices; and guarantees a right to restitution or equitable redress to persons or communities dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices. These provisions of the Constitution make up the State's land reform programme.

**Chairperson,**

Other pieces of legislation have been enacted to give effect to the rights in the Constitution to protect, and in some instances, restore land rights of all South Africans, including the Khoi and San (which are the Nama, San, Korana, Griqua, and Cape Khoi). Most notably, the Restitution of Land Rights Act 22 of 1994 gives effect to the right to restitution of land that was dispossessed from persons or communities (which would include the indigenous people) as a result of past racially discriminatory laws and practices and provides a mechanism through which this right can be realized.

The Restitution of Land Rights Act 22 of 1994 establishes the Commission on Restitution of Land Rights, which receives land claims, investigates them and attempts to resolve them through mediation. It also establishes the Land Claims Court, which is

charged with adjudication of all disputes arising out of the land restitution claims process.

It must be noted, however that the Constitution of the Republic of South Africa Act, 1993 ("Interim Constitution") placed a requirement that the right to restitution shall be available for dispossessions that took place from 19 June 1913. The Restitution of Land Rights Act 22 of 1994 placed a further requirement that claims for land restitution had to be lodged by 31 December 1998. To date, approximately 12 land restitution claims have been settled in favour of the Khoi and San communities.

**Chairperson,**

The restitution process has not been finalised, and there are in excess of 35 claims by Khoi and San communities that are still outstanding. The South African people, including the Khoi and San communities, have called upon the State to review the cut off dates for the land restitution programme, (i.e. that only those whose rights in land were dispossessed from 19 June 1913 and who lodged their land claims no later than 31 December 1998) so as to accommodate those who were dispossessed of their land before 19 June 1913 and those who did not lodge their land claims. The dispossessions of many Khoi and San communities took place before 19 June 1913.

In this regard, the South African Government remains firmly committed to working in partnership with all relevant stakeholders to find resolutions to past injustices based on principles of fair, equitable and inclusive justice.

I thank you !