

**Mandates of the Working Group of Experts on People of African Descent; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on minority issues; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
AL CHN 10/2020

29 April 2020

Excellency,

We have the honour to address you in our capacity as Working Group of Experts on People of African Descent; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on minority issues; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 36/23, 42/16, 34/6, 34/35 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning racial discrimination, xenophobia, forced eviction, and disproportionate targeting of Africans and people of African descent by state and private actors amidst measures and restrictions to contain the COVID-19 pandemic particularly in Guangzhou, the capital of Guangdong province in Southern China and the location of the largest population of people of African descent in China.

According to the information received:

As part of emergency measures and restrictions to contain the COVID-19 pandemic, China has been in lockdown for the past 13 weeks with most companies closed and everyone asked to stay home. Towards the end of March 2020, business slowly started going back to normal especially in Guangzhou. On or around 11 April 2020, 119 imported cases of COVID-19 were discovered in Guangzhou province, 25 of which were traced to foreign nationals, including approximately 19 people of African descent, including some people in a group of African business people and students who had arrived in Guangzhou and were in a hotel for the mandatory 14 days quarantine.

It is reported that mid-April 2020, just before their quarantine was about to end, some guests started showing signs of COVID-19 and some tested positive for the virus, leading the authorities to extend the quarantine time. Reportedly, one of the people who had tested positive left the quarantine site without authorization. Others, who had tested negative, also left the quarantine site. Reportedly, a search

commenced inside the communities of African descent in China, including forcible testing, that revealed 13 new local cases of COVID-19 among people of African descent. In the panic that followed, Africans and people of African descent were reportedly forcibly and summarily evicted from housing without notice or due process of law by state and non-state actors, refused entry to hotels and commercial establishments, and assaulted and harassed in the streets and on trains. Additional risk to the entire community has been reported as the State has offered no assurances that its inquiries are limited to health checks, causing undocumented people to subordinate health concerns to fears of discovery and deportation. In addition, and uniquely, people of African descent continued to be subjected to forcible testing and forcible quarantine extension beyond the required 14 days for foreigners, even following negative testing.

The belief that the most recent COVID-19 cases in China were brought into the country from the outside appears to have exacerbated racial bias and racial discrimination that existed prior to the COVID-19 crisis in China and has resulted in disproportionate governmental action against all Africans and people of African descent, particularly in Guangzhou. A branch of McDonald's in Guangzhou put up signs and refused to allow Black people to enter the restaurant. McDonald's confirmed this and later issued an apology on 13 April 2020. According to reports, currently many Africans and people of African descent in Guangzhou have been forced into quarantine or have been evicted and are now homeless and sleeping on the streets because of coercive and discriminatory policies targeting them.

In its Newsletter dated 13 April sent to the WGEPAD, the Chinese Government reported that "regarding the concerns of some African citizens in Guangdong Province, the local authorities have looked into them and adopted a series of new measures". In its Newsletter dated 15 April, the Government stated:

"Facing grave risks of importing cases in Guangdong, China has strengthened its prevention and control measures and adhered to the principle of treating Chinese nationals and foreigners as equals, and will not adopt differentiated policies towards any special groups. Taking into consideration the concerns of the African side, Guangdong has further improved its health management measures for foreigners. It is learned that on the premise of complying with China's provisions on epidemic prevention, many African nationals are returning home in self-quarantine, and proper arrangements have been made for African nationals in difficulties".

However, the reports received indicated that people of African descent are not only differentiated, but uniquely discriminated against in the pandemic response.

While we do not wish to prejudge the accuracy of the information made available to us, we would like to appeal to Your Excellency's Government to guarantee the human rights of all Africans and people of African descent in China.

We express our serious concern over the allegations received. Measures to contain the Covid-19 outbreak should not be used as a basis to target particular groups, minorities, or individuals. It should not function as a cover for racial discrimination under the guise of protecting health. Emergency measures and restrictions adopted to contain the pandemic should be the least intrusive means to protect public health, should not create risk or panic in specific communities, and not be disproportionately targeting a specific group of people.

While we appreciate and fully understand the commitment of Your Excellency's Government to contain COVID-19, prevent a resurgence of the pandemic in China and maintain public health, the disproportionate targeting of Africans and people of African descent is discriminatory and reflects and reinforces negative racial stereotypes of people of African descent. Misrepresentations of people of African descent are profoundly damaging, with far-reaching and life-threatening consequences, especially as governments and citizens across the globe are grappling to contain this pandemic. Racism and racial discrimination remains an existential threat to the lives and dignity of Africans and people of African descent. In this pandemic, people of African descent must navigate the risks of infection and the risks of racism as parallel threats to their lives and safety.

We welcome the Government's commitment to address the concerns of Africans and people of African descent in Guangdong Province and we call upon the government to immediately take action to cease the targeting and persecution of Africans and people of African descent in its pandemic response, irrespective of their income, visa status, citizenship, or infection status.

We urge the Government of China to take urgent measures to address the situation in accordance with its international human rights obligations, and in particular, its treaty obligation to the ICERD prohibition of discrimination on grounds of race, colour, descent, and national or ethnic origin.

We urge the Government to investigate all reports of discrimination and hold all perpetrators accountable and to also exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors. In this regard, we further call on the government to sanction restaurants and fast food outlets, in particular, McDonalds, hotels, apartment owners, shops, and those in provincial governments who have been found to have discriminated against Africans and people of African descent, and enforce equal living and working conditions for all people in China, including people of African descent.

We urge the government to put its resources to full effect to guarantee Africans and people of African descent the right to equality, the right to freedom from discrimination, the right to health, and the right to housing and an adequate standard of living.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please verify the accuracy of the alleged acts in the summary above. Please provide details on the measures taken to ensure the safety and protection of foreign nationals and how these measures are compatible with the international human rights obligations of China.
3. Please provide information on the measures taken to investigate the reports of racial discrimination and address the situation in accordance with China's international human rights obligations?
4. Please provide information on action taken to investigate and sanction public and private actors including restaurants and fast food outlets, in particular, McDonalds, hotels, shops, apartment owners, and those in provincial governments who have been found to have discriminated against Africans and people of African descent, and enforce equal living and working conditions for all people in China, including people of African descent.
5. Could you provide information on the action taken to guarantee Africans and people of African descent the right to equality, the right to freedom from discrimination, the right to health, and the right to adequate housing and an adequate standard of living?

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

Ahmed Reid  
Chair-Rapporteur of the Working Group of Experts on People of African Descent

Dainius Puras  
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Fernand de Varennes  
Special Rapporteur on minority issues

E. Tendayi Achiume  
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Nils Melzer  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we urge the Government of China to take urgent measures to address the situation in accordance with its international human rights obligations, and in particular, its treaty obligation to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) prohibition of discrimination on grounds of race, colour, descent, and national or ethnic origin. States should ensure the enjoyment on an equal footing of human rights and fundamental freedoms “in the political, economic, social, cultural or any other field of public life”.

We would also like to refer to article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by China on 27 March 2001. The Article protects the right to health and establishes States’ obligations to protect, respect and fulfil this right. In its General comment No. 14 (E/C.12/2000/4), the Committee on Economic, Social and Cultural Rights stresses that ICESCR article 4 that provides for the remote possibility to subject some rights to limitations on the grounds of inter alia, public health, is primarily intended to protect the rights of individuals rather than to permit the imposition of limitations by States. Such restrictions must be in accordance with the law, including international human rights standards, compatible with the nature of the rights protected by ICESCR, in the interest of legitimate aims pursued, and strictly necessary for the promotion of the general welfare. States parties to the ICESCR have an obligation to protect against discrimination of any kind, including as to race or colour. Non-discrimination is a critical component of the right to health under ICESCR Article 2.2 and a core obligation of the State in virtue of right to health.

We would like to draw the attention of your Excellency’s Government to report A/HRC/10/44, in which the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, noted that, “the way in which [testing]... is undertaken needs to be least intrusive and respect the dignity of the person subjected to the testing [...]. If forcible testing is done on a discriminatory basis without respecting consent and necessity requirements, it may constitute degrading treatment, especially in a detention setting” (paras. 64 and 65).

We urge the Government to investigate all reports of discrimination and hold all perpetrators accountable, pursuant to paragraph 18 of the General Comment No. 2 of the Committee against Torture (CAT/C/GC/2, 24 January 2008), which calls on State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors have to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors.

We would also like to recall that the Committee on Economic, Social and Cultural Rights stated in its General Comment No. 7 that forced evictions are prohibited by international law (E/1998/22, annex IV) and that, if an eviction is to take place, procedural protections are essential, including consultation, notice, alternative accommodation, legal remedies and legal aid. The Committee further emphasized that where those affected are unable to provide for themselves, the State party must take all appropriate measures to ensure that adequate alternative housing is available. The Committee also stressed the Government's responsibility to prevent and, if appropriate, punish forced evictions conducted by private persons or bodies.

Finally, recognizing that some of the individuals affected are members of ethnic minorities in China, we would like to bring to your Excellency's Government's attention the international standards regarding the protection of the rights of persons belonging to minorities, in particular article 27 of the ICCPR and the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt the measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination and in full equality before the law (article 4).