

Statement to the media by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to Germany, 20-27 February 2017

Berlin, 27 February 2017

1. The Working Group of Experts on People of African Descent thanks the Government of Germany for its invitation to visit the country from 20 to 27 February, and for its cooperation. We thank the Federal Foreign Office, and the authorities in Berlin, Saxony-Anhalt, Saxony, Hesse, North Rhine-Westphalia and Hamburg for their support. The views expressed in this statement are of a preliminary nature and our final findings and recommendations will be presented in our mission report to the United Nations Human Rights Council in September 2017.
2. During the visit, the Working Group assessed the human rights situation of people of African descent living in Germany, and gathered information on the forms of racism, racial discrimination, xenophobia, Afrophobia and related intolerance they face. The Working Group studied the official measures taken and mechanisms to prevent systemic racial discrimination and to protect victims of racism, as well as responses to multiple forms of discrimination.
3. As part of its fact-finding mission, the Working Group visited Berlin, Dessau, Dresden, Frankfurt, Wiesbaden, Düsseldorf, Cologne and Hamburg. It met and engaged with representatives of the Federal and State Governments, Member of Parliament (Bundestag), representatives of national and state-level human rights institutions, and civil society. It also visited the Plötzensee Youth Detention Center.
4. According to Government estimates there are some 800 thousand people of African descent in Germany (1% of the population) this is based on the 600 thousand captured in official statistics with foreign born parents (2nd generation) or refugees/migrants with African nationality. 200 thousand are added as an estimate of German citizens who are of African descent but do not appear in the official statistics. Civil society estimates that the number of people of African descent in Germany is around 1 million.
5. As a result of the Second World War, Germany has a heightened awareness of the importance of combatting right wing extremism and racism, particularly against previously discriminated groups such as Jews and Roma/Sinti. People of African descent have not been recognized as a significant minority within the German population deserving specific action. With the philosophy of equal opportunity for all, there have not been specific programmes for people of African descent as a particular victim group.

6. Due to historical reasons the Government does not gather data/official statistics on the basis of ethnicity or race; however people of African descent are calling for equality data to be gathered on the basis of self-identification as an important step in addressing racism they face. Social science research has disaggregated data on the basis of racial and ethnic background.
7. The protection of human rights and the prohibition of racial discrimination is enshrined in the German Basic Law (inter alia Article 1 and 3). Protection is also guaranteed under the General Act on Equal Treatment (2006) which governs the claims and legal consequences in the case of discrimination in private contracts.
8. The Working Group welcomes the efforts by the Federal and State Governments to address racial discrimination faced by people of African descent and the large intake of asylum seekers and refugees in the country. In 2015 and 2016 combined, there were more than 1.2 million registered asylum seekers.
9. Awareness of the issue of structural racial discrimination targeting people of African descent has grown thanks to a vocal civil society. The launch of the International Decade for people of African descent in Germany and the State coalition agreements, which recognize the people of African descent as a particular victim group are important steps in the path to recognition. We welcome the important work of the German Institute for Human Rights, the Federal and State-level anti-discrimination agencies, the National Agency for the Prevention of Torture and the Federal Agency for Civic Education. The Working Group welcomes funding support to civil society organizations such as the Federal Ministry of Family Affairs, Senior citizens, women and Youth Live Democracy Programme and its thematic focus on prevention of racism and empowerment of people of African descent.
10. The Working Group welcomes the adoption of the amendment to section 46 of the Penal Code requiring that racist motivation be taken into account as a specific aggravating circumstance in sentencing offenders.
11. We thank the civil society steering committee for the Working Group's visit and the many civil society organizations, human rights defenders, lawyers, academics and individuals of African descent we met during the visit, who are working to promote and protect the rights of people of African descent in Germany, creating initiatives and proposing strategies to address structural racism, racial discrimination, xenophobia, Afrophobia and related intolerance.
12. Despite Germany's promotion of multiculturalism and diversity, and the positive measures referred to above, the Working Group is deeply concerned about the human rights situation of people of African descent in Germany.

13. While the Basic Law guarantees equality, prohibits racial discrimination, and states that human dignity is inviolable, it is not being enforced. While people of African descent are a diverse group their daily lives are marked by racism, negative stereotypes and structural racism. They are targeted and victims of racist violence and hate crimes. They fear for their safety and avoid certain places as they will be attacked. They are subjected to racial discrimination by their classmates, teachers, workmates, and structural racism by the government and criminal justice system. Despite the gravity of the situation they are not officially recognized as a group particularly exposed to racism.
14. The Government is developing a new National Action Plan Against Racism and has created a NGO Forum for consultation with civil society, unfortunately no organization working for the rights of people of African descent has been selected to participate so far.
15. The Working Group underlines that the history of racism in Europe should be understood also through analysis of events preceding the Second World War, on a continuum and in the right sequence of historical events.
16. Germany's crimes against Africans and people of African descent are overshadowed by its focus on other parts of its history. Germany's colonial past, the genocide of the Ovaherero and Nama peoples, and the sterilization, incarceration, and murder of Black people during Nazi Germany, is not adequately addressed in the national narrative. The Berlin Africa conference in 1884 had a devastating and lasting impact on the continent of Africa.
17. The genocide and abuse suffered by the Ovaherero and Nama peoples at the hands of the German authorities has left an indelible stain on the souls of the victims, as well as the perpetrators. The Working group notes that the German government has apologized for the genocide and is providing targeted development projects. The Working group regrets that the German Government has thus far not seriously consulted with the lawful representatives of the minority and indigenous victims of that genocide to discuss reparations.
18. People of African descent in Germany informed us that they find the existence of street names and metro stations such as "Mohrenstrasse" as racist and insulting. This includes street names that still glorify personalities who played a key role in colonising and enslaving African people. We note the positive change to one street name in Berlin which replaced the name of a colonialist with the name of a Black German hero (May Ayim).
19. People of African descent remain invisible. Official statistics are only available about foreign born or people with parents born abroad and for African refugees and migrants. They are grouped under the all-embracing concept of "people of

a migrant background” thereby rendering invisible German citizens of African descent beyond the second generation. Despite the wealth of information and data on socio-economic indicators, there is a serious lack of race-based data and research that could inform policy to improve the situation of people of African descent. The Federal Statistical Office is considering enlarging its micro-census to include indicators such as language spoken in households. However, the lack of disaggregated data on people of African descent and Africans obscures the magnitude of structural and institutional racism they face.

20. The scope of the General Equal Treatment Act is too narrow. It does not cover racial discrimination committed by the State. It applies to private entities only. Accordingly, it excludes a wide array of racial discrimination committed by the State such as racial profiling by the police and police violence against people of African descent. This limitation lessens the legal recourses available to people of African descent particularly with the German Federal Anti-Discrimination Agency established by the General Equal Treatment Act.
21. The Working Group found that racial profiling by police officials is endemic. Stop and search and controls by police are usually targeted at minority groups including people of African descent. Boys and young men experience day-to-day confrontation with law enforcement with high risk of imprisonment. The repeated denial that racial profiling does not exist in Germany by police authorities and the lack of an independent complaint mechanism at federal and state level fosters impunity.
22. The Working Group is concerned by the failure to effectively investigate and provide justice in cases of racial discrimination and violence against people of African descent by the state, in particular by the police. One example is the case of Mr. Oury Jalloh, an African asylum seeker, who died in police custody in Dessau in 2005. There are concerns with regards to racial bias in his arrest and ill-treatment by the police, the use of physical restraints and gaps in the investigation into the cause of death. The Working Group believes that institutional racism and racist stereotyping by the criminal justice system has led to a failure to effectively investigate and prosecute perpetrators. There has been no independent inquiry. The Working Group is also concerned about the harassment of human rights defenders who are trying to seek truth and justice in this case.
23. The Working Group was also informed about other cases: Ousman Sey who died in police custody in 2012 in Dortmund; N'deye Mariame Sarr shot by police officers when she went to pick up her child from her white ex-husband; Christy Schwundek shot by police in a job center in Frankfurt am Main in

2011 and Maria El-Sherbini, a young North African woman was stabbed to death in the high-court in Dresden before her 3-year old son and the judge in June 2009.

24. Another concern is the failure to protect people of African descent from hate crimes. The Working Group learned that people of African descent are frequently targeted and attacked by right wing extremists.
25. We are also concerned by the reported degrading, humiliating and discriminatory treatment youth of African descent face during the forced medical determination of age by the authorities whilst in pre-trial detention. We heard from several youth in Plötzensee that even though they have passports and birth certificates they were forced into shackles and taken from the detention centre to the hospital, forced to undress and remove all clothing and then have an x-ray exam. They were not provided with any information or any result of the exam. These tests cannot be said to 100% accurate and are conducted without their consent. Other concerns were the lack of access to legal aid. The Working Group learned that at a youth detention centre, meals are only served once a day thus depriving of detainees of enjoying their breakfast in the morning and dinner in the evening. This decision is done without their consent and taking into account their best interest.
26. In the area of economic, social and cultural rights people of African descent also face racial discrimination. We express concern about the discrimination in the form of decision making by property owners on the basis of name and appearance. Competition for rental housing among low earning families and middle income families has given wide latitude to property owners in selecting their tenants.
27. The Working Group is concerned about the educational outcomes for children of African descent in Germany. According to civil society, children of African descent were increasingly recommended by teachers to take up school paths that reduced their opportunities for higher education. We note the disproportionate drop-out rate from schools, with those of migrant backgrounds being twice as likely to drop out than those not of migrant background. People of African descent are at the lowest rungs of Germany society. They end up with the jobs which nobody else wants. These are demonstrated by toilet cleaning jobs into which they are forced. They drive people of African descent into poverty, forcing them into depression, and raising serious risks of mental health issues.
28. While the Basic Law guarantees respect for the human dignity of all, human rights of undocumented migrants are not recognized by Germany. For instance,

if undocumented migrants go to school or a hospital, they risk being found out and getting deported.

29. The Working Group noted that a 16 point plan on returns was being discussed by the Government. The Working Group is concerned that it includes quick deportations for anyone deemed a 'security risk', increased use of data sharing for 'security reasons' (including medial data), access to social media accounts/mobile phones to verify as necessary measures to mitigate against potential security risks. The Working Group is also concerned about possible deportations of people of African descent to Libya given the reports of serious human rights violations targeting Africans in that country. Due to the elections in 2017, and the rise of far-right political parties, the Government informed the Working Group it is committed to have an organized refugee process to maintain a political balance between the protection of the rights of asylum seekers and refugees, and the acceptance of the host population.
30. Muslims of African descent are a racial and religious minority in Germany that are facing increasingly difficult times in the enjoyment of their rights due to increased Islamophobia and Afrophobia. Muslim women of African descent face further discrimination when it comes to access to the labour market. Many Muslim students of African descent describe their experiences in school as traumatic as they experience not only anti-Black racism but also anti-Muslim racism.
31. The following recommendations are intended to assist Germany in its efforts to combat all forms of racism, racial discrimination, xenophobia, Afrophobia and related intolerance. The Government of Germany should:
32. **Undertake impact-oriented activities in the framework of the International Decade for people of African descent at the Federal and State levels, to bridge the existing gaps between policies and practice, including through the implementation of relevant recommendations for recognition, justice and development of people of African descent in Germany. The International Decade for People of African Descent presents opportunities to showcase achievements in this regard.**
33. **Disaggregate data on the basis of ethnic origin and other grounds to identify discrimination and gaps so they can be addressed. The modalities for the collection of data on discrimination and equal treatment should be developed in consultation with people of African descent and other groups requiring protection.**
34. **Implement a nation-wide mandatory disaggregated data collection policy, based on ethnic background, national origin and other identities, to**

- determine if and where racial disparities exist for people of African descent and address them effectively.
35. Commission and publish a study on the human rights situation of people of African descent, by people of African descent, based on data gathered on a voluntary basis of self-identification.
 36. Fund African organizations working for people of African descent in all States so that they can document the human rights situation of people of African descent in the country and provide necessary services to their community.
 37. Take measures to protect whistle blowers within institutions so they can speak up about incidents of racial discrimination and violations of the law without fear.
 38. Germany should recall its own share in the history of colonization, enslavement and genocide, and use a reparatory justice approach as a way forward. The Ovaherero and Nama people must be included in the negotiations currently ongoing between the German and Namibian governments.
 39. Legally recognize people of African descent in Germany as a minority group who have made and continue to make profound economic, political, social, cultural contributions to Germany.
 40. Recommend use of the term Afrophobia to describe the unique and specific form of racial discrimination affecting people of African descent and African Diaspora.
 41. In consultation with people of African descent, find ways to create memorials to honor people of African descent and African victims of historic tragedies.
 42. Replace street names that are insulting to people of African descent and replace with names which honour people of African descent.
 43. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
 44. Respect the rights of people of African descent in accordance with Article 1 of the Basic Law. Formulate a definition of racial discrimination in accordance with Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and review and change all laws and regulations that lead to de-facto racial discrimination such as the Federal Police Act.

45. **Expand the mandate of the German Institute for Human Rights to receiving complaints of human rights violations.**
46. **Create a National Institution to represent the interest of people of African descent in Germany to research and develop policies to address issues faced by people of African descent.**
47. **The General Equal Treatment Act should be amended to include more broadly within its scope structural racial discrimination committed by the State as well as individuals.**
48. **Adopt a National Action Plan developed with consultations and involvement of civil society and associations representing people of African descent, with focus on structural racial discrimination, legislative reforms, accountability and enforcement of anti-discrimination legislation. Ensure the Action Plan includes a specific focus on people of African descent as a group requiring targeted support.**
49. **Establish an independent inquiry, with inclusion of the Oury Jalloh Initiative, into the case of Oury Jalloh to investigate events that led to his death in custody, identify and prosecute those responsible and to investigate those who have harassed and intimidated the human rights defenders seeking justice in this case.**
50. **End criminalization of men of African descent and combat effectively and end any practice of racial profiling by Federal and State law enforcement officials, including by: (a) Amending or repealing section 22 (1) of the Federal Police Act and legally prohibiting discriminatory profiling , establishing independent complaints mechanisms at both the Federal and State levels to investigate acts of racial discrimination committed by law enforcement officials; adopting a comprehensive training strategy and vetting system for application during recruitment and throughout the career of law enforcement officials to ensure that law enforcement tasks are performed without racial profiling or any other methods leading to racial discrimination.**
51. **Undertake prompt, thorough and independent investigations into all allegations of racial profiling, holding those responsible accountable and providing effective remedies, including compensation and guarantees of non-repetition.**
52. **Monitor through periodic external, independent audits of police services practices.**
53. **Increase the representation of people of African descent in law enforcement and correctional services.**

- 54. Implement recommendations of the National Agency for the prevention of Torture at the federal and state level.**
- 55. Adopt an intersectionality framework to analyse and address the multiple forms of discrimination on gender, race, religion and other grounds.**
- 56. Review and ensure that textbooks and other educational materials reflect historical facts accurately as they relate to past tragedies and atrocities.**
- 57. Take measures to address racial discrimination in education and prevent children of African descent from being slotted into lower tracks in a tiered education system preventing them from acquiring university education; ensure that diplomas obtained abroad, particularly outside the European Union, are properly recognized so that the holders of such diplomas may present themselves to the job market on a competitive basis.**
- 58. Appoint educators of African descent in Germany to the Boards of Education commissions that are responsible for the development and design of school curricula and their contents, in each subject and in each State.**
- 59. The General Equal Treatment Act should be amended in order to eliminate the exception granted to landlords, allowing them to discriminate in order to “create and maintain stable social structures regarding inhabitants and balanced settlement structures, as well as balanced economic, social and cultural conditions”. While this provision may have been created to promote integration, its broad nature can be detrimental to such efforts by in effect allowing for discrimination.**
- 60. Actively recruit people of African descent to state institutions to create a diverse workforce to represent the population of Germany and combat structural racism.**
- 61. Provide specific educational and training for people of African descent to obtain better job opportunities. Affirmative action by way of job quotas should also be explored. These opportunities should open up not just in the public sector but also in the private sector.**
- 62. Consider recognizing the right of migrants to vote in local elections, thus improving the representation of these communities in city councils and other municipal bodies.**
- 63. Laws must be aligned with international human rights law to respect asylum seekers’ human rights including their right to health in all States. Ensure human rights of migrant workers, including those who are undocumented, are respected as guaranteed by international human rights law. Pathways must be created to enable undocumented workers to**

convert their status and become documented workers. These pathways should lead to residency and later to citizenship.

64. The German media is encouraged to write positive stories on people of African descent as they are contributing towards the contemporary German society.

The Working Group would like to reiterate its satisfaction at the Government's willingness to engage in dialogue, cooperation and action to combat racial discrimination. We hope that our report will support the Government in this process and we express our willingness to assist in this important endeavour.

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