

Mandates of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on minority issues; and the Working Group on the issue of human rights and transnational corporations and other business enterprises.

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur in the field of cultural rights; Special Rapporteur on minority issues; Working Group on the issue of human rights and transnational corporations and other business enterprises, pursuant to Human Rights Council resolutions 28/9, 25/5, 35/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged planned expulsion and demolition of the Seven Sisters Indoor Market, in the London Borough of Haringey, for a regeneration initiative, announced to start in July 2017, which would threaten the livelihood and cultural life of the residents and shop owners mainly of minority origins.

According to the information received:

The London Borough of Haringey includes the Elephant & Castle and Seven Sisters Latin neighbourhoods, which have existed since the 1990s and are home to the country's largest concentrations of Latin Americans and Latin American-owned businesses. The Seven Sisters cluster features, apart from residential buildings, an indoor market situated in the old Edwardian department store called Wards Stores. It contains over 120 businesses, for the main part small family businesses, spread out on two floors (mezzanine).

Since 2008, proposed regeneration projects that involve demolition of the Seven Sisters indoor market and some of the surrounding residential buildings to build a modern mall, have caused disagreement between the local authorities of Haringey and their private real estate partners - Grainger PLC and Market Asset Management Ltd. (MAM Ltd.) - and the residents and shops owners of Seven Sisters. It is alleged that the regeneration project would mainly affect people with low-income belonging to minorities, would have a detrimental impact on the livelihoods of 120 shop owners and their employees, and would involve relocation of an estimated 160 residents and the destruction of the public space for social and cultural interactions among the people of the area.

Shared space for economic, social and cultural interaction

The majority of the residents and shop owners in the area in question are British citizens but are members of a minority and for most of them, English is a second language. They are able to work in small family businesses in the market and earn subsistence wages, even without strong command of English.

More than 55% of the business owners of the indoor market are of Latin American or Hispanic origin or descent. The remaining portion comes from 21 different origins, making the borough very rich in terms of cultural diversity. Because of this diversity and of its spatial organization on two floors with open areas, the indoor market is considered not only as a commercial space but also as an informal social and cultural space, in particular for the London Latin American minority. Many of the shops and the covered areas between them are used as places where people of different generations meet, where neighborhood children gather and play after school and where an array of social activities are regularly organised, bringing together people from different origins. The Seven Sisters indoor market, also called the “Latin village” because of the important role it plays for London Latin Americans, is considered by the shop owners, their families and surrounding residents to be a cultural center, offering opportunities to network and a sense of belonging. The interactions experienced there are described as fostering a constructive intercultural dialogue and the permanent dynamic processes that are an integral part of cultural diversity.

Legal battle around the regeneration project

In February 2008, the authorities of Haringey and Grainger PLC submitted a planning application for the area, which included expulsion of the shop owners and some of the residents, and demolition of the site, and replaced them with new housing at increased rents. A civil society coalition, including concerned residents and shop owners as well as groups of citizens from the wider area, such as the Wards Corner Community Coalition, challenged the application through legal action. On 14 July 2009, the High Court ruled against the claimants and for the planned demolition, without provision for the residents. This decision was appealed. On 22 June 2010, the Court of Appeal ruled against the planning application because the authorities of Haringey failed to present proof of an adequate Equalities Impact Assessment required by the 1976 Race Relations Act and to give due regard to the “impact on equality of opportunity between persons of different racial groups, and on good relations between such groups”.

The Haringey authorities and Grainger PLC submitted a new planning application accompanied by a section 106 agreement. This application included demolition of the site but preserved the indoor market “in its entirety” and foresaw modest financial compensation for businesses that existed on the site in 2008. However, it excluded businesses outside the indoor market and on its second floor. For those businesses, rents after the regeneration works would be set according to market value. The civil society coalition challenged the legality of this agreement and, in July 2011, this second planning application was rejected.

In 2015, Transport for London, a State-owned enterprise which is the freeholder of the marketplace, awarded MAM Ltd. a lease for the market. It is alleged that this was done without any competitive tendering. The civil society coalition

planned to challenge the legality of this process in a new legal case. Before they could do so, on 22 September 2016, a Compulsory Purchase Order was submitted.

In October 2016 and although a decision about the Compulsory Purchase Order has not been taken, Grainger PLC, MAM Ltd. and Haringey Council formed a steering group. This group reportedly includes some shop owners invited by Grainger PLC, MAM Ltd. and Haringey Council but who were not chosen as representatives by the concerned shop owners.

It is reported that the increased market value that the regeneration project would bring to the area would result in the impossibility for current residents and shop owners to remain in the neighbourhood, due to their low income. This would lead to the economic marginalization of most of the small traders and business owners. It is also alleged that the social and economic consequences on the livelihoods and social and cultural life of the concerned persons, including women and children, mainly belonging to minorities were never fully considered in the compensation plans proposed in the later projects, not in either the planning equality impact assessment of 2012 or the Compulsory Purchase Order equality impact assessment of 2015.

On 8 April 2017, the residents and shop owners organised a public protest against the demolition of the site. A campaign was also launched by the civil society coalition to raise the money to ensure the legal support necessary to help defend their rights and have their voice heard.

Neglect of the site

It is alleged that Transport for London, as well as Grainer PLC, which has bought some residential units, and MAM Ltd., which holds the lease and manages the market since 2015, have neglected the buildings of the area so as to strengthen the argument in favour of the regeneration project.

Two council homes, purchased by Grainer PLC, have reportedly been left empty for 10 years after the families living there were displaced. This has raised particular concern considering the scarcity of social housing. Residents and shop owners have repeatedly requested the management to remove graffiti and repair broken windows, allegedly without success. In 2017, the Director of MAM Ltd. was the object of an investigation by Transport for London concerning several incidents of inappropriate behavior, abusive language towards the shop owners and poor market management. This abusive behavior confirmed by the investigation has been recalled in the current hearing about the Compulsory Purchase Order.

The reported neglect has had a severe impact on the appearance of the area, and the conditions of work and the environment for social interaction of the people using the space. They fear it will attract anti-social behavior and crime, making the area more vulnerable and unsafe. Moreover, it is feared that the disarray of the

site may have a negative impact on the forthcoming visit of the state inspectorate and the current decision process about the Compulsory Purchase Order.

While we do not wish to prejudge the accuracy of these allegations, we express concern about the gentrification project which, if followed through, would result in the expulsion of the current residents and shop owners from the place where they live and secure their livelihoods and would have a deleterious impact on the dynamic cultural life of the diverse people in the area. We also express concern at the failure to undertake a full social and equality impact assessment of the project's short and long-term consequences for the residents of the area, including on their rights to an adequate standard of living and to take part in cultural life, and of the apparent lack of meaningful consultation and inclusion of the concerned people in the decision-making process regarding the future of their neighbourhood. We are furthermore concerned that this project seems to have a disproportionate impact on people belonging to minorities and constitutes indirect discrimination in the exercise of their human rights.

In connection with the above alleged facts and concerns, we would like to remind your Excellency's Government of its obligations to ensure the right to an adequate standard of living and housing, and the right to take part in cultural life as guaranteed by various international human rights instruments to which the United Kingdom of Great Britain and Northern Ireland has adhered, in particular the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

Please refer to the **Reference to international human rights law Annex** attached to this letter, which cites international human rights law instruments and standards relevant to these allegations.

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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Please provide any additional information and any comments you may have on the above-mentioned allegations.
2. Please indicate how the concerns of the residents, shop owners and associated neighbors have been taken into consideration, including whether and how alternatives which would have less severe consequences on the livelihoods of shop owners and employees and on their right to participate in cultural life have been considered.
3. Please indicate whether and how concerned people have been consulted about the plans entailing the described demolitions.

4. Please provide information on measures taken to protect and promote the existence and expression of the diverse minority identities affected by the situation, and the dynamic coexistence and mixing achieved by the “Latin village”. Should the project be implemented, what measures have been foreseen to provide guarantees for the continuation of the cultural activities and social interactions?
5. Please indicate how the Compulsory Purchase Order, if implemented, would in this case fulfil the conditions of necessity and represent a “compelling case in the public interest” and how it complies with the international human rights standards concerning appropriate consultation of the people concerned in decisions that impact them.
6. Please specify particular measures that have been taken to prevent poor, marginalized and minority persons from being disproportionately impacted by regeneration projects. Please include any mechanisms and measures taken at the central government level to provide guidance to municipalities and local governments in relation to their international human rights obligations in relation to displacement and destruction due to urban renewal.
7. Please indicate what resettlement programs have been considered, including resettlements of businesses activities and alternative employment measures, whether these have been developed in conjunction with those affected, should the involuntary resettlements occur, and how it will protect concerned people from increased vulnerability.
8. Considering the long and costly legal battle the coalition has engaged in over the last 10 years, please indicate what procedures you have in place to ensure the availability of legal aid to assist residents and business owners who wish to challenge regeneration projects.
9. Please indicate what administrative or judicial mechanisms are in place, both at national and municipal levels, to ensure access to remedies and accountability of various actors so that individuals and groups can claim their rights.
10. Please provide information about any type of affirmative actions that have been taken to ensure equality for all British citizens, in particular in regards to the enjoyment of their right to take part in cultural life.
11. Please provide information about the measures that the Government has taken, or is considering to take, to ensure that the business owners and individuals affected have access to an effective remedy, including adequate compensation, in line with the UN Guiding Principles on Business and Human Rights.

12. In line with Principle 12 of the UN Guiding Principles on Business and Human Rights, please provide information on whether additional standards and due diligence has been taken in respect to the human rights of individuals belonging to specific groups.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to respect and protect the human rights of the concerned people of the Seven Sisters cluster in compliance with your Excellency's Government's obligations under international human rights law and standards. In the event that the investigations support or suggest the allegations to be correct, we urge you to ensure that accountability of any person responsible for the alleged violations is guaranteed.

Please note that this communication has been also addressed to Transport for London, Grainger PLC and Market Asset Management ltd. for their information and action.

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. If we do so, the press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Karima Bennoune
Special Rapporteur in the field of cultural rights

Rita Izsák-Ndiaye
Special Rapporteur on minority issues

Surya Deva Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to recall Article 27 of the International Covenant on Civil and Political Rights relating to the rights of persons belonging to minorities to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, and Article 15 paragraph 1 (a) of the International Covenant on Economic, Social, and Cultural Rights, relating to the right of everyone to take part in cultural life, both ratified by your Government on 20 May 1976. The right to participate effectively in cultural life is also recalled in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, art. 2, paras. 1 and 2.

The Committee on Economic, Social and Cultural Rights, in its 2009 General Comment 21 on the right to take part in cultural life (E/C.12/GC/21), stressed that article 15 includes the right of minorities and of persons belonging to minorities to conserve, promote and develop their own culture. This right entails the obligation of States parties to recognize, respect and protect minority cultures as an essential component of the identity of the States themselves. (para. 32). It also entails that States parties must respect free access by minorities to their own culture, heritage and other forms of expression, as well as the free exercise of their cultural identity and practices (para. 49 d). In addition, States have the core obligation to allow and encourage the participation of persons belonging to minority groups in the design and implementation of laws and policies that affect them (para. 55 e).

In the same General Observation, the Committee on Economic, Social and Cultural Rights also recalled that the protection of cultural diversity is an ethical imperative, inseparable from respect for human dignity. It implies a commitment to human rights and fundamental freedoms, and requires the full implementation of cultural rights, including the right to take part in cultural life (para. 40). Thus, States are reminded that in many instances, the obligations to respect and to protect freedoms, cultural heritage and diversity are interconnected (para. 50), and that their core obligation to facilitate the right of everyone to take part in cultural life by taking a wide range of positive measures that contribute to the realization of this right, such as adopting policies enabling persons belonging to diverse cultural groups to engage freely and without discrimination in their own cultural practices and those of others and to choose freely their way of life, and taking appropriate measures to create conditions conducive to a constructive intercultural relationship between individuals and groups based on mutual respect, understanding and tolerance (para. 52 b and h).

We would also like to draw your attention to the report of the Special Rapporteur in the field of cultural rights (A/HRC/14/36), where it is emphasized that it is the responsibility of States to create an environment favourable to cultural diversity and the enjoyment of cultural rights, by meeting their obligations to respect, protect and fulfil those rights.

We would also like to draw the attention of your Excellency's Government to Article 11.1 of the International Covenant on Economic, Social and Cultural Rights recognizing the right of everyone to an adequate standard of living for himself and his family, including housing, and to the continuous improvement of living conditions. This article must be read in conjunction with Article 2.2 of the Covenant which provides for the exercise of any right under the Covenant without discrimination of any kind.

We would also like to refer your Excellency's Government to the international standards in relation to the protection of the rights to persons belonging to minorities, in particular to the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on the Rights of Minorities). Article 1 of the Declaration establishes the obligation of States to protect the existence and the national or ethnic, religious and linguistic identity of minorities within their territories and to adopt the appropriate measures to achieve this end; article 2.1 establish that persons belonging to minorities have, inter alia, the right to enjoy their own culture and article 2.3 states that persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life. Furthermore, States are required to ensure that persons belonging to minorities may exercise their human rights without discrimination and in full equality before the law (article 4.1)" and consider appropriate measures so they "may participate fully in the economic progress and development in their country" (article 4.5).

We would also like to refer you to the work of the Human Rights Committee concerning similar cases, where the Committee has indicated that where economic development projects may harm minority rights, the state must consult the minority in question and if the project poses a serious threat to minority rights, the development should be amended or even stopped¹. In balancing the rights of minorities with other rights or interests, including economic development, the State must give special weight to minority rights in view of the vulnerability of persons belonging to minorities, and the role of the State in the promotion and protection of minority identities (HR/PUB/10/3, para.8).

In particular, would like to bring to your attention the UN Guiding Principles on Business and Human Rights (contained in A/HRC/7/31), which the Human Rights Council unanimously adopted in 2011 following years of consultations with Governments, civil society and the business community. The Guiding Principles have been established as the authoritative global standards for all States and businesses with regard to preventing and addressing the risk of business-related human rights impact.

¹ United Nations Human Rights Committee, *Lubicon Lake Band v Canada*, Communication No. 167/1984, UN Doc A/45/40 Supp. No.40 (26 March 1990); United Nations Human Rights Committee, *Länsman v Finland*, Communication No. 511/1992, UN Doc. CCPR/C/52/D/511/1992 (26 October 1994); United Nations Human Rights Committee, *Länsman v Finland*, Communication No. 1023/2001, UN Doc. CCPR/C/83/D/1023/2001 (17 March 2005); United Nations Human Rights Committee, *Apirana Mahuika et al. v New Zealand*, Communication No. 547/1993, UN Doc. CCPR/C/70/D/547/1993 (7 October 2000).

The Guiding Principles clearly outline that private actors and business enterprises have a responsibility to respect human rights, which requires them to avoid infringing on the human rights of others to address adverse human rights impacts with which they are involved. The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States' abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations. Furthermore, it exists over and above compliance with national laws and regulations protecting human rights.