

Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on minority issues

REFERENCE:
AL GBR 1/2019

15 March 2019

Dear members of the Haringey London Borough Council,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur in the field of cultural rights; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 35/7, 37/12, 34/18 and 34/6.

In this connection, we would like to bring to your attention information we have received **concerning the alleged planned re-development of the Seven Sisters Indoor Market, in the London Borough of Haringey, as a regeneration initiative, which would threaten the livelihood and cultural life of the residents and shop owners who are mainly of minority origin.**

We would like to bring to your attention our letter dated 20 July 2017 addressed to the Government of the United Kingdom of Great Britain and Northern Ireland (case reference: AL GBR 3/2017), and our letters dated 21 July 2017 addressed to Grainger PLC (case reference: OL OTH 13/2017), Transport for London (case reference: OL OTH 14/2017), and Market Asset Management Ltd (MAM) (case reference: OL OTH 15/2017).

Our previous letters indicate that the alleged regeneration project would have a detrimental impact on the livelihoods of 120 traders, and would involve the relocation of an estimated 160 residents and the destruction of a cultural interaction space for traders and residents. The letters also indicate that the project would allegedly mainly affect people with low-income belonging to minorities, more than 55% of whom are of Latin American origin or descent. As indicated in the letters, the market, known as the “Latin village”, plays an important role for Latin Americans (including immigrants and people of Latin American descent), and is considered by the traders, their families and surrounding residents to be a cultural center, offering opportunities to network and a sense of belonging. Our previous letters further refer to reports that the regeneration project would result in increased market value in the area, which would make it impossible for current residents and traders to remain in the neighborhood. In addition, they refer to reports that the lease holder and manager of the market, MAM Ltd, has been accused of neglecting the buildings of the area, which had a severe impact on the appearance, conditions of work and environment of the market, as well as of several incidents of inappropriate behavior, abusive language towards the traders, and poor market management.

The responses received and our follow-up letters can be found in the Special Procedures communications database in the following link: <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>

According to new information received:

Between 11 and 27 July 2017, the Inspector appointed by the Secretary of State for Communities and Local Government ('Inspector') conducted a Public Inquiry for the London Borough of Haringey (Wards Corner Regeneration Project) Compulsory Purchase Order (CPO). On 9 January 2018, the Inspector submitted his report summarizing the submissions made at the local Inquiry and recommended that the Order be confirmed subject to some modifications set out in the Report schedule. On 23 January 2019, the Secretary of State for Housing, Communities and Local Government ('SoS') issued a decision confirming the Compulsory Purchase Order 2016 with the modifications recommended by the Inspector.

In his decision, the SoS considered that the Order strikes a fair balance between the different public benefits of the scheme. He also concluded that to the extent that there is any interference with the human rights of affected persons, including the best interests of the affected children, that any such interference is justified and proportionate and results in no unlawful discrimination. The decision follows the reasoning made in the Inspector's report. The decision will enable the redevelopment project to proceed.

In light of the possibility of the impending implementation of the scheme, we write to express our ongoing and serious concerns based on both prior reports, and further information received in regard to this matter.

Continued mistreatment and exclusion of traders and residents.

As noted in our communication of 21 April 2017 to Transport for London, the Director of MAM Ltd. was the object of a complaint from the traders and an investigation by Transport for London/London Underground Limited (TfL/LUL) concerning several incidents of inappropriate behavior, abusive language towards the shop -owners and poor market management. In their response of 25 September 2017, TfL/LUL indicated that the relevant individual at MAM Ltd. acknowledged that their conduct had fallen below a standard that the individual and TfL/LUL consider acceptable. They also informed us of another complaint against the individual and a subsequent investigation by TfL in consultation with MAM Ltd. and the complainants.

Recent reports indicate that the Director of MAM Ltd. has continued to mistreat the traders, with insults, intimidation, shouting, and overall disrespectful engagement. Traders are reportedly subjected to language with racial undertones,

discriminatory remarks on the basis of language or origin. Spanish speaking traders have expressed feeling targeted by the mistreatment of the Director of MAM Ltd, and are reportedly afraid of engaging with him due to his aggressive conduct towards them. Several accounts of this abusive treatment have been submitted by the traders to the Public Inquiry and are available online on the inquiry's website. In their statements, the affected traders expressed the negative impact that the repeated discriminatory and racist behavior from the Director of MAM Ltd. and his staff had on their wellbeing.

Several new incidents of mistreatment were reported to the Scrutiny Panel of the Planning Committee of the Haringey London Borough Council following the decision of the SoS of January 2019. The traders also manifested disappointment that the concerns about abusive behavior raised at the Public Inquiry were not properly addressed in the decision. The mistreatment endured by the traders has reportedly become a central issue for them and they feel seriously affected by it

New reports further indicate that the management of the market has increased by an average of 300% the utility bills of traders who refused to give up their plots for the re-development project. It appears that this practice has mainly affected traders of the Latin American origin. For example, market trader Fabian Cataño, who was allegedly subjected to racist comments and discriminatory treatment by the market management on several occasions, was affected by the sharp increase in utility bills and is now facing the risk of eviction from the market due to lack of payment of the excess rate, although his rent was paid on time. He has submitted a legal claim challenging the discriminatory practices affecting his case.

The traders also renewed their complaints about the market manager's neglect of the site which affects the security, working conditions and social environment of the market. They further complained that the parking expenses were increased substantially.

Reports received also indicate renewed instances of inadequate consultation and representation of traders in the decision making process, obstacles to traders expressing their views about the project, and regular disregard of the concerns raised by traders to the management of the market. For example, one of the persons selected by Colombian traders as representative before the "Steering Committee for the Future of the Market", Ms. Victoria Alvarez, was initially prevented from participating in its meetings. Although later allowed in, the traders still feel that the opinion of their representatives are not given due consideration in discussions. Following the organization of a protest on 1 November 2018, MAM Ltd. issued disciplinary measures against Ms. Alvarez for, *inter alia*, her involvement in the protest and for expressing critical views in the media about the project and the management of the market. The disciplinary procedure can lead to the termination of her market license.

While we do not wish to prejudge the accuracy of these allegations, we express serious concern at the renewed and continuous allegations of mistreatment and intimidation against traders and residents by the Director of MAM Ltd. We are further concerned that this treatment appears to be particularly targeted at members of the Latin American community and include language with racial and discriminatory undertones. We urge the authorities to adopt the necessary measures to investigate and, where necessary, sanction such events and to protect the affected persons from any abusive behavior or infringement of their human rights. We would like to recall in this regard that the UN Guiding Principles on Business and Human Rights (UNGPs) urge authorities to protect against human rights abuse by business enterprises by adopting appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication (Guiding Principle 1). States may be in breach of their international human rights obligations if they fail to take such measures. Guiding Principle 6 sets out that States should promote respect for human rights by business enterprises with which they conduct commercial transactions. In line with the UNGPs, the corporate responsibility to respect human rights, business enterprises should identify and assess any actual or potential adverse human rights impacts, involving meaningful consultation with potentially affected groups and other relevant stakeholders (Guiding Principle 18).

We also express concern at the alleged inadequate consultation and representation of traders in the decision making process, the insufficient consideration given to their views and concerns, and the obstacles imposed on traders expressing their views about the project. We urge the authorities to ensure that all planning and consultation process related to the redevelopment project include and give due consideration to the opinions of the representatives selected by the traders, whomever and as many as they may be, to guarantee effective consultation. We would like to recall in this regard the obligation of States to ensure effective consultation with minority groups on issues affecting the enjoyment of their cultural rights as well as their right to artistic expression. In its General Comment on the right to take part in cultural life (E/C.12/GC/21), the Committee on Economic, Social and Cultural Rights stressed that 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. It further stipulated that States should obtain their free and informed prior consent when the preservation of their cultural resources, especially those associated with their way of life and cultural expression, are at risk (para. 55 e).

Concerns regarding the contents of the report of the Inspector and the decision of the SoS

We would like to draw your attention to the following concerns regarding the contents of the report of the Inspector and the decision of the SoS.

(1) Obligations and cooperation of government entities (central or local) under international human rights law

We are concerned about the assertion of the Haringey London Borough Council, reproduced in the Inspector's report, that international human rights treaties ratified by the United Kingdom, such as the International Covenant on Civil and Political Rights (ICCPR), are not applicable to the assessment of the Compulsory Purchase Order, since they have not been incorporated into domestic law by specific legislation (paragraph 278). In this regard, we would like to bring to your attention that this assertion runs contrary to the United Kingdom's international obligations and to its longstanding position before international human rights bodies. As clarified by the United Kingdom's Equality and Human Rights Commission "although the rights contained in these treaties are not directly legally enforceable in UK courts, they do represent binding obligations in international law. By ratifying the treaties, the United Kingdom has pledged to make sure its domestic laws and policies comply with them. This means the Commission, Parliament and civil society can hold the Government to account against the terms of the treaties"¹.

The report of the Inspector further stresses that he takes no view as to whether international legislation, including the ICCPR, are binding directly on the Council or the SoS in the absence of specific domestic legislation (paragraph 368). We would like to recall in this regard that all public entities are bound by the obligations emanating from international human rights norms to which a State is a party and must respond for violations of such obligations. In its General Comment 31 on the Nature of the General Legal Obligation Imposed on States Parties to the International Covenant on Civil and Political Rights (ICCPR), ratified by the United Kingdom on 20 May 1976, the Human Rights Committee stressed that the obligations contained in the Covenant are binding on every State as a whole and that all branches of government (executive, legislative and judicial), and other public or governmental authorities, at whatever level - national, regional or local - are in a position to engage the responsibility of the State Party (article 4). Similarly, General Comment 20 of the Committee on Economic, Social and Cultural Rights, on the issue of non-discrimination in economic, social and cultural rights, recalls that Covenant rights can be violated through the direct action or omission by States parties, including through their institutions or agencies at the national and local levels (E/C.12/GC/20, article 14). It follows from this that both the Council and the SoS are bound directly by international human rights norms and must respond accordingly, whether or not there is specific domestic legislation on the matter.

The decision of the SoS noted that the matters raised in the letter of the Special Rapporteurs, sent on 20 July 2017 during the Public Inquiry, do not affect his conclusions on the decision as they were matters and questions addressed to other institutions and not in response to the Public Inquiry (paragraph 6). In this connection, we would like to note that our letter was sent to the natural interlocutor of the Special Procedures of the Human Rights Council: the Government of the United Kingdom through its Permanent Mission to the United Nations and other organizations based in Geneva. The central authorities

¹ <https://www.equalityhumanrights.com/en/our-human-rights-work/monitoring-and-promoting-un-treaties>

are expected to relay the information to the relevant local authorities, in this case the Haringey London Borough Council (the Council) or other relevant local public entities or officials. In the case at hand, it appears evident that the SoS was made aware of the content of our letter in time to give it due consideration and we would have expected that this was the case.

(2) The right of minority groups to practice their own culture

Concerning the right of minority groups to enjoy their own culture, and to use their own language, the report of the Inspector and the decision of the SoS assert that there is no reason why the new market could not perform a role of “cultural hub” for the local community (i.e., a place where Latin Americans and people of Latin American heritage can enjoy their own culture, and use their own language), and that the trader’s ability to replicate their cultural hub in the new market will, in fact, depend on management arrangements, an issue outside of the scope of the inquiry. In conclusion, they claim that if the new market does not materialize, it cannot be construed as “denying anyone the right to continue those activities” or as a “general prohibition of those activities”, because nothing in the Order would prevent the community from practicing their culture elsewhere (Inspector’s report paragraphs 370-371 and SoS decision, paragraph 30).

We would like to note that this assumption misconstrues the nature of the obligations of the United Kingdom under article 27 of the International Covenant on Civil and Political Rights relating to the rights of persons belonging to minorities not to be denied “the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language”, and under 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.

As stressed by the Committee on Economic, Social and Cultural Rights in its General Comment 21 on the right to take part in cultural life, article 15, (1)- (a), of the Covenant includes the right of persons belonging to minorities “to conserve, promote and develop their own culture” and entails the obligation of States parties “to recognize, respect and protect minority cultures as an essential component of the identity of the States themselves” (E/C.12/GC/21, paragraph 32).

The market is a place where people of different generations meet, where neighborhood children gather and play after school, and where an array of social and cultural activities are regularly shared. It is experienced by Latin American traders and residents as a cultural center that offers opportunities for cultural exchange, intergenerational dialogue, and social support. Overall, it is a place that offers them a sense of belonging. While the redevelopment project does not entail a prohibition for community members to enjoy their own culture with other members of their group, or a deliberate denial of such rights, it may constitute a significant obstacle to the realization of these rights should the “management arrangements” or the socio-economic and/or infrastructural conditions in the new market interfere with their cultural life or fail to

facilitate the preservation of their culture, for example by the preservation or replication of the cultural hub.

In this regard we would like to recall that States have the obligation not only to respect the cultural rights of persons belonging to minorities but also to adopt measures to protect and fulfil these rights. As noted in General Comment 21, the right of everyone to take part in cultural life imposes three levels of obligations on States parties: “(a) the obligation to respect; (b) the obligation to protect; and (c) the obligation to fulfil the right to take part in cultural life. The obligation to respect requires States to refrain from interfering, directly or indirectly, with the enjoyment of this right. The obligation to protect requires States to take steps to prevent third parties from interfering in this right. Lastly, the obligation to fulfil requires States to take “appropriate legislative, administrative, judicial, budgetary, promotional and other measures aimed at the full realization of the right” (E/C.12/GC/21, paragraph 48).

Concerning the obligation to fulfil, the Committee further explained that States are under an obligation to facilitate the right to take part in cultural life by taking a wide range of positive measures, including “taking appropriate measures or programmes to support minorities [...] in their efforts to preserve their culture” (E/C.12/GC/21, paragraph 52, f.)

The Report of the Inspector and the decision of the SoS fail to take adequately into account the State’s obligation to take measures to eliminate the obstacles to the enjoyment of cultural rights by Latin Americans and people of Latin American heritage, as well as the State’s obligation to take positive measures to support their efforts to preserve their culture.

We are concerned that the closure of the market in its current form will prevent the Latin American community to continue to use their cultural hub. We are further concerned that no measures appear to have been taken by the relevant authorities to facilitate the continuation of this cultural hub in the new market. Since there is no other Latin American cultural hub in the area, the redevelopment project as it currently stands may constitute an obstacle to the right of members of this minority group to effectively enjoy their culture. We urge the authorities to adopt the necessary measures to effectively protect the cultural rights of the Latin American community in the Seven Sisters market. Such measures could include ensuring and facilitating the establishment of an alternative space in the redeveloped market where they can pursue their culture in an equally meaningful way.

We would further like to stress the importance of this market also for persons who do not belong to the Latin American minority, as well as for the entire population of London, since, reportedly, this is the only Latin American market in the United Kingdom. In this regard, we would like to refer to the importance of promoting cultural diversity and facilitating access to the culture and heritage of others. As noted by the Special Rapporteur in the field of cultural rights “cultural diversity is both a necessary condition for and the result of the exercise of cultural rights by all. Access to the diversity of

persons, knowledge, cultural heritage and creative expressions of others is necessary to develop capacities and expressions. In turn, the way each person participates in and contributes to cultural life adds to the cultural diversity of the environment (A/73/227, para. 59). To foster such diversity, States should create an enabling environment to enhance access to and participation in cultural life, and to access to the cultural resources of others (paras. 77 g). They should also maintain, protect and develop open, safe and diverse public spaces, including intercultural spaces, and foster opportunities for a diversified cultural life to evolve in such spaces (paras. 77 h). In this connection, we would furthermore like to highlight that the authorities should be mindful to ensure the ability to promote freedom of artistic expression.

(3) Discrimination against persons belonging to minorities

The report of the Inspector and the decision of the SoS assert that the redevelopment project does not result in violations of Article 14 of the European Convention of Human Rights (ECHR) on freedom from discrimination, or of Section 149 of the Equality Act 2010 on the obligation of public authorities to eliminate discrimination and to advance equality. The assessments indicate that while it is acknowledged that traders will face challenges and uncertainties, the Order seeks to mitigate them through the Section 106 provisions introduced in the Order to provide more security to traders during the transition. This, it is claimed, would minimize any residual disadvantage suffered by the traders, and thus advance equality of opportunity. It is also claimed that the effects of the redevelopment on the traders would also include some advantages, which brings the Inspector and Secretary of State to conclude that the traders will not be materially worse off and that, therefore, the question of discrimination, direct or indirect, does not arise. The Secretary of State further explains that even if it was found that the traders were subjected to a particular disadvantage, the Order “has a legitimate aim in the public interest of securing a comprehensive regeneration and the means to achieve that aim are necessary and appropriate” (SoS decision, paragraphs 26, and Inspector’s report paragraphs 358-364).

In this regard, we would like to recall that clauses 1 and 3 of Section 149 of the Equality Act 2010 require public authorities to pay due regard to the need to eliminate discrimination and to advance equal opportunity, which includes minimizing disadvantage and taking steps to meet the needs of people with protected characteristics. In addition, article 6 establishes that “compliance with the duties in this section may involve treating some persons more favorably than others”. We would also like to recall General Comment 20 of the Committee on Economic, Social and Cultural Rights, according to which discrimination constitutes any distinction, exclusion or differential treatment that is directly or indirectly based on the prohibited grounds of discrimination and which has the intention *or effect* of nullifying or impairing the exercise, on an equal footing, of the rights recognized in the ICESCR (E/C.12/GC/20, art.7). This includes the right to take part in cultural life recognized in article 15 of the Covenant.

The report of the Inspector and the decision of the SoS examine the question of discrimination in connection with the opportunity of traders to continue to carry out their

economic activities and conclude that the traders “will not be materially worse off”, therefore refuting the existence of discrimination. The report of the Inspector concedes that the traders will face challenges but asserts that this will be outweighed by the commercial advantages for them created by the regenerated market and the Section 106 transitional provisions of the Order. However, it fails to assess or show how traders will be protected from increased rental prices once the redevelopment project is finalized and the transitional measures cease to apply. The duty of the authorities (both the planners as well as the supervisors of the plan) to take appropriate steps to meet the needs of people with protected characteristics and to “treat them more favorably than others” where needed (as set out in Section 149 of the Equality Act 2010), extends to the post-transitional period, since the assessment of the Compulsory Purchase Order does not only apply to the process of construction of the new market but also to its subsequent functioning. This is all the more relevant considering the Inspector’s acknowledgement that the terms of the Section 106 agreement “do not amount to a cast-iron guarantee that the new permanent market will be provided, nor that it will be retained in perpetuity” (paragraph 302).

The decision of the SOS dismisses the importance of any possible disadvantage for the traders because the Order has a legitimate aim in the public interest. In this regard, we would like to note that the restriction of the minority rights as a result of the Compulsory Purchase Order cannot merely be justified in the name of the public good. The Human Rights Committee has indicated that where economic development projects may harm minority rights, 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 minority groups, and of the duty of the State to protect these groups (HR/PUB/10/3, para.8). To disregard the rights of minorities in the name of an ultimate social goal that fails to include theirs is incompatible with the State’s obligations under international human rights norms protecting minorities. Moreover, as noted in General Comment 20, under international law, a failure to act in good faith to guarantee that the rights enunciated in the ICESCR will be exercised without discrimination amounts to a violation of the Covenant.

We would also like to point out that the assessments of the Inspector and the SoS on the question of discrimination focused on the economic opportunities of the traders but failed to address the right of members of the Latin American minority to enjoy their culture, and whether the failure to mitigate the disproportionate impact that the redevelopment would have on this right would amount to indirect discrimination.

As noted in General Comment 20, indirect discrimination occurs when laws, policies or practices appear neutral at face value but have a disproportionate impact on the exercise of Covenant rights on particular groups (E/C.12/GC/20, art. 10 (b)). Section 19 of the Equality Act 2010 on indirect discrimination establishes that a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic if (c) such act puts persons with that protected characteristics at a disadvantage and (d) such act cannot show to be a proportionate means of achieving a legitimate aim. The questions of the disadvantage placed on the minority group, the proportionality of the means used

and their relationship to an aim that must be legitimate, must therefore be adequately assessed in order to rule out indirect discrimination.

As explained in the previous section, the re-development project may have an unequal detrimental effect on the right of the London Latin American minority to practice their culture, and as such may constitute indirect discrimination in the enjoyment of their cultural rights. The loss of a hub where families belonging to the Latin American minority can meet to exchange cultural practices, prepare and taste traditional meals, recall cultural references and experiences, immerse children in their common cultural heritage, perpetuate the usage of their language for future generations, and feel proud about their origins and heritage, represents an immense detrimental impact on the enjoyment of the cultural rights of this minority group. However, the assessments of the Inspector and the SoS fail to adequately assess this disadvantage and to thoroughly consider the extent to which effective, viable alternatives to the existing cultural hub in the existing market will be available to the community should the new market fail to materialize or fail to become a space conducive to the pursuit of their culture. In addition, the assessments fail to evaluate whether the relevant authorities have adopted effective measures to prevent or neutralize this potential disadvantage and, consequently, whether they fulfilled their duties under the Section 149 of the Equality Act to take steps to minimize disadvantage and meet the needs of people with protected characteristics.

Limitations to the enjoyment of human rights must fulfil the principles of legality, legitimacy and proportionality. A differential treatment will be viewed as discriminatory unless an assessment is made that the aim and effects of the measures or omissions are “legitimate, compatible with the nature of the Covenant rights, and solely for the purpose of promoting the general welfare in a democratic society”. In addition, there must be a “clear and reasonable relationship of proportionality between the aim sought to be realized and the measures or omissions and their effects” (E/C.12/GC/20, art. 13).

In this case, the stated aim of the redevelopment project is the socio-economic regeneration of the affected area. However, as it currently stands, the project is incompatible with the cultural rights of minorities protected by the Covenant. The decisions of the Inspector and the SoS fail to weigh the disadvantage that the order poses for the Latin American population against the purported benefits of the plan to the broader community. The interference of the Order with the right of the Latin American community must only be to the degree that is absolutely necessary to achieve the legitimate aim. However there is no reason to believe that alternative arrangements that could have been less disruptive of the cultural rights of people of Latin American heritage (such as providing a space conducive to the replication of a cultural hub in the new market), could not be envisaged. However, the authorities allegedly failed to adopt this or other positive measures to mitigate such interference, as required under clauses 1, 3 and 6 of section 149 of the Equality Act 2010. There have been no discussions and no plans as to how the cultural importance of the market for the Latin American community will continue. Moreover, it is difficult to argue that a facilitated replication of the cultural hub in the new market or other such positive measures would have hampered the aim of the redevelopment project to regenerate the area. On the contrary, it must be presumed that

the cultural and social life of the regenerated area would have been heightened by the establishment of a cultural hub. In view of these shortcomings, the requirements of proportionality appear not to have been adequately met

We are concerned that the assessments have not dissipated existing doubts as to whether the cultural rights of the Latin American community will be disproportionately affected by the redevelopment, and that relevant authorities appear to have failed to take all necessary measures to mitigate this risk. As a result, indirect discrimination in the enjoyment of their cultural rights cannot be ruled out.

(4) Best interests of the child

The Inspector's report refers to the letters submitted by four market traders' children (aged 13, 11, 10 and 9) and the Council's dismissal of them stating that "children's own preferences are not necessarily the same as their best interest" (paragraph 277). The Inspector subsequently asserts that "the views of children themselves cannot realistically be conclusive" (paragraph 372). This assertion is contrary to the Convention on the Rights of the Child, ratified by the United Kingdom on 16 December 1991, which provides that children have the right to express their views freely in all matters affecting them and that those views must be given due weight in accordance with the age and maturity of the child (article 14). In its General Comment 12, the Committee on the Rights of the Child stipulates that simply listening to the child is insufficient and that the views of the child have to be seriously considered (CRC/C/GC/12, paragraph 28). We are concerned that dismissing the views of the children on a decision that will affect their future wellbeing and development, without meaningfully engaging with the substance of their views or explaining why they are overlooked, fails to reach the threshold required by the Convention.

The Inspector and the SoS further state that there is no reason to imagine that the interest of the children affected by the redevelopment would be inconsistent with those of their parents (SoS decision paragraph 28, and Inspector report paragraph 374). As highlighted in General Comment 12, States parties cannot begin with the assumption that a child is incapable of expressing her or his own views (CRC/C/GC/12, paragraph 20). In this case, equating inextricably the views of the children to that of their parents has the effect of nullifying the views of the children, which is contrary to the aims of article 12 of the Convention, and presumes that the children's experiences in life are identical to that of the adults. While there may be inevitably some overlap between the interests of the children and their parents, the children have an interest in the market and its cultural hub that is distinct from that of the affected adults. The way in which children experience this socio-cultural space, where they forge relationships with children with a common cultural background, where they share experiences with peers about the challenges associated with growing up as a member of a minority, where they get to experience a cultural heritage that belongs to them but in which they were not raised, and where they can practice or acquire the language of their parents, is unique to them and may not be extrapolated or equated to that of the adults in the community.

The specificities of how children of Latin American descent (or heritage), and each child alone, experience life in the market permeates their opinions about the redevelopment project and should have been given due consideration in the planning process. As noted in General Comment 12, “the views expressed by children may add relevant perspectives and experience and should be considered in decision-making, policymaking and preparation of laws and/or measures as well as their evaluation (CRC/C/GC/12, paragraph 12)”.

The Inspector goes on to assert that even if the traders were right about the adverse effects of the market, there is no evidence that this would affect the best interests of the children (paragraph 372).

The Convention on the Rights of the Child stipulates that a child belonging to a minority shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture (article 30). The conclusion that the children would not suffer any harm if the market stopped serving its social and cultural role, overlooks the crucial role that the market plays in the development and well-being of the children, and in the consolidation of their cultural identity. The market provides a space where children can practice their culture and access a social and cultural network that protects them, includes them, enriches them, and helps build their confidence as members of a minority. Not least, the market is a source of childcare, and its associated socio-cultural immersion, for parents who bring their children to work and would likely not be able to afford alternative childcare. These essential social functions, which help protect the basic rights of the children, will be lost if the market and its socio-cultural hub is not replicated in the new market, hence affecting the best interests of the children.

We are concerned at the apparent failure of the authorities to adequately address the impact that the redevelopment project will have in the realization of the rights of the children, as well as to adopt positive measures to mitigate this.

The SoS further stated that even if there was an interference with the best interests of the child, this would be justified in light of the broader socio-economic benefits of the scheme (paragraph 28). We would like to recall in this regard, the above mentioned remarks concerning the requirement of proportionality. In addition, we would like to refer to article 3 of the Convention on the Rights of the Child, according to which the best interests of the child shall be a primary consideration in all actions concerning them, “whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies.” The blatant disregard of their best interests in pursuit of socio-economic development, fails to comply with the requirements of the Convention. In General Comment 14, the Committee on the Rights of the Child clarified that in situations where the interest of other persons are in conflict with the child’s best interests, “Authorities and decision-makers must analyse and weigh the rights of all those concerned, bearing in mind that the right of the child to have his or her best interests taken as a primary consideration means that the child's interests have high priority and is not just one of several considerations. Therefore, a larger weight must be attached to what serves the child best” (CRC/C/GC/14, para. 39).

We are concerned that the assessments of the Inspector and the SoS on the applicability of the Compulsory Purchase Order fail to bestow adequate weight to the imperatives of the best interest of the children of the affected community.

We urge the relevant public authorities to adopt all necessary measures to ensure that the human rights and, in particular the cultural rights, of the affected persons are protected if this regeneration scheme is implemented.

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 comments you may have on the above-mentioned allegations.
2. Please indicate what steps will be taken to ensure that human rights, including cultural rights and minority rights, are fully protected if this regeneration scheme is implemented.
3. Please indicate what measures will be taken to ensure the full right of participation and consultation of all affected persons (including Latin American traders) – both under the relevant laws of the United Kingdom and the UN Guiding Principles on Business and Human Rights, if the regeneration scheme is carried out.
4. Please indicate what measures have been taken to protect market traders and members of the Latin American community from the alleged intimidation, aggression and abusive behavior by the Director of MAM Ltd. Please inform what measures have been taken by the relevant authorities to ensure their physical and psychological well-being.
5. Please provide the full details, and where available the results, of any administrative, judicial or other inquiry undertaken in relation to the allegations of intimidation and abusive behavior by the Director of MAM Ltd. If no inquiries have taken place, or if they have been inconclusive, please explain why. Please indicate if any disciplinary or administrative sanctions have been imposed on the alleged perpetrator?
6. Please indicate the steps that the relevant authorities have taken, or are considering to take, to ensure that all businesses enterprises, such as MAM Ltd., carry out effective human rights due diligence to discharge their responsibility to respect human rights under the UN Guiding Principles.
7. Please indicate the steps that the relevant authorities have taken, or are considering to take, to ensure that all businesses enterprises, such as MAM

Ltd., provide (or cooperate in the provision of) effective remedies to the affected communities, in line with the UN Guiding Principles

This communication and any response received from the Haringey London Borough Council 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.

Please note that a copy of this communication will be sent to the Mayor of London, Mr. Sadiq Khan, for his immediate attention.

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 the Haringey London Borough Council to clarify the issue/s in question.

Please accept the assurances of our highest consideration.

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

Karima Bennoune
Special Rapporteur in the field of cultural rights

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Fernand de Varennes
Special Rapporteur on minority issues