

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

REFERENCE:
OL OTH 17/2018

8 May 2018

Dear Mr. Craig,

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 and Special Rapporteur in the field of cultural rights, pursuant to Human Rights Council resolutions 35/7 and 37/12.

We would like to express our gratitude for your letter dated 25 September 2017 in response to our communication of 21 July 2017 (case reference: OTH 13/2017), which concerned the **alleged planned expulsion and demolition of the Seven Sisters Indoor Market, in the London Borough of Haringey, for a regeneration initiative which would reportedly have threatened the livelihood and cultural life of the residents and shop owners mainly of minority origins. We apologize for the delayed response on this subject matter.**

Your letter raise a number of issues regarding both the process through which this communication is sent and the follow-up.

We would first like to recall that, as Special Rapporteurs and independent experts, we are mandated by the United Nations Human Rights Council to independently report and provide advice on human rights issues that fall under our respective mandates. This includes the possibility to intervene directly with Governments and other relevant stakeholders on allegations of violations of human rights that are brought to our attention. Such letters identify the alleged facts, applicable international human rights norms and standards, the concerns and questions these allegations raise and include a request for follow-up action.

Since they are not judicial or quasi-judicial bodies, special procedures mechanisms are not tasked with undertaking full investigations on the details of all cases brought to their attention. Rather, the communication procedure aims at bringing to the attention of duty bearers the human rights concerns, and potential violations, that their actions may raise, seeking further clarification and information about these actions and the context around them, and reminding duty bearers of their international responsibilities and commitments so that they may take appropriate measures to respect them. The relevant international human rights norms and standards are listed in the Annex of the communication OTH 13/2017. The alleged violations are raised with a view to clarifying a situation in which persons and organizations have reasons to believe that their rights are being violated and/ or that due process, impartiality, redress or other reasonable measures to ensure respect for their human rights are either unavailable or have not been duly implemented. In doing so, our involvement is intended to guide relevant national stakeholders in the fulfillment of these obligations. The communication procedure does not require previous exhaustion of domestic remedies and does not replace national processes of investigation, policymaking or justice.

In this context, and as established in article 8 of the Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council (Human Rights Council resolution 5/2, annex), the sources of information about alleged human rights violations shall remain confidential at all times in order to protect them from potential pressure and reprisals.

Also, as stated in our previous letter and in section II (b) of the Manual of Operations of the Special Procedures of the United Nations Human Rights Council, we may at any stage decide to publicly express our concerns when the information we have received indicates a matter warranting immediate attention, as well as when we feel this is the appropriate way to prevent further violations of the rights of the persons affected. This is an important part of the independence of our mandates.

We would also like to inform you that a letter with similar content to the one you have received was sent to three other concerned stakeholders. This was important in our view in order to provide a more complete picture of the alleged situation as experienced by the victims. Accordingly, some of the alleged violations stated in the letter may not have been undertaken by or on behalf of your company, as you allege, but by or on behalf of another of these stakeholders. Each stakeholder is invited to respond to its part of the responsibility for alleged violations. In any case, the full account of related events, and especially those regarding alleged discrimination, should be taken seriously to guide current and future actions by your company in handling the situation and the relationship with the residents and traders of the Seven Sisters cluster who will be affected by the regeneration project.

We would like to take this opportunity to restate our concern that this project, as many similar urban regeneration projects brought to our attention, may not guarantee the full respect of the human rights of the people concerned, including their cultural rights, especially regarding their existing ways of life, and their social and cultural interactions. In decisions concerning these projects, adequate weight and consideration should be given to the legitimate concerns of the people whose human rights may be affected. Monetary compensation cannot in itself redress the loss caused by the violation of fundamental rights. Past experience has demonstrated that, in the medium to long term, the change in the social fabric brought about by neighborhood renewal and regeneration projects often has a disproportionate impact on more marginalized inhabitants, who subsequently cannot afford to remain in the area.

We urge you once again, in accordance with the Guiding Principles on Business and Human Rights, to adopt all necessary measures to respect the human rights of the people concerned, including undertaking a human rights due diligence process to identify, prevent, and mitigate adverse human right impacts, and to develop a process to enable the remediation of any adverse human rights impacts either caused or contributed to by Grainger plc. Your reply refers to impact assessments carried out by your company. We would note that the UN Guiding Principles on Business and Human Rights ask businesses and other economic actors to undertake human rights impact assessments and to engage in a process of human rights due diligence that is different from typical environmental or social impact assessments that may be mandated statutorily.

We have received your detailed response and thank you for taking the time to consider our questions. In case you have further questions in relation to the communications processes of the United Nations Special Procedures, we or our OHCHR teams would be pleased to further discuss with you. We hope our response clarifies the nature of our procedures.

We would appreciate receiving a response within 60 days. Your 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.

Anita Ramasastry
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