

Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context and the Independent Expert on the enjoyment of all human rights by older persons

Ref.: AL OTH 150/2024
(Please use this reference in your reply)

29 November 2024

Ms. RoseMary LaClair,

We have the honour to address you in our capacities as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context and Independent Expert on the enjoyment of all human rights by older persons, pursuant to Human Rights Council resolutions 52/10 and 51/4.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 60 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to the attention of the Nooksack Indian Tribe information we have received concerning **imminent threats of forced evictions of seven households who self-identify as Indigenous Nooksack, without due process, and without due consideration for their right to remain. These forced evictions would constitute a violation of the right to adequate housing, including with regard to affordability and security of tenure, as well as the freedom to choose one's residence.**

Reference is made to the previous communications UA USA 3/2022 dated 01 Feb 2022, as well as OTH 5/2023 and UA USA 1/2023 dated 31 Mar 2023.

Nooksack Tribal Council

The former communication raised concerns over the imminent forced evictions of 21 families (63 persons) who self-identify as belonging to the Nooksack Indigenous Tribe and live in homes funded by the Federal Department of Housing and Urban Development. The families were in various stages of acquiring the right of option for tenant purchase of home ownership, by virtue of the Low-Income Housing Tax Credit (LIHTC) Program. Each unit in this LIHTC Program has a rental period of 15 years, after which the unit can be purchased by the tenant who had been renting and residing in the unit. However, in 2013, the Nooksack Tribal Council approved the disenrollment of 21 families with resolution 13-02. In February 2016, the legal representative of all the families was denied the possibility of practicing law at Nooksack without any prior notice or opportunity to change the decision. In November 2021, the families received notices of termination – and subsequently of eviction- on the ground of the loss of their tribal membership. Evictions have allegedly been planned without any consultation with the affected people on alternatives to evictions and without plans for providing housing and any associated assistance and compensation. The concerned families have allegedly not been able to effectively challenge evictions in the tribal court, given the impossibility to be represented by a counsel of their free choice. Despite paying rent for many years in a program intended to support low income affordable housing and one that was intended to offer tenants a right to option to purchase, the families are facing forced eviction and are at the risk of homelessness.

In light of the letter dated 24 February 2022 where United States of America responded to UA USA 3/2022 emphasizing the government-to-government relationship with federally-recognized tribes, such as the Nooksack Indian Tribe, the special procedures mandate holders addressed the follow-up communication (OTH 5/2023) and (UA USA 1/2023) dated 31 Mar 2023, to both the Nooksack Indian Tribe and to the United States of America.

In the latter communication, special procedures mandate holders noted that, as of February 2022, there were only 11 legal representatives licensed to practice law at Nooksack and they were all lawyers for or employees of the Nooksack Tribal Council. Further, between May 2022 and February 2023, seven heads of households (O. Oshiro, N. Aldredge, F. Rabang, M. Rabang, M. Roberts, S. Javier and A. Nicol-Mills), amongst whom several older people, were notified by the Nooksack Tribal Court with writs of restitution and orders of eviction.

We have taken note of the information provided by the Nooksack Indian Tribe in its letter dated 6 June 2023 and appreciate the provision of a number of pertinent court documents. However, we wish to underline that the responsibilities of the Nooksack Indian Tribe as a duty bearer goes beyond compliance with its own administrative procedures. While the primary responsibilities for human rights obligations under treaties lie with the Federal government, at the same time, all level of state authorities, national, regional, local, Tribe and any other, must abide by national and internationally recognized human rights law and standards as they all remain severally responsible under general international law. We therefore regret the lack of response to our specific questions contained in our letter OTH 5/2023.

According to the information received:

Washington State responsibilities for the administration of the LIHTC Program

The LIHTC Program is the main affordable housing program in the United States of America and of great relevance for the Indigenous Native American communities. Roughly 40% of all housing in Native American areas is considered inadequate, where roughly one in four are below the poverty line, double that of the national average. Under the LIHTC program, the subsidized units on a property have maximum rent thresholds that the property owner can charge. Due to this provision, the average household on an LIHTC property spends about 30% of their income on rent. The United States of America is undergoing an affordable housing crisis.

On 18 April 2023, the Washington State Housing Finance Commission, the body supervising the proper functioning of the LIHTC Program, has filed with the Federal Internal Revenue Service 85 notices of violations of the Program resulting from Nooksack's failure to comply with eventual tenant ownership covenants. However, the Internal Revenue Service has reportedly stated that no action will follow the notices received.

In October 2023, Washington State legislators contended more than 200 homes built under the program have not been handed over to qualifying tenants. Consequently, the lawmakers requested to evaluate whether the tenant ownership option has been adequately administered by the Washington State Housing Finance Commission, whose main task consists of running the competitive process to allocate Federal tax credits to developers of affordable housing projects, such as the ones financed by the LIHTC Program.

In December 2023, the Washington State Auditor's Office launched a review of the LIHTC Program. The Washington State Auditor's Office decided that the scope of the audit is limited to the Washington State's Housing Finance Commission's performance, specifically as to its oversight role and its compliance with applicable laws and regulations. It was decided that the audit will not take into account any of the measures adopted by the Nooksack Housing Department to evict disenrolled members from living in tribal housing under the LIHTC program. The results of the audit are stark and 'disappointing' according to the audit¹: an option for tenants in affordable housing projects under LIHTC to buy their homes has not yet been used, despite applying to 135 housing units in 2023 including in Nooksack.

Right to redress at the Nooksack Tribal Courts

In June 2023, all seven families which had been previously notified with writs of restitution and eviction orders appealed the Nooksack Tribal Trial Court's judgement. Given the persisting impossibility for the families to be assisted by a legal counsel of their free choice, Ms. Michelle Roberts, one of the family

¹ <https://sao.wa.gov/reports-data/audit-reports/housing-finance-commission-tenant-purchase-options>

members, represented before the court all the other individuals being part of the dispute, notwithstanding her lack of legal background.

In early May 2024, the lawyer initially appointed by the families (and then denied with the license to practice before Tribal Courts by the Tribe back in 2016) filed another application for the Tribal Business License. On 16 May 2024, the Tribal General Manager denied the application, this time on the ground (differently from the one that had been identified in 2016) that the applicant had previously engaged in “fraudulent, deceptive or dishonest practice”. On this very same basis, on 12 July 2024, the Tribal General Manager declined the lawyer’s request for reconsideration of the decision. On 17 July 2024, the lawyer appealed to the Tribal Council the General Manager’s decision. To date, the verdict on the appeal is yet to be published.

During the appeal hearing concerning three of the seven affected families held on 20 August 2024, Ms. Roberts further requested to suspend the hearing and allow them to be defended by a lawyer. However, the judges of the Appeal Court refused and invited Ms. Roberts to proceed with her statements. On 29 August 2024, Ms. Roberts filed a motion for the recusal of one of the judges composing the appellate panel, on the basis that this judge had already heard the same legal arguments and ruled in a different trial court case concerning the other four families. On 5 September 2024, the Appeal Court rejected the motion, stating that the alleged facts are not disqualifying for a judge to hear another factually different matter.

On 18 September 2024, the Tribal Appeal Court released the appeal decision for three of the seven families, rejecting the appellants’ claims and confirming the eviction orders. It is noted that the appeal decision reiterates *verbatim* entire pages of the earlier Trial Court’s judgement addressed to the other four families.

On 25 September 2024, Ms. Roberts filed a motion requesting for the appellate decision already issued against three families to be reversed on one hand, and for the recusal of one of the judges sitting on the panel of the appeal case of the other four families, as he allegedly is in a situation of “conflict of interests” for having heard the appeal case concerning the first three families.

On 4 October 2024, the Tribal Court held an online status conference on the matter of the family member’s request. Despite the families being connected to the Zoom waiting room, they were not allowed into the meeting by the administrative staff. Following the conference, the Tribal Court released an order which stays the issuance of eviction orders against the three families whose appeal has already been resolved until the very same appeals panel decides on those families’ request about the reversal of the appellate judgement and the recusal of the judges.

On 10 October 2024, the Appeal panel denied the claimants’ motions for both the reconsideration of the judgement and for the recusal of the judge. On that same date, the Appeal Court released also its Appellate Opinion concerning the case of other two families, affirming against them the summary judgment eviction decisions.

On 17 October 2024, the Nooksack Tribe sent a joint settlement proposal to all seven families, giving them until 31 October (a holiday in the United States of America) to agree to move out of their homes by 31 December. In order for the offer to be deemed accepted, all the tenants were required to agree to the terms contained therein by the indicated date. A condition for the settlement offer is that all tenants, upon acceptance of the proposal, shall file a joint motion to dismiss the last remaining pending appeal. In absence of an agreement from all the families involved, the Tribal Court would order evictions no later than 14 days from the tribal court's issuance of eviction writs/orders.

On 22 October 2024, Ms. Roberts sent on account of all the seven households a “counterproposal for settlement and peace” to the Tribe. In her letter, Ms. Roberts expressed concerns that the acceptance of the agreement would allegedly be tantamount to the admission of some facts that claimants sustain to be false, such as that they violated a "condition or covenant of the lease or agreement under which the property is held", that they are not “Native Family”, and that they have been “guilty of having continued to unlawfully occupy the residence”. In their counterproposal, the families have in turn requested to be allowed to live in their homes until they pass on or move away, at which time the units will automatically go to the Tribe, as the families would dismiss any pending legal dispute and waive any inheritance claim on the houses. The families requested the Tribe to respond to their counterproposal before 31 October.

On 1 November 2024, the Nooksack Tribe communicated to the families the rejection of their counterproposal. Subsequently, the Tribe has scheduled a Notice of Writ Restitution court hearing for five out of the seven families concerned, to be held on 15 November 2024.

On 15 November 2024, the Nooksack Tribal Court entered writs of restitution against three of the families involved, ordering them to vacate the units by 29 November 2024. On that same day, the Tribal Court was supposed to hold a second hearing, concerning other three households. However, the hearing has been postponed to a date yet to be identified.

Vulnerability of some of the persons affected

According to the information received, some of the persons exposed to threats of eviction are in vulnerable situations, adding the distress of the risks of displacement to the suffering caused by old age and illness. Against this backdrop, on 8 October 2024, one of the affected persons, and woman in her late 70s, suffered a medical emergency leading to her hospitalization for heart arrhythmia. Allegedly, her health condition drastically worsened when she was presented with boxes to pack to move out of her house.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our concern regarding the continuous threat of forced evictions of the seven families without proper consideration of their right to adequate housing including

security of tenure and their right to remain, their freedom to choose their residence, any rights accrued under the LIHTC program towards tenant option to purchase, as well as right to compensation, in violation of international human rights law. The seven families acquired their right to choose their residence in Nooksack tribal territory under article 12 of the ICCPR and regardless of any disenrollment, their previous acquired right to choose residence can only be restricted or curtailed under article 12(3) of the ICCPR. Disenrollment or loss of status, is not a permitted ground under article 12(3) for abridgement of the right to choose their residence under article 12(1).

Furthermore, while noting again with interest the information provided in the Government's reply dated 24 February 2022 according to which the Housing and Urban Development has offered its housing assistance to these families in case the evictions are carried out, we are concerned that such offers of assistance do not take away the affected families right to remain and to security of tenure. We would like to further reiterate that they have a right to due process and any acquired rights under the LIHTC program. It is crucial that the concerned families, many of whom are older persons and on fixed income, be able to afford their homes. If evictions are carried out and the families are forced to move to another location which is not an LIHTC property, they may very well end up severely rent burdened, paying much more than 30% of income towards rent. At a time when much of the United States is going through an affordable housing crisis, it appears to be a grave risk to the Nooksack families to be removed from rent stabilized LIHTC property. In this regard, we wish to draw reference to the report (A/78/192) of the Special Rapporteur on the right to adequate housing on housing affordability, in particular para. 111 which states that measures should be adopted to avoid no-fault evictions and ensure just cause for all individual evictions.

We further wish to underscore that, notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. If an eviction is to take place, procedural protections are essential, including, among others, genuine consultation, adequate and reasonable notice, alternative accommodation made available in a reasonable time, and provision of legal remedies and legal aid. Under no circumstances, evictions should result in homelessness, and the State party must take all appropriate measures to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available to affected individuals, where they are unable to provide for themselves.

Such concerns are even more glaring because the threats of forced evictions target also older individuals and persons with disabilities, who are particularly vulnerable in consideration of their age and physical conditions. The forced evictions of older residents would significantly affect their fundamental human rights, violating the core content of the right to adequate housing, as well as the principle of community support intended to allow older people to access basic goods and services, as enshrined in the United Nations Principles for Older Persons. Likewise, forced evictions and related threats of homelessness for persons with disabilities would breach their right to adequate and accessible housing, as well as their right to be part of a community, in violation of article 19 of the Convention on the Rights of Persons with Disabilities, which allows individuals with disabilities the right to live (and to

continue to live) connected to their communities and underscores the importance of community connectedness in housing. As recalled in the 2017 report to the Human Rights Council (A/72/128) on the right to housing of persons with disabilities, both these elements are “central to a life of dignity, autonomy, participation, inclusion, equality and respect for diversity”. If such evictions are carried out, this may seriously impact on older Indigenous Peoples’ physical and psychological health, and their right to security, in the absence of support to find alternate housing solutions.

The abovementioned actions taken by the Nooksack Tribal Council, along with the lack of effective dispute resolution from the state and Federal authorities have deprived these seven indigenous households of security of tenure, a key element of the right to adequate housing under international human rights law. As analyzed by the Independent Expert on the enjoyment of all human rights by older persons in her 2022 thematic report (A/77/239), “Older persons with disabilities, in particular those with an intellectual or psychosocial disability, may be exposed to insecure tenure if they have been denied legal capacity and if this has led to difficulties in entering formal housing contracts. In such cases, these individuals may have to resort to informal arrangements, which make them more vulnerable to forced evictions” (para. 30).

International human rights law recognizes that, under some circumstances, evictions may be justifiable. However, the relevant authorities must always guarantee that such measures are grounded in law, and that they are carried out with full respect for the legal safeguards, amongst which the right to legal assistance from a counsel of one’s own free choosing, as established by article 14(3)(d) of the ICCPR. All these requirements have been further highlighted in the 2019 report to the Human Rights Council (A/HRC/40/61) on access to justice for the right to housing, in which the previous Special Rapporteur on the right to adequate housing affirmed that affected claimants must be provided a space in which their claims can be heard and adjudicated. They must also be assured of effective remedies.

While appropriate procedural protection and due process are essential aspects of all human rights, they are of utmost relevance in relation to forced evictions, which directly invoke and impinge upon the rights to life, to non-interference with privacy, family and home and to enjoy one’s culture.

We note the Federal government’s position that in “the US cooperative federalism system, governmental authority resides with the federal government, state and local governments, and Tribal governments”. We emphasize the right of the Nooksack Indian Tribe to self-determination and sovereignty, including the right to autonomy or self-government in matters relating to their internal affairs and the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, as recognized in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). On the other hand, we would also like to emphasize that article 1 of the UNDRIP provides a protection framework for both individual and collective rights of Indigenous Peoples. Sovereign rights of self-governance, whether of the federal government, States or indigenous authorities, come with international legal obligations to respect, protect and fulfil the rights of everyone bring governed, such as individuals under their jurisdiction. Following this human rights-based approach to sovereignty, article 46.3 of the UNDRIP clarifies that all provisions contained therein

shall be interpreted as complementing - and not acting contrary - to the principles of justice, democracy, respect for human rights, equality and non-discrimination, good governance and good faith. Consequently, it is important to recall that indigenous institutions and justice systems also have an obligation to comply with international human rights standards, pursuant to UNDRIP, and article 8(2) of the ILO Indigenous and Tribal Peoples Convention no. 169.

We would like to emphasize that the above-mentioned government-to-government relationship between the United States of America and Indigenous Tribes across its territory does not exempt the Federal government from its obligation to protect the human rights of Indigenous Peoples. Indigenous Tribes' and Government's duties with respect to the safeguard of individual rights shall not be conceived to be mutually exclusive. Indeed, both sovereign entities share the responsibility to cooperate in good-faith for ensuring that processes and decisions by indigenous authorities accord with international human rights, particularly in the context of possible conflicts between the rights of individual indigenous members and the collective rights of an indigenous community.² Article 33 (2) of the UNDRIP states that while Indigenous Peoples have the right to determine their own identity or membership in accordance with their customs and traditions, this does not impair the right of indigenous individuals to obtain citizenship of the States in which they live. A corollary to this principle is that indigenous individuals are also entitled to benefit from the protection of all their human rights from the State they are citizens of, irrespective of their membership to any indigenous community. This is even more pertinent in the present case where, the threatened loss of access to housing results in being removed from a federally-subsidized and State-administered program, thus making it clear that the federal and State governments continue to bear responsibilities towards the indigenous individuals.

Finally, we would like to draw the attention of the Nooksack Indian Tribe to potential interferences with the right of the seven individuals and their families to “enjoy their own culture, to profess and practice their own religion, or to use their own language” in community with other members of their group in case there is no place outside Nooksack where such a community exists.³ Removal of such individuals from the Nooksack community, where they have lived for years, may permanently deprive them of such cultural rights.

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

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters, including the below-reiterated specific questions contained in OTH 5/2023:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

² A/HRC/42/37, especially para. 119.

³ Sandra Lovelace v. Canada, Communication No. 24/1977, CCPR/C/OP/1 at 83.

2. Please provide information on the measures taken to ensure that the individuals threatened with the evictions enjoy legal protection and due process guarantees, so that they can rely on appropriate legal support, have access to legal remedies, receive adequate compensation and do not face any risk of falling into homelessness, taking into consideration the older age and disabilities of some of the concerned persons.
3. Please explain how the NIHA strives to fulfil its responsibility to provide eventual homeownership to the tenants living in housing constructed or rehabilitated under the Nooksack Housing Limited Partnerships No. 2, 3, and 4.
4. Please provide information on the number of tenant households living in homes constructed or rehabilitated under the Nooksack Housing Limited Partnerships No. 2, 3, and 4; and the number of those households that have achieved home ownership to date.
5. Please provide information on the measures taken by the Government of the United States and the Nooksack authorities, through dialogue and cooperation, to ensure compliance with international human rights obligations, including the right to adequate housing, with regard to the families threatened with forced evictions, including through exploring feasible alternatives to the forced evictions.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from you will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

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

Please be informed that a letter on this subject matter is also being sent to the Permanent Mission of the United States of America, regarding their involvement in the abovementioned allegations.

Please accept, Ms. RoseMary LaClair, the assurances of our highest consideration.

Balakrishnan Rajagopal
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Claudia Mahler
Independent Expert on the enjoyment of all human rights by older persons

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of the Nooksack Indian Tribe to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

We would like to draw the attention of the Nooksack Indian Tribe to articles 6 and 17 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the United States of America in 1992, on the rights to life, including the right to life with dignity, and to non-interference with privacy, family, home or correspondence. We would also like to draw your attention to article 2.3, which requires States parties to ensure “an effective remedy” for persons whose rights have been violated and the obligation upon the “competent authorities (to) enforce such remedies when granted”. In this respect, we would like to recall that according to article 14(3)(d) of the ICCPR, everyone has the right to legal assistance of a counsel of their own choosing. Moreover, we would like to recall article 12.1 of the ICCPR, which affirms that everyone lawfully within the territory of a State shall, within that territory, have the freedom to choose their residence. Furthermore, we wish to draw your attention to article 27, concerning, the rights to enjoy one's culture in community with the other members of one's group. Moreover, we would also like to recall that in its general comment No. 7, the Human Rights Committee affirmed that everyone lawfully within the territory of a State shall, within that territory, have the right to reside.

We wish to recall that the right to adequate housing is enshrined in article 25(1) of the Universal Declaration of Human Rights, as well as in article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), both of which state that everyone has the right to an adequate standard of living, including housing. In its general comment No. 4 on the right to adequate housing, the Committee on Economic, Social and Cultural Rights (CESCR) has clarified that a critical aspect of the right to adequate housing is the legal security of tenure, under which all persons -regardless of the type of the tenure- should possess a degree of security of tenure which guarantees legal protection against forced eviction. In the same general comment 4 (para. 7), the CESCR has also clarified that the right to adequate housing includes the elements of legal security of tenure, housing affordability, location and cultural adequacy, among others.

Additionally, we wish to recall that, as clarified by the Committee on Economic, Social and Cultural Rights, in its general comment No. 7, forced evictions are a gross violation of the right to adequate housing and may also result in violations of other human rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and the home and the right to the peaceful enjoyment of possessions. Furthermore, evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights.

We also wish to refer to the Basic Principles and Guidelines on Development Based Evictions and Displacement, which emphasize that evictions must not take place in inclement weather (A/HRC/4/18, para. 49).

Moreover, we wish to recall that the United Nations Declaration on the Rights of Indigenous Peoples states that Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law (article 1). It recognizes Indigenous peoples right to self-determination (articles 3-5). It also declares that Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards (article 34).

We would also like to recall that, in his report (A/78/192), the Special Rapporteur on the right to adequate housing recommended that States adopt measures to avoid no-fault evictions and ensure just cause for all individual evictions (para. 111). Moreover, in her report (A/67/286), the previous Special Rapporteur on the right to adequate housing affirmed that “The right to adequate housing should be respected and protected during the design, implementation and monitoring phases of housing policies and programmes and elaborated and implemented with the full participation of affected individuals and communities” (71.b).

We also recall that, in her report (A/74/183), the previous Special Rapporteur on the right to adequate housing stated that “The indivisibility and interdependence of the United Nations Declaration on the Rights of Indigenous Peoples and the right to housing under international human rights law should inform all housing-related laws, policies and programmes that affect Indigenous peoples” (para.79.b).

In this connection, we wish to recall that the former UN Special Rapporteur on Indigenous Peoples, in her 2019 report (A/HRC/42/37) on “Access to justice in ordinary and Indigenous justice system” has indicated that “State and Indigenous authorities have to work together to achieve these ends in a harmonious way. How they can most effectively do so and what can be done when one or the other side does not engage remains to be addressed in most countries” (para. 82). The Special Rapporteur has emphasized that “Stronger links between State and Indigenous laws and institutions, based on mutual respect and understanding, or even integrated review or appeal bodies with equal representation of Indigenous and non-Indigenous judges, could contribute to ensuring respect for human rights in both Indigenous and State legal systems” (para. 79). The Special Rapporteur has furthermore indicated that “Indigenous authorities should ensure safe and inclusive spaces for all in the community to discuss the appropriateness of norms and practices and their consistency with constitutional or international human rights, and to argue for their reform or modification. They should give due consideration to the arguments presented in such discussions. Other stakeholders may support such internal discussions, as well as offering relevant capacity-building or other awareness-building activities both to Indigenous leaders and other members of Indigenous communities. Any engagement by non-Indigenous actors with Indigenous communities and leadership on such issues should be sensitive to the social, cultural, political and historical context and cohesion of Indigenous peoples and the risk that outside

interventions may be perceived as perpetuating actions and attitudes reminiscent of colonialist eras and related historically oppressive connotations” (para. 120).

We would also like to recall that the UN Independent Expert on the enjoyment of all human rights by older persons addressed the vulnerability of older persons in relation to forced evictions in her 2022 report (A/77/239) on “Older persons and the right to adequate housing”. In her report, she states that older persons are among the groups at a higher risk of forced evictions, often resulting in homelessness and seriously affecting their health and wellbeing (para. 23). The Independent Expert also analyses how discriminatory practices especially affect older women, putting them at risk of eviction and leaving them destitute or homeless as a result (para. 28). Older women are also often affected by the lack to access to legal remedies against evictions (para. 28), in contradiction of the 1991 United Nations Principles for Older Persons, which state that older persons should have access to legal services enhancing their autonomy, protection and care (principle 12). In the Independent Expert’s report, the particular vulnerability of older Indigenous Peoples against forced evictions is also addressed, as well as their increased difficulties that evictions cause in keeping their links with their relatives and communities (para. 75). The Independent Expert recommended that older persons are protected against forced evictions (para. 93) and discrimination based on gender, disability, race, ethnicity, migrant status, sexual orientation and gender identity, religion or indigenous status (para. 93).