

The Assembly and Association Briefing

Newsletter of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association

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Kiai to Human Rights Council: Assembly & association rights are inviolable, even for those “seen as being different”

GENEVA – Special Rapporteur Maina Kiai has urged UN member states to protect the assembly and association rights of all people within their borders – including those who are “seen as being different” and may be marginalized as a result.

Kiai’s remarks were delivered to the Human Rights Council on June 10-11 in Geneva, where he presented three reports – a thematic report on the assembly and association rights of groups “most at risk,” a country report on his official mission to Rwanda, and third on communications transmitted to UN Member States.

The Special Rapporteur’s [most recent thematic report](#) documents the challenges faced by marginalized groups in exercising – or seeking to exercise – their rights to freedoms of peaceful assembly and of association. These groups, deemed “most at risk,” include persons with disabilities; youth; women; lesbian, gay, bisexual, transgender and intersex (LGBTI) people; members of minority groups; indigenous peoples; internally displaced persons; and non-nationals, including refugees, asylum seekers and migrant workers.

“It matters not whether we approve or support the activities of these marginalized groups at risk,” Kiai told the Council. “The test of international law is that as long as their activities are non-violent, non-discriminatory, non-xenophobic and do not incite others to violence, they must be protected and facilitated.”

The call for non-discrimination in the application of assembly and association rights drew harsh condemnation from several Member States, including Pakistan, which objected specifically to the report’s focus on allowing LGBTI individuals and groups to exercise their rights to freedom of peaceful assembly and of association. Pakistan’s delegate told the Council that there “is no consensus on LGBTI rights” and therefore these rights should not be “propagated as part of international law.”

Egypt also claimed that Kiai was expanding at-risk groups to an “unprecedented level” that they could not condone.

Kiai clarified that his report does not advocate “creating new rights,” but rather enforcing existing ones evenly, without arbitrary discrimination.

“A government that can silence one group is a government that can silence anyone,” Kiai said the week before his presentation.

The Special Rapporteur also dedicated a portion of his statement to his [report on Rwanda](#), a country he visited in January 2014.

Following his visit in January, Kiai [noted](#) the “remarkable progress” that Rwanda had made in “developing infrastructure, building institutions and ensuring stability and security over the past 20 years.” But he added that assembly and association rights had not developed along the same positive trajectory.

For example, he found that peaceful protests criticizing government policies were

(Continued on next page)

207

Communications sent by the UNSR to UN member states between March 1, 2013 & Feb. 28, 2014

12

Number of these communications sent to China, most of any country

10

Prison sentence for a Saudi activist for, inter alia, providing information to the UN

An aerial view of the United Nations Human Rights Council Chamber in Geneva, Switzerland, where Maina Kiai presented his latest reports on June 10-11, 2014 (Photo: Jeff Vize)



The UN Palais des Nations building in Geneva, where UN Special Rapporteur Maina Kiai presented his latest reports on June 10-11, 2014.

Kiai presents to Human Rights Council in Geneva (continued from page 1)

generally not allowed, despite the right to peaceful assembly being guaranteed under the constitution. He also documented serious impediments to freedom of association, including onerous obstacles to registration, limits on civil society's freedom to operate in certain fields, and government interference in the internal affairs of groups deemed too critical of official policy.

The independent expert drew attention to the "striking difference between the registration process for NGOs and businesses." Civil society groups can take months to register, while businesses can be formed in six hours or less.

At the Council, Kiai commended Rwanda on its "tremendous reconstruction and growth in virtually all aspects of its national life," but noted that the country's approach "to achieve reconciliation is undermined by the limited space to dissenting voices."

"Several interlocutors emphasized that Rwanda favours a political order based on so-called 'consensus,'" Kiai told the Council. "But this consensus is led by the ruling party and, as a result, discourages public criticism and dissent."

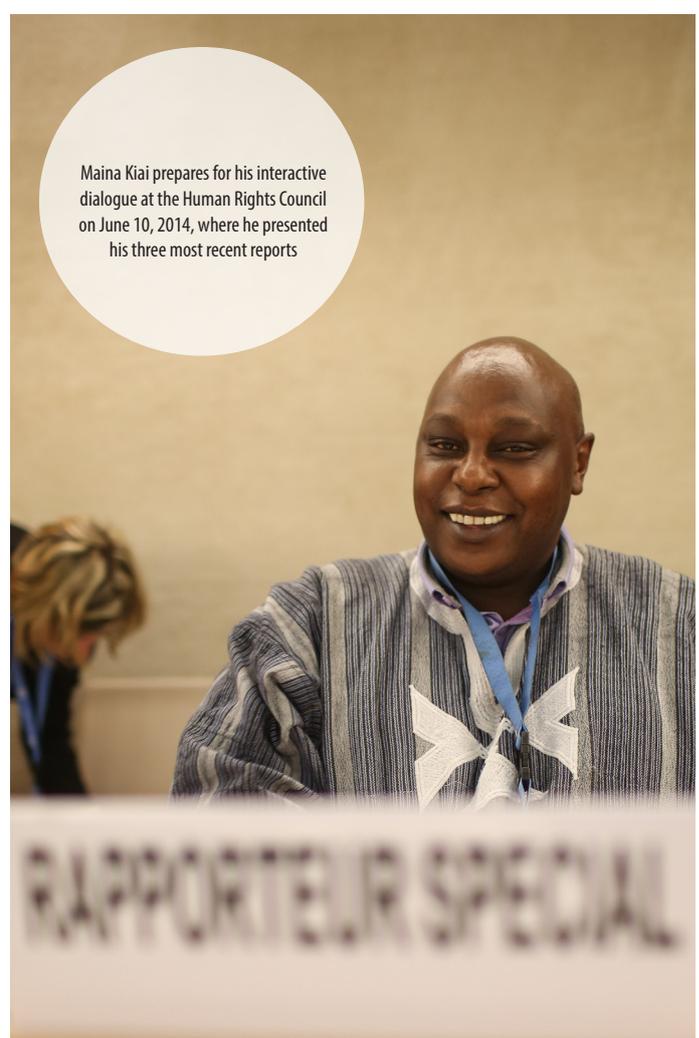
Kiai said that allowing peaceful debate, discussion and dissent would ultimately make Rwanda – and any State – stronger.

"Peaceful assemblies, including demonstrations and protests, should be encouraged by States," he said. "It is in fact, to the State's advantage to gauge citizens' views, including disagreement, by peaceful means, rather than through more confrontational and non-peaceful alternatives."

Kiai also presented a [report on observations on communications](#) transmitted to governments and replies received between March 1, 2013, and February 28, 2014. He sent a total of 207 communications to UN member states during this period.

A transcript of Kiai's statement to the Human Rights Council is available at [this link](#), and a archived webcast of the entire interactive dialogue - including comments from states and NGOs - can be found on the [UN website](#) with [part two available here](#).

OHCHR's official press release on Kiai's presentation can be [found here](#), and a photo set from Geneva is available at [our Flickr page](#).



Maina Kiai prepares for his interactive dialogue at the Human Rights Council on June 10, 2014, where he presented his three most recent reports

Syria: Door remains wide open for further atrocities after lack of referral to the ICC, UN experts warn

GENEVA – A group of United Nations independent human rights experts, including Maina Kiai, [emphasized on May 30](#) that the UN Security Council's decision not to refer the situation in Syria to the International Criminal Court (ICC) leaves the door wide open for new atrocities in the ongoing conflict.

"The double veto last week to a resolution referring the situation in Syria to the ICC is likely to expose the Syrian population to further gross human rights and humanitarian law violations," they said. "The failure to hold those responsible for the violations to account may fuel further atrocities."

The human rights experts stressed that "given the absence of prosecution at the domestic level it was the UN Security Council's responsibility to refer the situation to the International Criminal Court."

"Referring the situation in Syria to the ICC would have been an important and most necessary step both to protect civilians against continued and future violations by all sides to the conflict, and to curb impunity for the grave violations of human rights and humanitarian law, some amounting to crimes against humanity," they noted.

In March, in light of its serious concern and the gravity of the situation in relation to enforced disappearance in the country, the UN Working Group on enforced or involuntary disappearances requested the Security Council to consider referring the matter to the International Criminal Court ("[Syria: Group of experts call for action into enforced disappearances as crimes against humanity](#)")

A version of this press release is also available in [English via OHCHR](#).

UNSR & Community of Democracies release general principles on protecting right to access resources

In an effort to strengthen global understanding of civil society's right to access resources, UN Special Rapporteur Maina Kiai and the Community of Democracies have [issued a set of "general principles"](#) summarizing key aspects of the right, along with their legal bases.

The document summarizes three general principles under international human rights norms and standards regarding the ability of civil society to seek, receive and use resources. It also provides arguments and legal backing to support specific aspects of each principle, with hyperlinks to source documents where relevant.

The principles are extracted from the Special Rapporteur's 2013 report to the Human Rights Council, which focused on associations' ability to seek, receive and utilize resources. The report is [available here](#) in all six UN languages.

"The ability to seek, receive and use resources is inherent to the right to freedom of association and essential to the existence and effective operations of any association"

General Principle 1 states that the ability to seek, receive and use resources is inherent to the right to freedom of association – not a separate right – because it is essential to the existence and effective operations of any association.

General Principle 2 underlines that states must allow associations to seek, receive and use foreign funding as a part of their obligation under international human rights law to mobilize resources available within the society as a whole and from the international community. As the Special Rapporteur has pointed out, there is no legal basis for states to draw a distinction between foreign and domestic funding for civil society.

Finally, General Principle 3 states that the civil society and corporate sectors should be governed by an equitable set of rules and regulations. This is what the Special Rapporteur has referred to as "sectoral equity." Civil society should not be treated differently from other sectors.

The joint UNSR-Community of Democracies project is being funded by the Swedish Ministry of Foreign Affairs.

The document is currently available in [English](#) and [Spanish](#), with more languages planned soon.

Freedom of association and assembly: By the numbers

3 Number of years in prison that Egyptian activist [Ahmed Maher](#), former leader of the April 6 Youth Movement, was sentenced to for calling protests against government abuse

3 Number of [years in prison](#) that former Egyptian president Hosni Mubarak was sentenced to for stealing \$17 million

4 Approximate [number of years](#) it took for the Green Party to become officially registered in Rwanda

38 Number of days before the September 16, 2013, [parliamentary elections](#) that the Green Party's registration was finally approved

15 Age of a Firas Al-Saffar, who was [shot dead](#) during a protest in Bahrain on May 21, 2014

15 Number of years the current leader of Bahrain, King [Hamad bin Isa Al Khalifa](#), has been in power

7 Days of [sick leave](#) granted Turkish prime ministerial aide Yusuf Yerkel after he was caught on camera kicking a protester at an anti-government demonstration against a mining accident which killed 301 people. He was later fired

1 Extra days added to Egypt's [presidential election](#) in May after low turnout rates were reported during the first two days. A US monitoring [group said](#) the political environment "made a genuinely democratic presidential election impossible," while the EU said the "election was administered in line with the law" but fell "short of constitutional principles"

25 Number of Cambodian activists convicted in May for "acts of violence" during strikes by garment workers, where authorities [killed at least five demonstrators](#)

0 Number of [Cambodian authorities](#) arrested, charged or detained for the deaths

A protester raises his fist at a Syria demonstration in Canada in February 2012. A group of UN experts, including Maina Kiai, said that the Security Council's decision not to refer the situation in Syria to the International Criminal Court leaves the door open for new atrocities (photo: [Ryan/Flickr](#))

Special rapporteur news in brief: April and May 2014

UNSR online

Maina Kiai's communications team rolled out extensive coverage of the Special Rapporteur's visit to Geneva for the 26th Session of the Human Rights Council from June 10-14, 2014. Kiai's interactive dialogue was [live-Tweeted](#), and photos of the Council session and side-events were distributed via the mandate's [Facebook](#) and [Flickr](#) accounts. Don't forget to follow us on Twitter and Facebook for the latest news from the mandate.

Reports

The Special Rapporteur's annual thematic report (see story above) to the Human Rights Council was released publicly in early May, and is now available in [English, Spanish, Arabic, Russian and Chinese](#) on our website. The French version should be available shortly. The report number is A/HRC/26/29.

The Special Rapporteur's report on Rwanda is also [available](#) (report A/HRC/26/29/Add.2), along with the government of [Rwanda's reply to the report](#) (A/HRC/26/29/Add.3). Both of the Rwanda reports are advance versions; final versions - along with translations of the main report - should be available in the coming weeks.

The Special Rapporteur also released his Observations on Communications to Governments and Replies Received report for March 1, 2013, to February 28, 2014 (A/HRC/26/29/Add.1). An advance version is [available here](#).

Human Rights Council side-events

Maina Kiai participated in three side-events at the Human Rights Council, including: "Civil Society Space: Addressing the Implementation Gap" (June 12 jointly organized by Article 19, the International Center for Not-for-Profit Law, World Movement for Democracy, CIVICUS, and the Permanent Mission of Ireland for the UN in Geneva), "East Africa: Regional Challenges Facing Human Rights Defenders and Civil Society" (June 12, jointly organized by East and Horn of Africa Human Rights Defenders Project, CIVICUS, Ethiopia Human Rights Project, Article 19 and Human Rights Watch) and "Threats to Freedom of Peaceful Assembly, Association and Expression During Elections in Asia" (June 12, organized by FORUM-ASIA).

Photos of all three events are [available here](#).

Other travel and events

• "Who's Afraid of Civil Society," event sponsored by Amnesty International in [The Hague](#), Netherlands (June 5, 2014): The Special Rapporteur gave a keynote address focusing on the worldwide trend in shrinking space for civil society, with a focus on Ethiopia, China and Indonesia.

• "Civil Society Organizations in the Global South under Pressure," event organized by the Danish Ministry of Foreign Affairs and DanChurchAid (June 16, 2014) in [Copenhagen](#), Denmark: Keynote speech on global trends on civil society repression and discussed his new report on at-risk and marginalized groups.



Kiai joins joint statement to mark international day against homophobia

GENEVA – Maina Kiai and three other Special Rapporteurs joined the Inter-American Commission for Human Rights, the African Commission on Human and Peoples' Rights and the OSCE Representative on Freedom of the Media in a joint statement to mark International Day Against Homophobia and Transphobia (IDAHO-T).

The May 16, 2014, statement called upon States to end discrimination and address violations against lesbian, gay, bisexual, transgender and intersex individuals and those who advocate for their rights.

In many parts of the world, lesbian, gay, bisexual, transgender and intersex (LGBTI) people face discrimination, stigmatization and acts of violence. Protecting and promoting the rights of LGBTI people to free expression, association, and peaceful assembly is crucial to end their discrimination and address human rights violations inflicted upon them.

"These are not only basic rights, but they are also essential in allowing individuals to claim other rights, in particular the rights to freedom from discrimination and equality before the law, and they can contribute to fostering public debate in society," the statement said.

The joint statement condemned "acts of retaliation, intimidation, or harassment in any sphere (whether public or private) based on a person's manifestation or expression of their sexual orientation, gender identity or gender expression."

The full statement is [available here](#).

Special Rapporteur Maina Kiai shares a moment with Frank Larue, the outgoing Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, before their interactive dialogue at the Human Rights Council on June 10, 2014.

RAPPORTEUR SPECIAL

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Demonstrators take to the streets in Bangkok in January 2014. Following a military coup in May, Thailand's leaders have imposed "unacceptable restrictions ... on freedoms of expression, association and peaceful assembly," according to UN rights experts (photo: [Victor Dumesny/Flickr](#))

“Fundamental rights at stake in Thailand” – UN experts concerned about arbitrary detentions and restrictions

GENEVA – “Stability and reconciliation can hardly be achieved in Thailand if human rights guarantees are neglected,” a group of United Nations independent experts, including Maina Kiai, said on June 13, 2014, while urging the current authorities to reverse all measures affecting basic rights and to restore democratic rule in the country.

“In moments of political crisis and turbulence, it is crucial to promote the full respect of the rule of law,” the human rights experts stressed.

“The various limitations to fundamental rights put in place since the military assumed control of the country and the Constitution was suspended are deeply disturbing,” they noted. “Reportedly numerous individuals remain arbitrarily detained, and unacceptable restrictions continue to be imposed on freedoms of expression, association and peaceful assembly.”

Particular concern was expressed with regard to the chilling effects of the summoning by the military of more than 440 individuals, including political leaders, academics, journalists and activists to army bases. Many remain in detention without access to family or lawyer. Some are held incommunicado in unknown locations and may be at risk of torture or ill-treatment.

“Public criticism of authorities and the freedom of the Thai media are negatively affected by various measures, including the ban on political gatherings of more than five persons and the reported closure of a vast number of community radios,” they said.

“Restoring the space for public dialogue is crucial to allow durable solutions to the political impasse affecting Thailand to be forged,” the experts underscored.

The group of experts requested information from the current authorities on multiple allegations of human rights violations they received after the imposition of martial law on May 22, 2014.

“We remain ready to engage in dialogue with the country authorities,” concluded the experts.

The full press release is available at freeassembly.net and via OHCHR.



[Special Rapporteur Kiai to convene expert meeting in Istanbul for next report](#): In preparation for his next report to the UN General Assembly, Maina Kiai will hold an expert consultation in Istanbul, Turkey, on June 27-28, 2014. The report will focus on multilateral organizations and their impact on the rights to freedom of peaceful assembly and of association. A [discussion page](#) will be posted on our website shortly if you would like to contribute your thoughts for the report.

You may also contact us directly at info@freeassembly.net or at freeassembly@ohchr.org

World briefing: Freedom of assembly and association in the news

May 17, 2014

[Top rights activist arrested in Burundi](#): Pierre Claver Mbonimpa, head of the association for the protection and defence of prisoners and human rights (APRODH), was arrested at Burundi's international airport after a prosecutor charged him with spreading information that could "endanger state security." The arrest was the latest episode in a [crackdown](#) on the opposition and rights activists in the country, which is facing its worst political crisis since the civil war ended in 2005.

May 22, 2014

[Thai military seizes power in coup](#): After months of political turmoil that saw the Prime Minister forced from office, Thailand's military led a coup d'état and imposed martial law - which included a ban on peaceful assemblies. [Pop-up protests](#) against the coup soon spread, leading the coup leaders to [set up a 6,000-strong force](#) of police and soldiers in June to counter them. Coup leader Gen. Prayuth Chan-ocha [appealed for protesters to stand down](#): "Everyone must help me," he said, adding: but "do not criticize, do not create new problems. It's no use."

May 26, 2014

[Azerbaijan sentences HRDs Anar Mammadli and Bashir Suleymanli](#): Two prominent human rights defenders in Azerbaijan - known for their role in running an election monitoring NGO - were sentenced to prison on what civil society called "far-fetched" charges. See here for Maina Kiai's [May 2014 statement](#) on their case.

May 27, 2014

[World Cup protests in Brazil](#): Protesters in Brazil clashed with police in the capital Brasilia after they tried to reach the National Stadium, where the tournament trophy was on display. A group of indigenous protesters demanding land rights later joined them. A week earlier, a large protest by bus drivers in [Sao Paulo](#) blocked half of the city's bus terminals, leaving thousands stranded. The drivers were demanding increased wages. Protests continued after the World Cup kicked off on June 12; video emerged of a police officer firing what appeared to be [live ammunition](#) at anti-World Cup protesters in Rio de Janeiro. Meanwhile, Article 19 director Thomas Hughes said that Brazil is [stifling the right to protest](#).

June 1, 2014

[Tear gas used at Gezi Park commemoration](#): Protesters attempting to mark the one-year anniversary of the Gezi Park movement in Turkey were met by a heavy police presence and tear gas. Several people were roughed up and a [CNN reporter](#) was harassed on-air.

June 2, 2014

[Hungary raids NGOs](#): Government agents in Hungary raided three NGOs funded by Norway - and which had also criticized Hungary's government in recent years. The officials were allegedly investigating how the NGOs were using Norwegian funds. An aide to the prime minister had earlier said that Norway was trying to influence Hungarian politics. Amnesty International Hungary [condemned](#) the raid, calling it an government attempt to "target civil society."

June 2, 2014

[Big rally to mark Tiananmen Square anniversary, but not in mainland China](#): Some 1,900 people protested in Hong Kong to call for democracy, days before a mass vigil to mark the 25th anniversary of the Tiananmen Square crackdown. [VOA News](#) says that 25 years later, the Tiananmen protesters' concerns still linger.

June 5, 2014

[Canada seeks to widen surveillance of protests](#): Canada's Government Operations Centre (GOC) reportedly contacted all federal agencies in the country, requesting assistance in "compiling a comprehensive listing of all known demonstrations which will occur either in your geographical area or that may touch on your mandate." The GOC is tasked with providing strategic coordination "in response to an emerging or occurring event affecting the national interest." The government [defended the move](#), saying that peaceful protests sometimes turn violent and threaten national security.

A boy plays with a bubble at the "Manifest FIFA-free Territory" funfest in Rio de Janeiro, Brazil, on June 6, 2014. The area is set up as an alternative to FIFA World Cup events currently taking place in all 12 host cities and proclaims itself open to protests and cultural events of all types (photo: [Ninja Midia/Flickr](#))