

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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Rights to peaceful assembly and association must also be protected at multilateral level

NEW YORK - In today's globalized world, the meaning and practice of democracy stretches beyond national boundaries, United Nations human rights expert Maina Kiai told the UN General Assembly on Oct. 28 during the presentation of [his report](#) on the exercise of the rights of freedom of peaceful assembly and of association at the multilateral level.

"Decisions of multilateral institutions - which represent Governments - have a profound impact on the lives of ordinary people across the globe," the Special Rapporteur on the rights to freedom of peaceful assembly and of association said. "But are these people consulted and given a chance to contribute to issues affecting them? Often, the answer is no."

In his report, Kiai notes that global governance is increasingly becoming fragmented and diffused among a broad range of multilateral bodies, including the more well-known ones such as the UN and its specialized agencies, and others less well-known or understood, some of which are opaque in their operations.

Actions by multilateral institutions themselves

"Multilateral entities have positive responsibilities to actively protect peaceful assemblies and to establish and maintain an enabling environment for civil society," the independent expert stressed.

However, his report notes that actions by multilateral institutions can have the opposite effect of closing down participation, as in the case of the inter-governmental Financial Action Task Force, created to fight money laundering, terrorist financing and other related threats to the international financial system.

"The demands of the Financial Action Task Force to regulate NGOs to prevent abuse ... for the financing of terrorism have been followed by a wave of new restrictions worldwide on funding for civil society, many of which do nothing to legitimately advance the fight against money laundering and terrorism," Kiai warned.

The expert further expressed alarm at the extremely high number of reported violations to the right of peacefully assembly during summits of multilateral institutions, as happens regularly with NATO and the G20.

"Multilateral institutions should set comprehensive guidelines on the policing of assemblies rather than delegate this duty to the national authorities where protests occur," Kiai said. "Moreover, they should not organize major events likely to draw protests in locations where they cannot receive assurances that local authorities have the political will and technical capacity to uphold international standards."

Actions by States working within multilateral institutions

In his report, the expert pointed to an increasing number of cases in which individuals are killed, threatened, harassed, tortured, arbitrarily arrested, spied and banned from travelling because they cooperate with multilateral bodies.

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Kiai: Restrictions on FOAA rights "contribute to extremism"

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Experts convene in Kenya to ponder putting int'l FOAA standards into local courts

Photo: Opening of the 69th Session of the United Nations General Assembly in New York (Amanda Voisard/UN Photo)



UNSR presents report on multilaterals (continued from page 1)

“Reprisals are the area of gravest concern,” the expert warned. “I welcome the initiatives of States to address reprisals against those interacting in multilateral arenas. But I also believe that more action is needed. Multilateral institutions themselves must react strongly when such reprisals take place, including by intervening in specific cases and publicly condemning the Member State involved.”

Kiai also noted how States obstruct the participation of civil society through the politicization of the NGO Committee, the UN body which recommends NGOs to the UN Economic and Social Council for consultative status.

“The NGO Committee has on several occasions acted in a manner contrary to its purpose by arbitrarily deferring applications for dozens of NGOs, several for many years,” the expert highlighted.

Kiai said that assembly and association rights are among the most inclusive and effective tools that the world has to allow people to peacefully express their views and push for change. When people are denied these rights they feel powerless, and no good can follow.

“The rights to freedom of peaceful assembly and of association satisfy people’s fundamental desire to take control of their own destinies,” Kiai said. “And I emphasize that these rights are indeed fundamental – not simply because they are inscribed in the law, but because they speak to something present inside each and every one of us as human beings.”

Report

Click here for a link to the report in all six official UN languages

Statement

Click here for a link to the Special Rapporteur’s full statement to the General Assembly

Video

Click here for video of the UNSR’s presentation to the General Assembly (via UN TV)

Click image below for our factsheet on multilaterals and FOAA rights

Police in riot gear watch over protesters at the G20 meetings in Toronto, Canada, in 2010. The UNSR said he was alarmed at the “extremely high number of reported violations” of assembly rights during multilateral summits, including those of the G20. (photo: [Eric Mauer/Flickr](#))

Factsheet: Multilateral organizations & FOAA rights
 Summary of Special Rapporteur Heiner Koh's Oct. 2014 report to the UN General Assembly (A/69/339/37)

Engagement and association rights apply at the multilateral level?
 Yes. The rights to freedom of peaceful assembly and of association are protected by various international instruments, including Article 21 and 22 of the International Covenant on Civil and Political Rights. The Special Rapporteur argues that States have committed themselves to respect and promote these rights at both the local and multilateral level (p. 14, para 14). Article 9 of the International Covenant on Civil and Political Rights, which regulates the right to freedom of assembly, also applies at the international level. The necessity of upholding these rights at the international level is implied in the concept that engagement is essential for the functioning of a participatory, democratic government. States are not exempt from upholding fundamental rights simply by limiting their actions outside of their domestic jurisdiction. If international human rights norms and standards are to be meaningful, States are bound and answerable at all their activities (p. 14, para 16).

Are multilateral obligations fulfilled by simply allowing assemblies and associations to meet?
 No. It is not enough to say that assemblies and peaceful assemblies are allowed to take place if they are not given meaningful access to multilateral fora. Citizens must be given a role at the decision-making level (p. 15, para 18). The Special Rapporteur provides detailed recommendations in the report to the UN on how to best facilitate engagement and participation. Such emphasis the importance of engagement with all actors, giving civil society full and effective participation in all activities, and addressing accountability mechanisms and transparency and access to information (p. 15, 22, para 19).

Are multilateral organizations held responsible when States police assemblies?
 No. The right to freedom of peaceful assembly is also shared by constituent organizations, which is equally important. Multilateral organizations that do not take responsibility for their own actions are not held responsible for their actions. However, States are held responsible for their actions. States must take responsibility for their actions and ensure that States fulfill their obligations to protect and promote their rights. Multilateral organizations must accept responsibility for their actions (p. 14, para 20 & 21, para 22).

Engagement with civil society? Does that mean NGOs?
 No. “Non-governmental organizations” (NGOs) are not synonymous with “civil society.” NGOs are merely one component of civil society, and in some circumstances they may not be the most important actor in multilateral settings to ensure that multilateral fora are accessible to all civil societies of their States to use. NGOs include not only big international NGOs, but also grassroots groups, local associations and even spontaneous civil movements, which long mobilized themselves through peaceful assemblies. Groups should not have to be registered or recognized to be considered a serious stakeholder in multilateral affairs (p. 14, para 18).

Should civil society have the same access to multilateral as businesses?
 Yes. Civil society participation should be available in comparison with other actors, particularly the for-profit business sector. Space at the multilateral level, particularly in the finance-related multilateral, is often occupied disproportionately by the profit sector – i.e., large banks and corporations. They should not monopolize multilateral fora. This should not automatically curb their participation in multilateral fora, but it should apply to key civil society representatives who have the right to be heard and to be heard on an equal footing (p. 15, para 20).

Are private multilaterals, such as FISA and the NSC, exempt?
 No. Private multilateral bodies, such as the International Strategic Committee (ISC) and FISA both receive extensive economic growth to promote countries’ foreign trade interests. They should not be exempt from the responsibility to report. If that growth, ultimately through human rights, is in line with the UN Charter, it is of equal importance at these events, alongside and with NGOs, and they should report with equal responsibility. But the Secretary is better than reporting a World Cup. The Special Rapporteur believes that the responsibility for transparency and accountability of multilateral institutions, whether private or public, should be greater and stronger. In addition, he considers that States in organizing and facilitating private assemblies have a duty to report to the UN (p. 15, para 21).

When can I find the report?
 The report is available in all six official UN languages. The report is available in all six official UN languages. The report is available in all six official UN languages.

What is a multilateral organization?
 A multilateral organization is an organization that is established by two or more States and has a common purpose. It is not necessarily a government organization. It can be a non-governmental organization (NGO) or a private organization. It can be a public or private organization. It can be a government organization or a non-governmental organization. It can be a public or private organization. It can be a government organization or a non-governmental organization.

What is the Special Rapporteur’s concern?
 The Special Rapporteur is concerned that multilateral organizations are not being held responsible for their actions. He is concerned that multilateral organizations are not being held responsible for their actions. He is concerned that multilateral organizations are not being held responsible for their actions.



OSCE government delegates arrive at the Polish Ministry of Foreign Affairs in Warsaw for a UNSR-Community of Democracies consultation on civic space and civil society's ability to access resources on Oct. 22.

Kiai to OSCE states: restrictions on assembly and association rights contribute to rise of extremism

WARSAW, Poland – UN Special Rapporteur Maina Kiai spoke out against shrinking space for peaceful assembly and association rights last month in Warsaw, warning that governments who weaken civil society are “playing with fire, because the alternative . . . is extremism.”

The comments came during an Oct. 22 consultation with Organization for Security and Co-operation in Europe (OSCE)-region governments on civic space and civil society's ability to access resources.

“We are at a very difficult time in the world, and I think it’s not accidental that we are seeing extremism rising,” said Kiai, who is the Special Rapporteur on the rights to freedom of peaceful assembly and of association. “A government that weakens civil society is playing with fire, because the alternative to peaceful assembly is extremism – and this, no one wishes to achieve.”

The regional consultation with OSCE governments was part of an [ongoing project](#) on protecting civic space and civil society's right to access resources with the [Community of Democracies](#). A similar consultation hosting OSCE-region civil society groups was [convened](#) in May 2014.

More than 20 representatives from OSCE governments attended the consultation. Most expressed broad support for the initiative and spoke of the need to protect civil society's right to seek, receive and utilize resources.

The delegate from Slovenia, for example, read a statement from his government which noted with “concern” that “civil society space is shrinking and that human rights defenders who work to promote the rights of most vulnerable often face serious risk.”

“[Civil society’s] ability to seek and receive funding is crucial to their existence and functioning,” the delegate said.

Delegates from other countries noted, however, that support for civic space was not unanimous within the OSCE region.

The Special Rapporteur emphasized that civil society is at a crossroads, facing increasing restrictions in every region of the world. He said that governments need to understand that suppressing civil society is actually counterproductive in terms of promoting not only democracy, but also security and peace.

While in Warsaw, the Special Rapporteur also spoke at the [Warsaw Dialogue for Democracy](#) (WDD), an event that focused on civil society and the shrinking space for NGOs around the world.

Photos of the Community of Democracies [event](#) and [the WDD](#) are available on the UNSR mandate's [Flickr](#) page.

For more, please see the [full story on our website](#).

Malaysia Sedition Act threatens freedoms

A group of United Nations human rights experts, including Special Rapporteur Maina Kiai, urged Malaysia to withdraw the Sedition Act of 1948, after receiving allegations of increasing criminalization of criticism of the government or its officials.

“The Sedition Act is reportedly used in a way that prevents Malaysians from expressing and debating, freely and openly, a diverse range of political opinions and ideas,” the experts said.

The 1948 Act, which carries sentences of up to three years in jail and five for recidivists, outlaws vague offenses, such as expressing ‘any seditious words’ or act with ‘seditious tendency’ that incite hatred or disaffection of the government or the judiciary, promotes hostility between different races or classes, or question any right, privilege, sovereignty prerogative stated in some parts of the Constitution.

Independent experts from the UN Human Rights Council have received reports of at least 23 recent cases of persons charged with sedition for publishing or disseminating information through the Internet or traditional media.

For more, please see the [full story](#) on our website (Photo: [SAVE Rivers Network/Flickr](#)).



Freedom of association and assembly: By the numbers

An umbrella planted in the road during Hong Kong's "Umbrella Revolution," on Oct. 16, 2014.

(photo: [Pasu Au Yeung/Flickr](#))

7

Number of official communications requesting a response sent to Kenya by the mandate of UNSR Maina Kiai since 2011.

0

Number of replies from Kenya.

64

Number of questions received from the UN NGO Committee by the International Dalit Solidarity Network (IDSN) regarding its application for consultative status to the UN, all raised by India.

6

Number of years (and counting) that IDSN's application for UN consultative status has been pending.

0

Amount of money from United Nations Development "basket funds" in Kenya and Malawi that can be used to stage peaceful assemblies.

400K

Estimated number of protesters who turned out for the People's Climate March in New York City on Sept. 21.

6.4

Number of kilometers the New York march stretched for at its peak.

5.5

Prison sentence, in years, given to Azerbaijani activist Anar Mammadli after his organization questioned the fairness of presidential elections in 2013. Mammadli was awarded the Vaclav Havel Human Rights Award in September.

4

Longest prison sentence (of several), in years, that Vaclav Havel himself served.

12

Minimum number of people charged under Malaysia's Sedition Act since the beginning of 2014, including lawyers, journalists, preachers, and academics. UN independent experts have received reports of at least 23 recent cases overall.

1948

Year that Malaysia's Sedition Act was adopted, when the country was still under British colonial rule.

425K

Amount, in British pounds, that a court awarded to a female activist who discovered by chance that the father of her son was an undercover police officer, sent to infiltrate her organization.

10

Minimum number of other British women who have filed legal claims alleging they suffered emotional trauma after discovering that their one-time boyfriends were actually undercover officers.

Special rapporteur news in brief: September-October 2014

Maina Kiai receives Freedom House's 2014 Freedom Award

UN Special Rapporteur Maina Kiai received Freedom House's prestigious Freedom Award, in Washington DC, on Oct. 1, in recognition of his "invaluable contribution to the cause of freedom and democracy."

The award honors Kiai's work in Kenya as a prominent civil society leader, and as an internationally renowned human rights defender. In addition to serving as Special Rapporteur, Kiai is also co-director of the Kenyan NGO [InformAction](#). Kiai, with journalist Lucy Hannan, established InformAction in 2009, launching a unique new human rights method of using film and community discussions to encourage ordinary citizens to speak out and take action. Using mobile field bases, it has empowered hundreds of thousands of Kenyans in rural and marginalized areas.

The award comes at a time when Kenya's civil society – demonized as "evil society" – faces increased government hostility, and legislation that threatens to restrict its freedoms and funding.

Previous recipients of the award include Maryam Al Khawaja of Bahrain, Aung San Suu-Kyi of Myanmar, His Holiness the 14th Dalai Lama, and Czech dissident and later president Vaclav Havel, and US President Lyndon Johnson.

A video of Maina Kiai's acceptance speech at the awards ceremony is [available here](#). A video of the entire 2014 Freedom House awards gala is [available here](#). For the full story, [see our website](#).

Special Rapporteur writes on multilaterals and the Warsaw Dialogue for Democracy

• In advance of his presentation to the UN General Assembly, Maina Kiai [authored a commentary](#) for Article 19's Join the Debate blog, arguing that multilateral institutions need to democratize themselves – particularly by respecting assembly and association

rights – in order to remain relevant in the 21st century. "I am convinced that the traditional approach to multilateralism is doomed to fail in the 21st century, an era where people are more connected, more informed, and more aware of the impact that multilaterals can have upon their lives," Kiai wrote.

• On the occasion of the Warsaw Dialogue for Democracy, Maina Kiai joined Secretary General of the Community of Democracies, Ambassador Maria Leissner, in a guest contribution to *Rzeczpospolita*, one of the leading daily newspapers in Poland. The piece is available in [English](#) and [Polish](#) on the Community of Democracies website.

Academic trip to South Asia

Maina Kiai visited South Asia in September on an unofficial visit that included stops in Nepal and Bangladesh.

During his trip, he took time to sit down for an interview with Indian journalist and human rights activist Teesta Setalvad of Communalism Combat. The interview is available [on YouTube](#). In the wide-ranging interview, Kiai speaks about the role of the Special Rapporteur mandate, the "dumbing down" of the media when it comes to human rights issues, the true meaning of democracy, and India – including the difficulties he faced in trying to visit the country on his trip to the region.

Upcoming

• "Regional Dialogue on the Right to Civil Society Funding in the Africa Region" (in Pretoria, South Africa, Nov. 17-18, 2014): The Special Rapporteur will participate in a regional dialogue with African civil society representatives to discuss civil society's right to access resources. This is the second regional dialogue in the UNSR's [joint project](#) with the Community of Democracies. The workshop is a part of a larger event on protecting civic space in Africa, organized by CIVICUS, the International Center for Not-For-Profit Law and USAID. The Special Rapporteur will also participate in [CIVICUS's World Assembly](#) in Johannesburg while in South Africa.

Maina Kiai speaks at the Warsaw Dialogue for Democracy in Warsaw, Poland, on Oct. 23, 2014. The event focused on civil society and the shrinking space for NGOs around the world.



Lawyer Paul Champ of Canada speaks during an experts consultation on litigating assembly and association rights in Naivasha, Kenya, on Oct. 17, 2014.

Experts: Coordinated, multipronged approach needed to inject international standards into domestic and regional courts

NAIVASHA, Kenya – The push to apply international standards in domestic and regional court cases requires a strategic, coordinated and multipronged approach by lawyers and civil society if it is to succeed, according to participants in a workshop organized Oct. 16-17 by UN Special Rapporteur Maina Kiai.

The workshop, which was held in Naivasha, Kenya, gathered nearly 20 lawyers from 11 countries to discuss best practices for litigating cases dealing with the rights to freedom of peaceful assembly and of association. It was the first event in the Special Rapporteur's [new project](#), which is sponsored by Norway and focused on enhancing assembly and association rights through the use of strategic litigation.

The project aims to provide technical assistance and advisory services for public interest litigation on assembly and association issues, with a view to increasing such litigation and encouraging the application of international law norms at the domestic level. The Special Rapporteur also plans to submit amicus briefs in a handful of relevant cases, where he can highlight international norms and principles.

The Special Rapporteur emphasized that project is worldwide in its scope.

"Assembly and association rights are under siege in every region of the world: east and west, north and south," said Kiai, who is the Special Rapporteur on the rights to freedom of peaceful assembly and of association. "It's not a problem limited to developing countries or the Global South."

British lawyers Jules Carey and Harriet Wistrich illustrated Kiai's point by describing a deteriorating situation for assembly and association rights in the United Kingdom, with government surveillance, infiltration of social justice campaign groups and an increasing focus on "public order" over human rights.

"Police in the UK are on the cutting edge of limiting protests," Carey said, describing their focus on being "preemptive and disruptive."

Participants said that intervention by the Special Rapporteur and other international actors could be a useful strategy in helping to litigate key cases, but noted that this approach is not without its pitfalls.

Challenges cited by participants included security concerns for litigants, the perception that international intervention in a case amounts to foreign "meddling," and the fact that some judges and judicial systems may not view international law as especially relevant in domestic cases.

For more, please see the [full story](#) on our website. Photos are also available at the UNSR mandate's [Flickr page](#) (full set) and on [Facebook](#) (selected photos only).

UN experts urge Ethiopia to stop using anti-terrorism legislation to curb human rights

GENEVA – A group of United Nations human rights experts, including Special Rapporteur Maina Kiai, has urged the Government of Ethiopia to stop misusing anti-terrorism legislation to curb freedoms of expression and association in the country, amid reports that people continue to be detained arbitrarily.

The experts' Sept. 18 call came on the eve of the consideration by Ethiopia of a series of recommendations made earlier this year by members of the Human Rights Council in a process known as the Universal Periodic Review and which applies equally to all 193 UN Members States. The recommendations are aimed at improving the protection and promotion of human rights in the country.

"Two years after we first raised the alarm, we are still receiving numerous reports on how the anti-terrorism law is being used to target journalists, bloggers, human rights defenders and opposition politicians in Ethiopia," the experts said. "Torture and inhuman treatment in detention are gross violations of fundamental human rights."

"Confronting terrorism is important, but it has to be done in adherence to international human rights to be effective," the independent experts stressed. "Anti-terrorism

provisions need to be clearly defined in Ethiopian criminal law, and they must not be abused."

The experts have repeatedly highlighted issues such as unfair trials, with defendants often having no access to a lawyer. "The right to a fair trial, the right to freedom of opinion and expression, and the right to freedom of association continue to be violated by the application of the anti-terrorism law," they warned.

"We call upon the Government of Ethiopia to free all persons detained arbitrarily under the pretext of countering terrorism," the experts said. "Let journalists, human rights defenders, political opponents and religious leaders carry out their legitimate work without fear of intimidation and incarceration."

The human rights experts reiterated their call on the Ethiopian authorities to respect individuals' fundamental rights and to apply anti-terrorism legislation cautiously and in accordance with Ethiopia's international human rights obligations.

For more, please see the [full story](#) on our website.

World briefing: Freedom of assembly and association in the news

China

[Umbrella Revolution in Hong Kong](#): Hong Kong was engulfed by pro-democracy protests in September, sparked by a decision by the Chinese government to limit who may stand as a candidate in 2017 elections for the city's leader. The movement - dubbed the "umbrella revolution" - started in earnest on Sept. 26 when students boycotted classes and went to "reclaim" the privatized Civic Square, where they staged a sit-in. The use of tear gas by police on Sept. 29 further galvanized the movement, which grew to include four major sites. The situation escalated on Oct. 3 when thugs [attacked the pro-democracy protesters](#) in an attempt to force them out of their positions. Clashes continued through October, with [calls](#) for Hong Kong's chief executive CY Leung to resign. Leung later said that "[external forces](#)" were influencing the pro-democracy movement. In early November, the movement's leaders said [they planned](#) to take their protest to the upcoming Asia-Pacific Economic Cooperation forum in Beijing. ([See here](#) for a story on the colorful world of protest art spawned by the movement).

Burkina Faso

[Protests lead to president's resignation](#): The president of Burkina Faso, Blaise Compaoré, resigned on Oct. 31 after 27 years in power, following massive protests sparked by parliament's decision to allow him to seek another five-year term as president. General Honoré Traoré, head of the armed forces, [initially said](#) he had taken charge of the country, only to be contradicted when another military leader, Lieutenant Colonel Isaac Zida, declared himself president as well. Protesters immediately returned to the streets, [demanding](#) a return to civilian rule. The army responded by clearing thousands of demonstrators from the capital and opening fire at state TV headquarters, killing at least one person.

USA

[Massive turnout for Peoples Climate March in New York](#): More than 400,000 people turned out for the People's Climate March in New York City on Sept. 21, just days before the United Nations climate summit. The turnout was hailed as the largest climate march in history. High-profile attendees included Leonardo DiCaprio, Jane Goodall, UN Secretary-General Ban Ki-moon and former US Vice President Al Gore. A day later, New York police [arrested](#) 102 activists during a protest to highlight the role organizers said big business plays in climate change.

Russia

[Thousands protest in Moscow over involvement in Ukraine](#): Some 20,000 people demonstrated in central Moscow on Sept. 21 to protest against Russia's involvement in the conflict in eastern Ukraine. The government estimated the turnout at 5,000 people, but a volunteer group - which counted people as they passed through police metal detectors to the protest site - put attendance at 26,000. A journalist with Slate published a [first-hand report](#), which included comments from attendees questioning whether support for Russian President Vladimir Putin was really as high as reported.

Bahrain

[Travel ban against one activist listed, another arrested](#): Bahrain authorities lifted a travel ban against human rights activist Maryam Al-Khawaja - who was [arrested in late-August](#) and later released - but arrested another on Oct. 1. Bahrain Center for Human Rights President Nabeel Rajab, himself [just released](#) after a two-year prison sentence, was detained after returning to Bahrain from the UN in Geneva, allegedly for insulting an official institution on Twitter. Rajab [was freed](#) on Nov. 2 pending the verdict of his trial, which is due Jan. 20, 2015.

Indonesia

[Protests banned at Bali Democracy Forum](#): Authorities in Indonesia announced that all protests would be banned at the October Bali Democracy Forum, a multilateral event styled as a venue to promote "the principles of equality, mutual respect and understanding." Indonesian civil society organizations rejected the gathering as a "[ceremonial event](#)."

Elsewhere

A [star-studded campaign for justice](#) in Swaziland • "[Big Soda](#)" sponsors a protest movement • A new report on [selective audits](#) of civil society in Canada • Azerbaijani human rights activist [Anar Mammadli](#) wins the Vaclav Havel Award • Police protest in [Algiers](#) • The [UK Electoral Commission](#) wants to know what charity employees are doing on Twitter • [Malaysian lawyers march](#) against Sedition Act • No constitutional right to freedom of association in [Australia](#) • Fears over [NGO freedom in Laos](#)

Sticky notes on the wall with expressions of support for Hong Kong's "umbrella revolution."
(photo: [Kagami/Flickr](#))