



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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Surmounting civil society restrictions 'the great challenge of our time'

PRETORIA, South Africa – Overcoming the current wave of government efforts to silence peaceful activists across the globe is “the great challenge of our time,” UN Special Rapporteur Maina Kiai [told African civil society leaders](#) during a conference here in November.

Civil society, donors and activists “must do better” in order to address this challenge, Kiai said, including by becoming more creative in how they confront restrictions on their fundamental rights to freedom of peaceful assembly and of association. He focused particularly on donors, whom he said often utilize dated and inappropriate benchmarks to measure civil society’s work.

“Donors need to be more flexible in funding human rights work,” Kiai told participants. “Some want results in six months, but you don’t get that with human rights work. That’s not the way human rights works.”

Kiai’s remarks came during a two-day conference in Pretoria on protecting civic space, organized by the International Center for Not-for-Profit Law, CIVICUS, the Community of Democracies and

the Special Rapporteur’s office. The event brought together civil society leaders from 14 countries, and served as the African regional dialogue in the joint Special Rapporteur-Community of Democracies [project](#) on civic space and the right to access resources, which began earlier this year.

The workshop focused on three key areas, including constraints on freedom of assembly and expression, coalition building and advocacy, and access to resources. Participants collectively identified obstacles to their work, shared experiences and best practices, and identified priority issues looking forward.

Ambassador Maria Leissner, Secretary General of the Community of Democracies, meanwhile, emphasized that restrictions on civil society is not a “west versus the rest” issue, but rather a global conflict between “democrats and crooks; governments that have asked their people for their mandates through elections and those that seek to hold power by any means.”

For the full story, please see our [website](#). Photos of the event are also available on the mandate’s [Flickr page](#).



“Rejecting one’s right to organize a public assembly on the basis of its content is one of the most serious interferences with the freedom of peaceful assembly.”

UN Special Rapporteur Maina Kiai
Nov. 26 statement on a proposed anti-LGBT bill in Kyrgyzstan

A step forward for LGBT rights in Botswana, with a step backward looming in Kyrgyzstan

GENEVA/BANJUL – United Nations and African independent human rights experts, including UN Special Rapporteur Maina Kiai, hailed a key judgment by the High Court of Botswana in November asserting that the organization ‘Lesbians, Gays and Bisexuals of Botswana’ (LEGABIBO) should be legally registered as a society by the authorities.

The Court rejected arguments put forward by the Ministry of Labour and Home Affairs of Botswana to refuse legal registration to LEGABIBO, by decreeing that “it is not a crime for one to be attracted to people of one’s own sex” and that “advocacy for legislative reforms to decriminalize homosexuality is lawful.”

“This seminal judgment by the High Court of Botswana reaffirms that everyone is entitled to the fundamental right to peacefully assemble and associate,” Kiai said. “Other countries should follow and allow the registration of organizations advocating for the human rights of lesbian, gay, bisexual and transgender (LGBT) people.”

“We salute this ground-breaking judgment and hope that it will lead to more recognition and protection for LGBT human rights defenders in Africa and beyond,” the Special Rapporteur on Human Rights Defenders of the African Commission, Reine Alapini-Gansou, further added.

But only eight days later and some 9,000 km away, legislators in Kyrgyzstan were considering a bill that threatened to introduce criminal and administrative sanctions for acts aimed at forming “a positive attitude towards non-traditional sexual orientation” – leading to a public plea from Kiai and other experts.

“Instead of adopting legislation which de facto condemns LGBT communities to silence, the authorities should be fighting against all forms of violence and discrimination in Kyrgyzstan,” the independent experts said.

“The UN has already documented violence and discrimination against LGBT people in Kyrgyzstan and shown how similar laws in other countries have led to targeted abuse and violence against LGBT persons,” they noted.

Kyrgyzstan’s draft law passed its first reading at Parliament last month, and must be voted on twice more before going to the President for signature.

“If passed, the law would run afoul of the Kyrgyzstan’s human rights obligations and commitments,” they noted.

The explanatory note accompanying the bill defines non-traditional sexual relations as ‘sodomy, lesbianism, and other forms of non-traditional sexual behavior’.

It proscribes the dissemination of information in the media and internet, as well as the organization and participation in peaceful assemblies on these issues.

Punishment includes fines up to 3,000-6,000 som (USD 36 to 91 – the average worker’s salary in Kyrgyzstan is around USD 140 a month) and between six months to one year of imprisonment.

“Limiting freedom of expression is only acceptable in very exceptional circumstances and based on objective criteria – this is clearly not the case here,” UN Special Rapporteur on the freedom of opinion and expression David Kaye said. “Imposing limits to the dissemination of information on ‘non-traditional sexual relations’ simply means silencing those who identify as LGBT and, indeed, any discussion of the situation of the LGBT community in the country.”

“Rejecting one’s right to organize a public assembly on the basis of its content is one of the most serious interferences with the freedom of peaceful assembly,” Maina Kiai said. “The freedom of assembly protects demonstrations promoting ideas that may be seen as annoying or offensive by others.”

The UN Special Rapporteur on the situation of human rights defenders, Michel Forst, also warned that “the draft law not only discriminates against a specific subset of the population, but would also chill the legitimate work of human rights defenders advocating for the human rights of the LGBT community.”

Full stories on both the [Botswana decision](#) and the proposed [bill in Kyrgyzstan](#) are available on our website.



Freedom of association and assembly: By the numbers

7.18

Estimated population of Hong Kong (in millions)

1,200

Maximum number of people on Hong Kong's Election Committee, which is to select which candidates can stand in the vote for the city's next leader in 2017

0.01

Percentage of Hong Kong's population the Committee represents

239

Number of protesters that Egypt's former president Hosni Mubarak was charged with killing during the Arab Spring uprising in 2011

0

Number of people he was convicted of killing (charges were dropped on Nov. 29)

188

Number of people sentenced to death in Egypt on Dec. 2 over a Aug. 2013 protest-turned-riot that resulted in 14 deaths, mostly police

817

Protesters killed by police just prior to the riot

0

Number of people prosecuted over those 817 deaths

Scene from the Hong Kong "umbrella revolution" protests on Nov. 30 (photo: [Pasu Au Yeung/Flickr](#))

Sound off for the UNSR's next report: Tell us your views on FOAA rights in the context of natural resource exploitation

The need for natural resources such as land, water, timber, minerals, oil and gas is continually increasing worldwide. That increasing demand has naturally led to more competition – and often more social conflict.

In many cases, decisions concerning the exploitation of natural resources are made in an opaque manner. Governments cut backroom deals with corporations without the input of those affected. Official corruption often looms large. The ostensible owners of the property being exploited may not benefit at all from the project.

The systematic exclusion of key stakeholders in the context of natural resource exploitation is counterproductive and may, in some circumstances, amount to a deprivation of the rights to freedom of peaceful assembly and of association. More to the point, this exclusion can lead to anger, divisions within society and long-term threats to the project in question.

For his upcoming report to the Human Rights Council in June 2015, UN Special Rapporteur Maina Kiai plans to focus on the exercise of the rights to freedom of peaceful assembly and of association in the context of the exploitation of natural resources.

The importance of assembly and association rights in the context of the exploitation of natural resources cannot be understated. Indeed in many countries, social protests and grassroots opposition movements may be the only option for affected communities to make their voices heard, particularly in States where judicial and law enforcement systems are corrupt or subservient to the executive.

Natural resource exploitation often involves big money – and equally big efforts to silence dissent. As a consequence, the space for individuals and civil society groups is limited, and is becoming even more constrained as the competition for resources increases.

What's your experience? The Special Rapporteur will be convening a consultation in mid-December to discuss the issue with selected experts. But he would also like to hear your views.

What are the gaps in both the legal framework and practice that enable restrictions on the assembly and association rights of people fighting for more just outcomes in the extraction of natural resources? How do these gaps skew outcomes? How can we surmount these challenges?

To submit information for Maina Kiai's next report, please see [our discussion post](#) on the mandate's webpage. The post features links to the report concept note and questionnaires tailored to UN Member States, businesses and civil society. The Special Rapporteur will be accepting submissions through Jan. 31, 2015.



Video: Strategic litigation for assembly & association rights

Assembly association rights are among the most fundamental human rights in international law.

Today, however, they are increasingly under assault by repressive governments.

In October 2014, UN Special Rapporteur Maina Kiai launched a new project designed to combat this trend in a different way: Through the use of strategic litigation, particularly litigation that emphasizes international law in attempting to protect civic space.

On Oct. 16-17, the Special Rapporteur invited lawyers from all over the world to discuss how to move the project forward. In December, he released a video that provides an overview of the project and the ideas presented by the nearly 20 lawyers from 11 countries who participated in the workshop. Check it out on [our YouTube channel](#).

Special rapporteur news in brief: November-December 2014

Special Rapporteur in Johannesburg for the CIVICUS World Assembly

UN Special Rapporteur Maina Kiai was on hand in Johannesburg, South Africa, on Nov. 21-24 to participate in the [CIVICUS World Assembly](#), an annual gathering that brings together some 700 members of civil society from all over the world. He also gave a keynote address on the final day of the event, sitting for an “in conversation” format interview and accepting questions from the audience. Kiai also addressed the 2011 CIVICUS World Assembly via video ([available here](#)), shortly after he took up his functions as Special Rapporteur.

UN experts urge integration of human rights in climate change negotiations

Maina Kiai joined 75 other UN experts on Dec. 9 in urging all governments around the world to integrate human rights standards and principles in the current negotiations taking place at the Lima Climate Change Conference, Dec. 1-12, and in the agreement to be adopted in Paris in 2015.

“Climate change is one of the greatest challenges of our generation, with consequences that transform life on earth and adversely impact the livelihood of many,” said François Crépeau, who currently heads the Coordination Committee of international experts appointed by the UN Human Rights Council. “Human rights must be pivotal in the ongoing negotiations and must be firmly anchored in a new agreement.”

The full [press release and joint statement](#) are available on the mandate’s website.

Speaking on civil society in Berlin and Addis Ababa

• The Special Rapporteur was in Berlin on Nov. 27 to speak at a Bread for the World event titled “What Space is left

for Civil-Society Involvement? Global Trends, Experiences from Asia, Possible Action.” Kiai was joined by Basil Fernando of Sri Lanka, who is founder and Programme Director of the Asian Human Rights Commission and winner of the Right Livelihood Award 2014.

• On Dec. 2, Kiai was in Addis Ababa, Ethiopia, to attend a Sida event on providing “Support to civil society development in open and restrictive environments.” He spoke about the worldwide trend toward a more restrictive environment for civil society.

UNSR online

The Special Rapporteur’s website for the mandate, [freemassembly.net](#), launched the first phase of a planned redesign in November, introducing a new front page, new fonts and several other features to improve navigation and usability. Further upgrades are planned throughout 2015.

Upcoming

• **Expert consultations for future reports:** The Special Rapporteur will be in Bangkok, Thailand, in mid-December to convene two consultations to help shape his forthcoming reports. The first - for the Special Rapporteur’s 2015 report to the Human Rights Council in June - is a worldwide consultation looking at the rights to freedom of peaceful assembly and of association in the context of the [natural resource exploitation business](#).

The second - for his 2015 report to the UN General Assembly - will be a regional consultation examining what has been one of Kiai’s focus areas throughout his mandate: Sectoral equity between businesses and civil society.

• **Official visit to Kazakhstan:** The Special Rapporteur is scheduled to make an official visit to Kazakhstan in January, his fifth such trip since taking up his functions in May 2011. The Special Rapporteur has also visited [Georgia](#) (2012), [the United Kingdom](#) (2013), [Rwanda](#) (2014) and [Oman](#) (2014). More information on the Kazakhstan visit will be available on the mandate’s website in January.

Special Rapporteur Maina Kiai speaks at a regional civil society consultation jointly organized with ICNL, CIVICUS and the Community of Democracies in Pretoria, South Africa, on Nov. 17

World briefing: Freedom of assembly and association in the news

Burkina Faso

Military leader declared interim prime minister: Lt. Col. Isaac Zida - the military officer who seized power after protests forced the ouster of longtime ruler President Blaise Compaoré in November - was named interim prime minister in Burkina Faso in late November. The transitional government says that intends to steer the country to democracy within a year.

Mexico

Massive protests in Mexico over student deaths: Huge protests spread across Mexico in mid-November over the government's handling of the murder of 43 students in September. The protests were sparked by the attorney general's claim that the students were killed by gang members acting on police orders. A phrase used by the attorney general to cut off his press conference - "ya me canse," or "enough, I'm tired" - went viral on social media and became a slogan for the protest movement. Thousands staged protests in Mexico [throughout](#) the month of November and [into December](#).

USA

Protests over failure to indict police in Michael Brown and Eric Garner cases: The US city of Ferguson, Missouri, saw a new wave of protests after a grand jury failed to indict the white police officer who killed African-American teenager Michael Brown in August. Demonstrations spread to [other US cities](#) as well, including Oakland, Los Angeles, New York, Chicago and Boston. A new wave of protests was sparked on Dec. 2, when a grand jury in New York [ended the criminal case](#) against a white New York police officer whose chokehold on Eric Garner - an unarmed African-American - led to the man's death. Protests swelled and spread across the United States over the following week and beyond, and spurred shows of support from [professional athletes](#) and [President Barack Obama](#), among others.

Thailand

Hunger Games screening cancelled over symbolism: As Thailand's military junta neared five months in power, a cinema chain in Bangkok [cancelled](#) screenings of the new Hunger Games film in mid-November after protestors adopted the movie's defiant three-fingered salute against totalitarian rule. Activists said police ordered the move after hundreds of students planned to protest at an opening day screening of the film. "The theatre told us they were uncomfortable and wanted to avoid any problems that may arise," a protest organizer told the Associated Press. "They said they did not want to be involved in any politics."

Hong Kong, China

Authorities clear demonstration sites, arrest protest leaders: Bailiffs [began clearing](#) the fringes of the main site of a two-month-long pro-democracy demonstration on Nov. 18, and ramped up their efforts as the month progressed. By Nov. 26, police were clearing the protest site in Mong Kok and [arrested](#) student leaders Joshua Wong and Lester Shum. Wong received bail the next day, but was [ordered](#) to stay away from the protests; he subsequently went on a 108-hour [hunger strike](#) with fellow students. After clashes between protesters and police on Dec. 1, a court granted an [injunction](#) to clear the site; authorities put demonstrators on notice that clearing would [begin](#) on Dec. 11.

Egypt

Ex-President Mubarak cleared of charges; protesters return to the streets: An Egyptian court dropped all remaining criminal charges against former President Hosni Mubarak on Nov. 29, setting the stage for his release. Mubarak was swept from power in 2011 following protests sparked by the Arab Spring, and stood accused of murder for ordering the killing of protesters. About 1,000 protesters immediately returned to Tahrir Square, the epicenter of Egypt's Arab Spring demonstrations. The square was closed in response, and media reported that at least one person was killed and over 85 were arrested; [two more were reportedly killed](#) in the days that followed. Calls for further demonstrations were met by a second closure of the square on Dec. 2.

Elsewhere

A Canadian think tank said that NGOs [struggle](#) against cyberattacks • meanwhile, Amnesty International helped launch a [new tool](#) allowing people to scan their computers for surveillance spyware used by governments • NGOs in Tajikistan [speak out](#) against proposed legislation that would restrict civil society's access to foreign funding • Larry Diamond on [why democracy is worth fighting for](#) - now more than ever • Indonesian [police fire](#) on crowd of protesters, killing 5

A March 2014 protest by students at Cairo University, opposing the military coup that overthrew elected president Mohamed Morsi (photo: [Bora S. Kamel](#)/Flickr)