



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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UNSR presents latest reports to Human Rights Council; calls for binding human rights treaty for corporations

GENEVA — Special Rapporteur Maina Kiai appeared before the Human Rights Council on June 17, calling for a new treaty binding businesses to respect fundamental human rights, and for States and corporations to fully engage with civil society organizations in the context of natural resource exploitation.

“Corporations play an outsized role in the decision-making processes about exploitation of natural resources. But they are not subject to legally binding human rights obligations,” Kiai told the UN Human Rights Council during the presentation of his latest report. “It is time to address this issue more robustly; corporations must not escape responsibility to safeguard human rights.”

In response to these concerns, the Special Rapporteur called upon States to enact a legally binding human rights instrument that applies to all corporations, regardless of their size or geographical scope.

“I am aware that some would rather strengthen compliance with the Guiding Principles than have a binding treaty. But this should not be an either/or matter: Both should be pursued to protect human rights.”

The Special Rapporteur also highlighted States’ responsibility to recognize civil society organizations, including affected communities, as

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A view of the United Nations Palais des Nations in Geneva on June 17, 2015, where the Special Rapporteur presented four new reports to the Human Rights Council

"Individuals and associations who express opposition to natural resource exploitation processes are vilified as 'anti-development', 'unpatriotic', and even as 'enemies of the State'."

Special Rapporteur Maina Kiai's statement to the Human Rights Council on June 17 - [click for the full statement](#)

Special Rapporteur Maina Kiai consults with his staff during a break in the Human Rights Council proceedings on June 17, 2015

Human Rights Council (con't)

key actors in the context of natural resource exploitation. He noted that, in many countries, interested parties lack mechanisms to express their concerns freely, and warned that "Governments are more receptive to corporations' positions than the needs and concerns of affected communities."

"Authorities endeavour to silence individuals and associations that express opposition to natural resource exploitation processes," the independent expert said.

In his report, the Special Rapporteur argues that States' and corporations pervasive disregard of communities and associations' input in the natural resources sector is counterproductive and divisive, and is likely contributing to an erosion of confidence in the world's prevailing economic system.

"The rights to freedom of peaceful assembly and of association are instrumental in achieving sustainable and mutually beneficial exploitation of natural resources," he said. "These rights help foster increased transparency and accountability in the exploitation of resources and inclusive engagement throughout the decision-making chain."

During his presentation, Kiai also warned that authorities have increasingly sought to stifle expressions of criticism and opposition by cracking down, often with unnecessary force, on peaceful protests; arresting, prosecuting and imprisoning activists; raiding protest camps; harassing and intimidating human rights defenders; enacting restrictive legislation on associations; and interfering with the operations of civil society organizations.

"Peaceful protests are banned from sites where natural resource exploitation takes place and the situation is not any better in relation to the right to freedom of association," he noted. "Individuals and associations who express opposition to natural resource exploitation processes are vilified as 'anti-development', 'unpatriotic', and even as 'enemies of the State'."

"This intolerance is reflected in countries in the global North, and the global South," the Special Rapporteur said. "Nevertheless, I remain optimistic because of the incredible courage and determination of activists and ordinary people who refuse to be cowed or defeated, even if it means paying with their lives."

Other reports and events

Kiai also presented reports to the Human Rights Council on his official visits to [Oman](#) (September 2014) and [Kazakhstan](#) (January 2015), along with a report covering his [observations on communications](#) with Member States and replies received. The latter report contains all communications to national governments concerning allegations of human rights abuses.

While in Geneva, the Special Rapporteur also participated in a number of side events on subjects ranging from civil society in Central Asia to the use of anti-terrorism laws to suppress civil society in Africa. Photos of the events are [available here](#).

Kazakhstan

Click for:

- [The UNSR's report](#)
- [Factsheet](#)

Resources

Click for:

- [The UNSR's report](#)
- [Factsheet](#)

Oman

Click for:

- [The UNSR's report](#)
- [Factsheet](#)

Multimedia

- [Text of the UNSR's statement](#)
- [Video of the HRC session](#)
- [Photos of the session](#)



Demonstrators in Cambodia protest against an earlier draft of the Law on Associations and Non-Governmental Associations in 2011 (photo: [LICADHO](#))

Cambodian civil society excluded from NGO bill drafting process, UN rights expert warns

GENEVA – United Nations human rights expert Maina Kiai on May 22 [reiterated his call](#) to the Government of Cambodia to ensure that civil society can meaningfully contribute to the elaboration of the draft Law on Associations and Non-Governmental Organizations (LANGO), which is expected to be adopted by parliament soon.

“It is ironic that the drafting of a law regulating civil society in Cambodia excludes civil society from the process,” the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association said, stating that he has “serious concerns about a process that would result in the adoption of the LANGO without meaningful public participation.”

Kiai noted that the development of legislation to regulate civil society associations in the country, which dates back to 2008, has been reportedly shrouded in secrecy.

“Relevant stakeholders have told me that the content of the current draft law has not been disclosed and they have been unsuccessful in their attempts to acquire a copy of text,” he said. (Update: a copy of the draft law was leaked after the initial publication of this story)

“Sidestepping the democratic process by leaving out civil society actors and their important contribution from the process, and avoiding international scrutiny of legislation, is not without precedent in Cambodia,” he said, noting that important electoral laws and laws on the judiciary were recently adopted either without, or with last minute, disseminations of the texts.

“Transparency and accountability are essential elements of any legislative process in a democratic society,” the UN Special Rapporteur underscored.

The expert recalled that the right to take part in the conduct of public affairs is enshrined in Article 25 of the International Covenant on Civil and Political Rights. The right to freedom of

association, protected by article 22, is an essential adjunct to that entitlement as it is often a gateway to such participation.

“Since the Government of Cambodia intends to regulate the framework governing associations, the beneficiaries of the law should be key partners of the drafting process,” he stressed. “Such legislation should be adopted only through a comprehensive participatory process that is inclusive enough to ensure that all stakeholders are committed to its substance.”

“Government ministries need to formally establish a process by which to publicly circulate draft laws, before their submission to the Council of Ministers, to allow stakeholders to participate in a timely manner when laws are drafted, and not as an afterthought,” Mr. Kiai said.

The Special Rapporteur pointed out that he had written to the Government of Cambodia about problematic provisions in a [2011 version](#) of the draft law on associations, including vague or ambiguous definitions, bureaucratic registration processes, unrealistic membership requirements and additional burdensome requirements on foreign NGOs.

“Since I have not yet received a response from the Government or a copy of the current draft law, it is difficult to assess whether the earlier concerns regarding the draft LANGO have been taken into consideration” he said, “I therefore urge the Government to disclose the text and allow for public consultation.”

Update: Since the original publication of this press release, a leaked draft of the proposed LANGO has been analyzed and harshly [criticized](#) both by [civil society](#) and [the Special Rapporteur](#) as falling far short of international standards.

Kiai joins experts to speak out on youth LGBT rights

GENEVA – Speaking ahead of the International Day against Homophobia, Biphobia and Transphobia, a group of United Nations and international human rights experts, including Maina Kiai, called for an end to discrimination and violence against lesbian, gay, bisexual, transgender and intersex young people and children.

The UN Committee on the Rights of the Child, a group of UN human rights experts, the Inter-American Commission on Human Rights, the Special Rapporteur on Human Rights Defenders of the African Commission on Human and Peoples’ Rights, and the Commissioner for Human Rights of the Council of Europe on May 13 urged Governments worldwide to protect these young people and children from violence and discrimination, and to integrate their views on policies and laws that affect their rights.

“Around the world, children and young people who are lesbian, gay, bisexual, transgender (LGBT) or intersex, or seen as such, still face stigma, discrimination and violence because of their perceived or actual sexual orientation and gender identity, or because their bodies differ from typical definitions of female or male,” they said.

The full press release is available [via our website](#).



Freedom of association & assembly:

By the numbers



Number of pieces of [surplus military equipment](#), or “controlled property,” transferred from the US military to local US police departments since 1997 under the [1033 Program](#) (recently [scaled back](#))

460,000

Estimated [value](#) of that equipment, in billions of US dollars

5.4

Combined number of “mine-resistant vehicles” [obtained](#) via the 1033 program by the US states of Florida and Texas

120

Estimated annual [market](#) for “non-lethal weapons” - frequently used to police peaceful assemblies - globally, in billions of US dollars, by 2020

7.2

Maximum percentage of foreign staff allowed at NGOs under South Sudan’s new NGO bill, which was [passed by Parliament](#) on May 13 and is awaiting the president’s signature

20

Fine (in US dollars) that can be [imposed](#) on anyone working for an “undesirable” organization in Russia

300

Amount of funding that Chinese associations would be able to receive from unregistered [foreign funders](#) under a proposed law on managing foreign NGOs

0

Estimated number of people who have been [killed in Burundi](#), according to one media report, since protests began in April against President Pierre Nkurunziza’s intention to seek a third term

70

Estimated number who have fled the country

100,000

Hours per day that a hired Russian Internet “troll” [allegedly worked](#) posting political comments online; she is suing her ex-employer in an attempt to draw attention to Russia’s “information war”

12

Prison sentence, in months, upheld on May 14 against Bahrain activist [Nabeel Rajab](#) for allegedly Tweeting that some of his country’s soldiers had defected to the Islamic State.

6

Prison sentence handed down on June 16 to Bahrain [opposition leader](#) Sheikh ‘Ali Salman, in years, for “inciting disobedience and hatred”

4

Number of criminal lèse-majesté (royal defamation) prosecutions reportedly pending in [Thailand](#) prior to the May 2014 coup

2

Reported number as of June 2015

46

Percentage of participants at ICNL’s [Global Forum](#) in May who believe it will take [10 years or more](#) to reverse the global trend on shrinking civic space

86

“Respect Her”: A scene from a June 3, 2015, demonstration in Buenos Aires, Argentina, [protesting violence against women](#) (photo: [Leandro Martinez/Flickr](#))

“Azerbaijani activists must be freed before the Baku 2015 Games” – UN expert

GENEVA – The United Nations Special Rapporteur on the situation of human rights defenders, Michel Forst, on June 2 criticized the “relentless prosecution and repression of prominent rights activists in Azerbaijan” and called for their immediate release ahead of the inaugural European Games in Baku which began on June 12.

His appeal was been endorsed by Special Rapporteur Maina Kiai and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye.

“As preparations were in full swing for the Baku Games, the Azerbaijani authorities stepped up their efforts to harass, jail,

and surveil human rights defenders, as well as ban them from travel and freeze their assets,” the independent expert said.

“Such unjustifiable criminalization has been usually justified with trumped-up or politically-motivated charges of state treason, illegal entrepreneurship, tax evasion and abuse of office,” Forst said. “As a result, most Azerbaijani defenders have had to endure prolonged pre-trial detention, imprisonment or exile.”

The UN expert drew special attention to the cases of Intigam Aliyev, Khadija Ismail, Anar Mammadli, Bashir Suleymanli, Elnur Mammadov Leyla Yunus and her husband, Arif, and Rasul Jafarov. The full statement is available [via our website](#).



Baku 2015
1st EUROPEAN GAMES

Bolivia: Special Rapporteur files amicus curiae brief challenging NGO regulations

NAIROBI/SUCRE, Bolivia – Special Rapporteur Maina Kiai has filed an amicus curiae brief in the Constitutional Court of Bolivia, arguing that a national law and an executive decree regulating the operations of non-governmental organizations breach the international right to freedom of association.

The brief, which was submitted on May 13, 2015, was the first official court filing in the UN expert’s project to advance the rights to freedom of peaceful assembly and of association through the use of litigation in national and regional courts. The project [began](#) in Oct. 2014 and aims to encourage the application of international law norms at the domestic level.

In March 2013, Bolivia adopted the controversial law on legal personality, despite many analyses indicating that it contravened international law. In June 2013, the equally contentious implementing Supreme Decree followed. Late last year, the “Defensor del Pueblo” filed a petition with the Constitutional Court of Bolivia (Tribunal Constitucional Plurinacional de Bolivia), to challenge two specific provisions it deems unconstitutional. In the analysis of the Special Rapporteur, these provisions indeed “unjustifiably restrict the right to freedom of association under international law, standards and principles”.

The first challenged provision, Art 7. II. 1 of the Law 351 of 19th of March 2013, stipulates that statutes of NGOs and foundations with activities in more than one department must declare their contribution to “economic and social development.” This information is required when an association requests legal personality or confirmation of legal personality, and the law conditions acquisition or confirmation of legal personality upon the association’s contribution to economic and social development.

Kiai argued that the restrictions imposed by this provision “fail to meet the three core conditions in international law for the imposition of restrictions on the right to freedom of association” because they “are vague and open to broad interpretation”; they fail to pursue a legitimate aim as required by the ICCPR; and they are not “necessary in a democratic society.”

The second challenged provision, Art 19 (g) of the Supreme Decree 1597 of 5th of June 2013, stipulates that the legal personality of associations can be revoked when associations do not comply with sector policies and/or norms. The Special Rapporteur found that these restrictions are disproportionate, do not meet a legitimate aim and are not clearly proscribed by law as required by international law. The Special Rapporteur argued that requiring associational behavior to be adjusted to the sector norms and policies – or to how these “norms” are interpreted by public officials – violates associations’ right to freely determine their goals and activities.

The full amicus brief is available to the public both in [English](#) and [Spanish](#). A decision in the case is tentatively expected in September 2015. The [full version of this article](#) is available via our website. For more on the project, please see our [litigation hub page](#).



Scene from a protest in La Paz, Bolivia, in 2011 (photo: [Szymon Kocharński/Flickr](#))



Special rapporteur news in brief: May - June 2015

The Special Rapporteur talks with FORUM-ASIA's John Liu during an event on the margins of the 29th Session of the Human Rights Council in Geneva on June 16, 2015.

Kiai joins ICNL Global Forum; holds consultation for next report

The Special Rapporteur was in Stockholm, Sweden, on May 10-12 to attend the [International Center for Not-for-Profit Law's Global Forum](#), touted as "the premier global event focusing on the legal space for civil society." The high-profile event featured a welcome [video message](#) from US President Barack Obama. The Special Rapporteur participated in a number of seminars, and held his own session to promote the ongoing project with Special Rapporteur [Christof Heyns](#) to produce recommendations on the [management of peaceful assemblies](#). Photos of the ICNL Global Forum are available [on our Flickr page](#).

While in Stockholm, Kiai also convened an expert meeting to help him prepare for his next report to the UN General Assembly in October 2015. The report will compare inequitable treatment of businesses and civil society; more information is [available here](#). Photos of the consultation [can be found](#) on our Flickr page.

Official visit to Chile confirmed for September

Chile has invited the Special Rapporteur to conduct an official visit to the country in September 2015. It will be the UN expert's second visit to Chile in 2015, with the first coming in an [unofficial capacity](#) in April. This will be Kiai's sixth official country mission since he became Special Rapporteur in 2011. He hopes to conduct at least three more visits before his mandate expires, and is considering invitations from the United States, the Maldives, the Republic of Korea, Hungary and Turkey, among others. A full country invitation status list is [available](#) on our website.

Our factsheet series expands with new entries on funding, resources

The Special Rapporteur's popular [factsheet series](#) doubled in size over the past month, with new installments summarizing civil society's right to [access resources](#), country visits to [Oman](#) and [Kazakhstan](#), and FoAA rights in the context of [natural resource exploitation](#). The latter three were released to coincide with Maina Kiai's submission of the associated reports to the Human Rights Council in June. The access to resources factsheet is based on the Special Rapporteur's [2013 report](#) to the Council. In addition, our factsheet on the right to [freedom of association](#) is now available in [French](#).

A new homepage for [freeassembly.net](#), plus posters to give away

The mandate continued its website refresh with a [redesigned front page](#), which debuted in May. We also launched a limited-edition [poster series](#) promoting the Special Rapporteur's thematic reports. Most of the posters were distributed at the Human Rights Council in June, but we have a few left. If you're interested, drop us a line at info@freeassembly.net

UNSR joins call for greater civil society role in post-2015 goals

A group of experts, including Maina Kiai, urged UN member States on May 18 to recognize and support the role of a free and active civil society in the implementation of the post-2015 development agenda. "A central role for civil society is the only way to guarantee inclusive post-2015 development goals," they said. "Civil society is integral in helping Governments find innovative solutions to complex developmental problems while often providing necessary public services." The full statement is available on [our website](#).

May-June 2015 events

• **Human Rights Council Side Events:** While in Geneva for the Human Rights Council, the Special Rapporteur participated in side events on the misuse of anti-terrorism laws in Africa; "rights and religion" in Asia; natural resource exploitation; and civil society space in Central Asia. Photos are [available here](#).

• **31st Annual InterAction Forum:** Maina Kiai joined InterAction, the largest US alliance of NGOs, for its 31st annual Forum in Washington, D.C. on June 24. Kiai was invited to speak on a panel discussing the closing of civic space. Other notable attendees included Ben Rhodes and William Easterly.

Upcoming

• **Managing peaceful assemblies project - Africa consultation:** Special Rapporteur Christof Heyns will convene a regional consultation in Pretoria, South Africa, on August 7 as part of the joint project with Maina Kiai to develop practical recommendations for the proper management of assemblies. The compilation was mandated by Human Rights Council [Resolution 25/38](#). A consultation for the Asia region is tentatively planned for late August in Istanbul, Turkey.

World briefing:

Freedom of assembly and association in the news



A protester talks to police during an Oakland, California (USA), “first Friday” protest on June 5, 2015 (photo: [Thomas Hawk/Flickr](#))

Burundi

After weeks of protests against President Pierre Nkurunziza’s decision to seek a third term as president, a group of military leaders staged a coup d’état on May 13, which was [promptly put down](#). Protests against the President [continued](#) in spite of a ban, though with less intensity than before the coup. On May 25, the country’s civil society groups announced their [withdrawal](#) from dialogue with the government following the alleged assassination of an opposition leader and attacks against protest leaders. In late June, the government [joined crisis talks](#) led by the UN, but the situation remained [tense](#) ahead of the scheduled July 15 presidential elections.

Macedonia

Protesters took to the streets in Skopje after the opposition party aired [alleged wiretapped telephone recordings](#) of Nikola Gruevski Prime Minister and other officials plotting to cover up official responsibility for the murder of a man by police in 2011. [Rights groups](#) said Macedonian police used excessive force against the protesters on May 5, when they deployed tear gas, water cannon and stun grenades to disperse thousands gathered in front of government buildings. Protesters came out in force again later in May, [demanding](#) the Prime Minister’s resignation. A day later, a large counter-protest erupted [in support](#) of the Prime Minister.

China

On May 5, the Government released a second draft of a [new law to regulate foreign NGOs](#), which would require foreign organizations to submit to intrusive state oversight and control. One [civil society group said](#) that the proposed law “threatens to harm China’s interests by cutting off significant resources, expertise, and civil society support necessary to address the complex environmental, social, and development challenges facing the country.” They also said the draft law violates China’s international human rights obligations by flouting international standards related to freedom of association, including access to resources. [Other groups agreed](#).

Kenya

Local NGOs Muslims for Human Rights (Muhuri) and HAKI Africa were [deregistered](#) by Kenya’s NGO Board on May 27 after being accused of financing terrorism – an allegation

that civil society groups worldwide have denounced as false and politically motivated.

The move came after the government froze the two organizations’ bank accounts in April. In early June, the high court in Mombasa [barred the government](#) from declaring the organizations terrorist groups, but declined to unfreeze the bank account because financial regulators were not named in the lawsuit. The Special Rapporteur is currently a board member of Muhuri.

Russia

President Vladimir Putin signed into law new legislation on giving Russian authorities the power to shut down foreign-backed groups deemed “[undesirable](#).” The new law allows the government to close any foreign or international NGO and imposes fines and prison sentences of up to six years for violators. One analysis of the law called it Russia’s “[most draconian law yet](#).” Meanwhile, an anti-torture NGO in Russia was accused of “working to change state policy” and labeled a foreign agent, leading to the question: [is torture official state policy?](#)

Elsewhere

A court in Turkey [acquitted](#) 26 people arrested during the 2013 Gezi Park protests and stated that official permission is not required for peaceful demonstrations • in late May, a court in India ordered the government to [unblock Greenpeace bank accounts](#), which were frozen after allegations that the group had illegally received foreign funds • the UN High Commissioner for Human Rights [urged Kyrgyzstan](#) to review a draft law that would require foreign-funded noncommercial organizations involved in political activities to register as foreign agents • 71 people were arrested after [Cleveland, USA](#), protests over the acquittal of police officers implicated in the deaths of unarmed black motorists • in Uganda, [claims](#) that a new NGO bill aims to muzzle civil society • Pakistan ordered the international aid group Save the Children to leave the country saying the charity was “[working against the country](#)” • Angolan journalist [Rafael Marques de Morais](#) was given a six-month suspended jail sentence for allegedly defaming army generals in a book that revealed killings and torture in the country’s diamond fields