

## Closing space for civil society in the United Kingdom, Special Rapporteur warns

#### STATEMENT

Click to read the Special Rapporteur's full statement at the conclusion of his JIK visit

#### **PHOTOS**

Click for pictures of the Special Rapporteur's four days in the United Kingdom

#### **AUDIO**

Full audio of Maina Kiai's press conference in London on April 21, 2016 "IT APPEARS THAT 'PREVENT'
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Special Rapporteur Maina Kiai at the conclusion of his official visit to the United Kingdom on April 21, 2016, speaking about the Prevent' antiextremism program LONDON — The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, warned against a series of measures resulting in the "closing of space for civil society in the UK", at the end of a four-day visit to the country on April 21.

In a detailed statement (available here), the Special Rapporteur highlighted that the UK takes its role as one of the global leaders in human rights seriously and added that "many people around the world look to the UK as a model for democracy and human rights" and emphasized that "the UK truly should consider its civil society a national treasure."

He noted a number of his 2013 recommendations had been implemented and commended the Government for its continued willingness to constructively engage on human rights in general and on peaceful assembly and association rights in particular.

"I am concerned about a series of separate measures by the Government — some implemented and others proposed — which, put together, suggest that the Government has a negative view of civil society. These moves have, in many instances, been subtle and gradual, but they are unmistakable and alarming," said the expert.

The Government's focus on countering "non-violent extremism" without a narrow and explicit definition was worrisome, Kiai noted. He specifically referred to the Prevent strategy which focuses on individuals and groups that appear contrary to the "British Values" of democracy, pluralism and tolerance, and who are seen as being predisposed to respond to terrorist ideologies.

"The lack of definitional clarity, combined with the encouragement of people to report suspicious activity, have created unease and uncertainty around what can legitimately be discussed in public," said the expert. Kiai referred to the case of families who are afraid of even discussing the negative effects of terrorism in their own homes, fearing that their children would talk about it at school and have their intentions misconstrued.

"It appears that Prevent is having the opposite of its intended effect: by dividing, stigmatizing and alienating segments of the population," Kiai said.

The Special Rapporteur also shared his concerns at the planned Counter-Extremism Bill, which may authorise the issuance of civil orders to ban "non-violent extremist groups". If defined in vague terms, this could open the door to arbitrary interpretation and tread into the territory of policing thought and opinion, the expert warned.

"It is the duty of the Government — and indeed all States — to do all it can to prevent, limit and mitigate potential terrorist attacks that could arise from extremism. But I believe that the existing legal framework is robust enough to deal with any issues of extremism and related intolerance that could give rise to terrorism," Kiai said.

The human rights expert also regretted what he termed the chilling effect of the Lobbying Act on the work of charities during election periods, with many opting for silence on issues they work on. The announcement that a clause will be inserted in all Government grant agreements, prohibiting these funds from being used to lobby Government has also caused confusion and uncertainty within the sector, he said.

"It is far from clear what mischief the clause intends to address or what activities are envisioned as constituting 'influence or attempting to influence government', but it is clear that this is being read by Charities as an effort to further silence them if they receive Government funds," said the Special Rapporteur.

Noting that the Trade Union Bill is now in Parliament for review, the human rights expert said he shared many of the concerns highlighted in a report recently released by the International Labour Organization, including the new threshold requirements regarding industrial action by unions in "important public services" and provisions which would allow the replacement of some striking workers.

On a separate note, the Special Rapporteur welcomed the ongoing public enquiry into undercover policing, in line with recommendations he made in January 2013.

"Undercover policing certainly serves a vital function in gathering intelligence among criminal groups such as terrorists and violent gangs. However, its use against protest movements, leftist groups, and so on, which exercise their legitimate rights to dissent and freely assemble, is not justifiable," he said.

The Special Rapporteur's final report on the visit will be presented to the Human Rights

Council in June 2017 and will be available here.

### UK NEWS

Click for our United Kingdom country page on freeassembly.net

#### 2013 REPORT

Click for Maina Kiai's report on his 2013 visit to the United Kingdom Pictured: Special Rapporteur Maina Kiai meets with the Equality and Human Rights Commission in London on April 19, 2016



## India: Special Rapporteur says restrictions on foreign funding contrary to int'l law

NAIROBI/GENEVA — United Nations Special Rapporteur Maina Kiai has published a legal analysis arguing that India's Foreign Contributions Regulation Act (FCRA) — which regulates foreign funding to certain individuals, associations and companies — is not conformity with international law, principles and standards.

The analysis was submitted to the Government of India on April 20, 2016 and is available at this link.

The FCRA, which was enacted in 2010, bars "organizations of a political nature" from accepting foreign contributions. Acceptance of foreign contributions may further be prohibited where the Government "is satisfied that the acceptance of foreign contribution... is likely to affect prejudicially... public interest."

The law has come under scrutiny in recent years, with some sources reporting that nearly 14,000 NGOs have seen their licenses to receive foreign funding revoked by the Government.

The Special Rapporteur argues that the ability of civil society organizations to access resources, including foreign funding, is a fundamental part of the right to freedom of association under international law, standards, and principles — and more particularly part of the right to form an association. He further asserts that India's limitations on access to foreign funding do not meet "the stringent test for allowable restrictions" under international law. This test requires that restrictions be (1) prescribed by law; (2) imposed solely to protect national security or public safety, public order, public health or morals, or the rights and freedoms of others; and (3) "necessary in a democratic society." The FCRA fails on all three prongs of the test.

First, Kiai says, the FCRA does not provide the necessary precision required for clarity and notice. It lists examples of groups that could be defined as having a "political nature," but does not provide further definitions or examples for the terms "political objectives," "political activities," or "political interests."

"This appears to give the government broad discretionary powers that could be applied in an arbitrary and capricious manner," the Special Rapporteur writes in the analysis. "The definition of 'political nature' in the FCRA appears to be overly broad and could encompass almost all potential activities of an organization, including those that are allowed and even encouraged by the ICCPR to exist, such as promoting knowledge of basic rights and participation in government."

Second, the FCRA's stated purpose of prohibiting "acceptance and utilization of foreign contribution or foreign hospitality for any activities detrimental to the national interest" is not among those enumerated in the ICCPR. Economic or public interests are not among the enumerated bases for limiting fundamental human rights in the ICCPR. Moreover, national interests and economic interests are not synonymous with national security or public order.

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Special Rapporteur Maina Kiai in his analysis of India's Foreign Contributions Regulation Act

"The Human Rights Committee has found that when a State invokes national security and protection of public order as a reason to restrict the right to freedom of association, the State party must prove the precise nature of the threat," Kiai writes. "Restrictions on the right to freedom of association based on national security concerns must refer to the specific risks posed by the association; it is not enough for the State to generally refer to the security situation in the specific area."

Finally, the Special Rapporteur notes that a total ban on access to foreign funding for organizations found to be of a "political nature" or acting against economic or national interest is likely to disproportionately impact certain groups. Among these groups, he writes, are those engaged in critical human rights work, those which address issues of government accountability and good governance, and those which represent vulnerable and minority populations or views.

Photo above: An anti-corruption rally in Delhi, India, in August 2011 (Ishan Khosla/Flickr)



organization."

## Honduras: UN experts renew call to end impunity for murder of activists

GENEVA — More than a month after Berta Cáceres' murder, United Nations experts — including Maina Kiai — reiterated their appeal (en Español) to the Government of Honduras on April 11 to provide justice and reveal the truth in the killing of the woman human rights defender, and to ensure the security and protection of all people defending the environment and human rights in the country.

Berta Cáceres, founder of the Civic Council of Popular and Indigenous Organizations Honduras (COPINH), was shot to

death on March 3, 2016, in spite of the 2009 decision by the Inter-American Commission of Human Rights requiring Honduras to protect her.

Despite repeated acts of intimidation, including gender-specific attacks, arrests and violence that she suffered over the years, she continued to defend the rights of the Lenca community of Rio Blanco, denouncing and opposing the exploitation of indigenous natural resources, especially via the hydroelectric project of "Agua Zarca."

"The murder of Berta Cáceres, which is believed to be directly linked to her work and to the fact that she was a woman and indigenous, sadly illustrates an appalling backlash against women human rights defenders and, especially against environmental activists," the experts stated.

Women human rights defenders are generally further exposed to retaliation, harassment and violence as they usually challenge the patriarchal culture and deep-rooted gender stereotypes about the role of women in society.



"Honduras must intensify its efforts to end the persistent climate of impunity and insecurity for women human rights defenders, indigenous leaders and ecologists," they said.

The UN experts were pleased to see the Honduran Government's decision to finally allow the return of Gustavo Castro Soto to Mexico. They also noted the arrest of a suspect in the murder of another member of COPINH, Nelson García, and recalled the necessity to investigate who ordered this crime.

Separately on March 18, the Rapporteur on the situation of

human rights defenders, Michel Forst, urged the Government of Honduras (en Español) "to take immediate and concrete actions, or risk turning the country into a lawless killing zone for human rights defenders." His call was joined by Special Rapporteur Maina Kiai, among others.

Forst's appeal came after the March 15 killing of Nelson García, yet another outspoken leader of the Civic Council of Popular and Indigenous Organizations Honduras (COPINH), which was founded and led by Berta Cáceres.

The killing came shortly after he had witnessed a forced eviction carried out by security forces in the Río Lindo area, South of San Pedro Sula. "This new tragedy points once again to major faults in the protection of rights defenders in the country," the expert said.

According to numerous reports received by the Special Rapporteur, Honduras has become one of the most dangerous countries in the world for human rights defenders, particularly those promoting rights related to environment and land issues.







## UN experts urge Mexico to counter smear campaign and support human rights defenders

GENEVA — Three United Nations human rights experts urged the Government of Mexico (en Español) on April 6 to express its full support for the work of human rights defenders and civil society organizations, and to actively counter the current stigmatization campaign to undermine their work as promoters of fundamental freedoms in the country.

"The Mexican authorities should publicly recognise that defending human rights and victims of violations of human rights is not only legitimate, but fundamental to strengthen rule of law, accountability, and democracy within the country," said the UN Special Rapporteur on the situation of human rights defenders Michel Forst.

The experts' appeal comes as a wave of criticism of human rights defenders, non-governmental organizations and members of international human rights bodies in various Mexican media outlets is contributing to a worsening climate for the promotion and protecting of human rights in the country.

In a targeted media campaign over the past month, several human rights defenders and civil society organizations have been accused of fraud and corruption, of defending alleged criminals and falsely claiming torture thus promoting impunity.

"The work carried out by human rights defenders and civil society in Mexico has actively contributed to promoting victim's access to justice and truth, and is particularly important in a

context where serious human rights violations occur and for a large part remain in impunity," Forst stated.

The experts also noted that several national and international organizations and experts involved in the investigations of the case of the forcibly disappeared students from Ayotzinapa, including the Interdisciplinary Group of Independent Experts of the Interamerican Commission on Human Rights, have also been objects of campaigns to discredit their work and the results of their investigations.

"Any attack against the work carried out by human rights defenders creates a deterrent effect, silencing dissenting views and expressions by all those who exercise their right to freedom of expression or freedom of peaceful assembly and association," the UN Special Rapporteur on freedom of expression, David Kaye, said.

"The Government needs to counter such attacks and take measures to ensure a safe environment for individuals and civil society, free of harassment of any sort", added the UN Special Rapporteur on the freedoms of peaceful assembly and association, Maina Kiai.

The three independent experts expressed grave concern in relation to personal attacks against human rights defenders in Mexico, which increases danger, risk, and vulnerability for them and their work, and they have recently voiced their concerns to the Government of Mexico.



40

80

2

2

members of its Special Demonstration Squad (SDS) to conduct long-term infiltrations of British protest groups, before disbanding it in 2008

> Estimated number of political groups that SDS spied on (victims are currently fighting for the precise number to be released in an ongoing

460

130

13

2

2015

2012

50

Minimum number of officers who went undercover to spy on protest groups over those 40 years, according to one group

Number of those officers whose identities have been revealed (victims are pushing for full disclosure)

Years that undercover SDS officer John Dines was in an intimate relationship with activist Helen Steel (pictured above) - from 1990 to 1992 - without her knowledge that he was a police officer

Year that Steel and six other women were finally awarded an apology and undisclosed compensation for being deceived into forming "abusive and manipulative" long-term relationships with undercover police officers

Year that Dines was reportedly hired by the Australian graduate school of policing and security at Charles Sturt University, where he now serves as associate head of school

Percentage of an "important public services" union's members that must turn out to vote in order for an industrial action ballot to be valid, as proposed by a new bill in the UK

Percentage of the entire union membership — assuming the 50% minimum turnout threshold is met — that would have to vote in favor of the industrial action for it to proceed

Percentage of voters who would have to vote "yes" in order for the action to proceed, assuming 50% of the union's membership turned out

165,277 Number of registered charities in England and Wales as of March 31, 2016

Portion of UK government grants, as of May 1, that these charities can use 0 to "influence or attempt to influence" Parliament, government, political parties or regulatory action

Years that the UK has had a standing invitation to all UN Special 15 Rapporteurs (it was among the first countries to extend such an invitation in 2001)

Number of official visits that the Special Rapporteur has made to the UK since taking up his functions in 2011

Minimum number of British newspapers which accused the Special Rapporteur of "meddling" or being a "meddler" after his official visit to the UK in April 2016



## Egypt: end ongoing crackdown on human rights defenders and organizations

GENEVA — Three United Nations human rights experts, including Maina Kiai, raised alarm on April 11 at the continuing crackdown on human rights defenders and civil society organizations in Egypt. They warned that many NGOs have been closed down, and human rights defenders have been interrogated by the security forces, subjected to travel bans and had their assets frozen in retaliation for their legitimate and peaceful human rights work.

"Egypt is failing to provide a safe and enabling environment for civil society in the country," the UN experts on human rights defenders, freedom of expression, and freedoms of assembly and association said. "The Government must immediately put an end to all forms of persecution and take effective measures to protect civil society."

The rights experts reiterated their call on the Egyptian authorities to amend Law 84/2002 on Non-Governmental Organizations without delay, which remains in force despite widespread criticism.

"The recent attempt to forcibly close the Nadeem Center for Rehabilitation of Victims of Violence demonstrates how Egypt's NGO Law is being used to obstruct the reporting on human rights issues, such as torture," explained the experts.

The Center was issued with a closing order on Feb. 17, 2016, for publishing reports on torture, which is deemed a 'medical activity' for which it is not licensed. The organization resisted an attempt to forcibly close it on April 5, 2016, and may now be subject to legal proceedings.

"We are also seriously alarmed by the interrogation of several human rights defenders and the risk that they may face in detention or prosecution for their work, as well as the improper use of travel bans and asset freezing," the independent experts stressed.

Members of human rights organizations, including the Nazra for Feminist Studies, the Cairo Institute for Human Rights Studies and the United Group — Attorneys at Law and Legal Advisors, have all been subject to interrogation. Many of them were threatened with arrest warrants and prosecutions if they did not comply. Others face charges of 'receiving foreign funds for illegal purposes' and 'working without registration', punishable by fines and life imprisonment.

The UN experts also drew attention to the travel bans issued against several human rights defenders, including members of the Arab Network for Human Rights and the Egyptian Initiative for Personal Rights. "Such bans must be lifted straight away," they emphasized.

## What is permissible when countering terrorism?

UN experts welcome new African guidelines

GENEVA — A group of eighteen United Nations independent experts, including Maina Kiai, has welcomed the new Principles and Guidelines on Human Rights while Countering Terrorism in Africa launched this year by the African Commission on Human and Peoples' Rights (ACHPR).

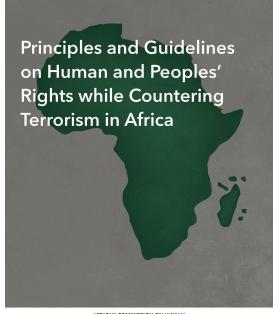
Speaking ahead of an upcoming ACHPR's panel discussion in Banjul, The Gambia, on April 11, in which Member States will be briefed on the new Principles and Guidelines, the UN experts called on all African governments to fully implement the Commission's recommendations in order to respect human rights in the context of fighting terrorism.

"We commend the ACHPR's effort to draw a clear line of demarcation between what is permissible and what is not, when countering terrorism.

Against a growing trend of countries moving away from international legal norms and standards on a global scale and at a time when terrorist groups, such as ISIS, Boko Haram or less known ones, are bringing harm and suffering to countless people in Africa, this document represents a principled stand on human rights and the rule of law in the Continent.

The essence of lawful State action, when countering terrorism, requires States to protect national security and public safety in full respect of individuals' human rights and fundamental freedoms, while recognizing that many rights are absolute and that human rights abuses often lead to or exacerbate pre-existing tension and instability.

The experts' full statement is available here. The guidelines are available in Arabic, English, French and Portuguese.









## Special Rapporteur news in brief: March-April 2016

## Kiai to financial crime body: foster civil society as a partner, not an enemy, in the fight against terrorism

Special Rapporteur Maina Kiai has called upon the Financial Action Task Force (FATF) — an intergovernmental body that sets standards to combat money laundering and terrorist financing — to improve its cooperation with civil society, and to consider the sector's significant contributions in the fight against terrorism.

He also commended the body for its decision to review its interpretation of Recommendation 8, a controversial measure that requires FATF member States to ensure that their laws sufficiently prevent non-profit organizations from financing of terrorism. The Recommendation has drawn sharp criticism in recent years, with many civil society organizations — and Kiai himself — reporting that oppressive governments have used it as an excuse to crack down on dissent.

Kiai made the comments via a written submission to FATF's "Consultation and Dialogue Meeting with Non-Profit Organizations," held on April 18 in Vienna, Austria. The delegates will examine the impact of Recommendation 8 on civil society, among other things. The full statement is available here.

#### 2016 General Assembly report

The Special Rapporteur will convene an expert consultation in Kenya in early May to begin preparing for his final report to the UN General Assembly in October 2016. The report will examine on the enjoyment of assembly and association rights in the context of labor issues, with a focus on how globalization — and the resulting concentration of political and economic power — has created barriers to the realization of workers' assembly and association rights. Keep an eye on freeassembly.net's discussion pages for more news on the report, and for information on how to submit information for inclusion in the report.

#### 32nd session of the Human Rights Council in Geneva

The Special Rapporteur will be in Geneva during the week of June 13 to present four reports at the Human Rights Council's 32nd session. The reports - covering fundamentalism, official visits to Chile and South Korea, and communications sent to UN Member States - are expected to be

available shortly before the presentation. The Special Rapporteur is also expected to participate in a number of side events on the margins. Keep an eye on freeassembly.net for more details.

#### Recommendations on managing assemblies report: Now in Hindi and Khmer

The Special Rapporteur's joint recommendations for the proper management assemblies - written with fellow UN expert Christof Heyns - is now available in unofficial Hindi and Khmer translations on our website. We will be rolling out translations in Korean and Thai in the coming weeks. The report is also available in all six official UN languages.

#### **Upcoming & other news**

- Oslo Freedom Forum: The Special Rapporteur will travel to Oslo, Norway, for the Oslo Freedom Forum on May 23-25. The Forum describes the gathering as "a three-day event packed with presentations, panel discussions, and workshops where participants come together to make the world a more peaceful, prosperous, and free place." Expected guests include Nobel Prize-winning playwright Wole Soyinka, Syrian activist Raed Fares, Cuban graffiti artist El Sexto, and Oscar-winning filmmaker Sharmeen Obaid-Chinoy.
- Academic visit to Australia: Maina Kiai will make an unofficial visit Australia in late May, and spend two weeks traveling and speaking around the country. The trip is being organized by the Human Rights Law Centre, which has invited the Special Rapporteur to give keynote addresses at its annual human rights fundraising dinners in Sydney (May 27) and Melbourne (June 3). Tickets for both events are available here.
- #FOAAat50: The mandate continued its celebration of 50 years of the international rights to freedom of peaceful assembly and of association by producing a new series of posters highlighting the importance of these rights. The posters feature the tag line "99 problems" with each highlighting a problem of global importance and demonstrate how assembly and association rights can help forge solutions. Got an idea for 99 problems? Send it to us at info@freeassembly.net



# World briefing: Freedom of assembly and association in the news

#### Protest deaths in Bangladesh and the Philippines

Police opened fire on a protest by some 6,000 farmers in the Philippines on April 1, killing two and injuring several others. The farmers were blocking a highway to demand drought relief from the government. Days later in the village of Gandamara, Bangladesh, police gunned down four people protesting a planned coal power plant. Villagers continued their protests after the shooting; one source claimed five protesters were killed.

#### Brazi

The country's controversial new anti-terrorism bill was signed by President Dilma Rousseff in March. The President vetoed portions of the bill – correcting some, but not all, critical points, according to one civil society group. The law was criticized by Maina Kiai and other UN experts in 2015. Meanwhile, protests against Rousseff continued, culminating with her impeachment by congress on April 18. The Senate is reviewing the impeachment request and is expected to vote on it soon.

#### Panama Papers/Iceland

In April, journalists revealed the leak of the so-called Panama Papers, 11.5 million pages of internal documents from Mossack Fonseca, a Panamanian law firm that sells anonymous offshore companies around the world. It was described as the largest leak of confidential documents ever. The documents named a total of 140 politicians from over 50 countries. Those named included Iceland's prime minister Sigmundur Gunnlaugsson who allegedly purchased an offshore company that owned bonds in three Icelandic banks that collapsed during the nation's financial crisis the following year. The revelation led to massive protests in Iceland, which culminated with the Prime Minister's resignation on April 5.

#### Sectoral Equity/Russia and India

A new report from Russian NGO Golos claimed the political campaigns of several candidates supported by the ruling United Russia party were aided by companies registered in foreign countries - an apparent contradiction of a Russian law which forbids foreign founding for a broad spectrum of political activities (including NGO advocacy). In India, The Wire reported that lawmakers had narrowed the legal definition of "foreign" companies for purposes of the Foreign Contribution Regulation Act of 2010, allegedly to get the ruling Bharatiya Janata Party off the hook for receiving contributions from subsidiaries of Vedanta, a London-based multinational.

#### **Maldives**

Maldives police arrested over a dozen journalists on April 4, after they staged a protest in the capital Male over a crackdown on freedom of speech. Media reports said police used pepper spray and physical force on the demonstrators, who were staging a sit-in outside the President's office. Journalists returned to the streets less than a week later, demanding that the government investigate attacks against the media and withdraw a proposed criminal defamation law.

#### Cambodia

The National Assembly approved a long-disputed trade union law on April 4, despite protests from labor groups and the opposition that it was designed to limit workers' rights. At least two trade unionists were injured outside the Assembly during a peaceful gathering to protest the bill as it was being voted. A week earlier, meanwhile, police in Preah Vihear province stopped a meeting between the UN Special Rapporteur on the human rights situation in Cambodia and ethnic Kuoy villagers who came to air grievances over a land dispute.

#### Elsewhere

Four representatives of Sudanese civil society were intercepted in late March by security officials at Khartoum International Airport; they were on their way to a human rights meeting in Geneva to prepare for Sudan's Universal Periodic Review • More than 30,000 people took part in a peaceful protest against the Transatlantic Trade and Investment Partnership (TTIP) in Hannover, Germany, on April 23, 2016 • Vietnam issued new regulations limiting the right to demonstrate outside Courts when trials are in session • Kenya's government launched a probe after a video circulating on social media showed police assaulting University of Nairobi students during a demonstration • Myanmar released over 100 political prisoners under an amnesty - the first official act by Aung San Suu Kyi, a former political prisoner herself • In Paris, "a protest movement awakens" over proposed labor reforms • A court in Egypt ruled that NGOs have a right to foreign funding

