

Factsheet: Fundamentalism's impact on FoAA rights

Special Rapporteur Maina Kiai's report to the Human Rights Council, June 2016 (A/HRC/32/36)



Does the report argue that fundamentalist ideologies violate international law?

No

The right to freedom of thought, conscience and religion and the right to hold opinions are protected by articles 18 and 19 of the [International Covenant on Civil and Political Rights \(ICCPR\)](#), respectively. The report is not concerned with fundamentalist viewpoints per se, but rather with fundamentalism in action: concrete, specific violations of the rights to freedom of peaceful assembly and of association that are motivated by these viewpoints ([A/HRC/32/36](#), para 8). People have a right to hold beliefs - and to hold them strongly. But they may not impose these beliefs in a way that controls, restricts or deters the exercise of the human rights of others who may have different views or backgrounds (*Id.*, para 9). The report examines situations where fundamentalist views form the ideological basis for violations of the rights to freedom of peaceful assembly and of association.

Can States promote or adopt fundamentalist ideologies that encourage intolerance?

No

The values of pluralism, tolerance and broadmindedness are essential to democracy and central to the [international bill of human rights](#) and the [UN system](#) ([A/HRC/32/36](#), para 17-18). [Article 2\(1\) of the ICCPR](#) requires States "to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." [Article 20\(2\)](#) further prohibits advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. States thus have an obligation to promote tolerance and diversity, including by ensuring that everyone can freely exercise his/her assembly and association rights - regardless of political views, race, religion, etc.

Can States be responsible for fundamentalist-linked abuses by non-State actors?

Yes

International law places the primary obligation for the respect, protection and fulfillment of human rights (including assembly and association rights) on the State. But this obligation includes a duty to prevent private individuals or groups from abusing these rights, and to hold them accountable if they do. States' failure to take appropriate legal and practical measures to prevent, punish, investigate or redress the harm caused by non-State actors constitutes a violation of the ICCPR ([A/HRC/32/36](#), para 21).

Are fundamentalist ideologies more dangerous when adopted by governments?

Yes

Fundamentalism poses a grave threat to the rights to freedom of peaceful assembly and of association when it becomes closely allied with power, or is used as a tool by those in power ([A/HRC/32/36](#), para 21). This gives fundamentalists the authority or means to impose, directly or indirectly, involuntary adherence to fundamentalist values. The most straightforward example would be fundamentalism enforced via State policy or practice (for example, banning opposing political parties or forbidding certain religious faiths or beliefs). In other cases, government officials may use the apparatus of the State to push their personally-held fundamentalist views. Non-State actors, meanwhile, may simply take advantage of a weak State apparatus or work together with State agents. Specific examples are provided on the back of this factsheet.

Is fundamentalism the same as extremism for purposes of this report?

No

The Special Rapporteur interprets fundamentalism as a broad phenomenon that can just as often express a majority view as a minority one. He frames extremism as something different: the advocacy of extreme or radical measures, such as violent overthrow of a government, violence and terrorism ([A/HRC/32/36](#), para 80). Extremists can hold fundamentalist views and act in the name of those views, but the two phenomena are not always linked. The Special Rapporteur is deeply concerned about the growth of extremism in the world today and believes that it is a major contributing factor in the on-going global crackdown on democratic freedoms, including the rights to freedom of peaceful assembly and of association.

Can assembly and association rights help limit the spread of extremism?

Yes

The rights to freedom of peaceful assembly and of association give people a stake in society by letting them come together to share their experiences, to challenge the status quo, and to identify and solve problems. They are essential in building stable, peaceful, inclusive and prosperous societies. Taking away these rights - thereby denying people space for peaceful, legal and constructive engagement - does not make feelings of anger, despair and dissatisfaction go away. To the contrary, it simply pushes these feelings underground, where they can fester and turn violent. Extremism thrives in such environments, because it is the only option left ([A/HRC/32/36](#), para 82-85).

What is this report about?

This report examines the impact of fundamentalism on the enjoyment of the rights to freedom of peaceful assembly and of association. Although fundamentalism is often exclusively associated with religion, the Special Rapporteur takes a much broader view of the term. He believes fundamentalism can and should be defined more expansively, to include any movements that advocate strict and literal adherence to a set of basic beliefs or principles ([A/HRC/32/36](#), para 7): economic, political, nationalist, and so on. This report does not focus on the fundamentalist beliefs themselves, but rather on fundamentalism in action: specific violations of peaceful assembly and association rights that are motivated by these viewpoints. A separate section of the report looks at the related, but distinct, phenomenon of extremism, and the role that assembly and association rights can play in countering its rise (*Id.*, paras 80-89).

What types of fundamentalism are discussed in the report?

The report focuses on four broad categories of fundamentalism and their impact on assembly and association rights: (1) Market fundamentalism - the belief in the infallibility of free market economic policies; (2) political fundamentalism - the elevation of a particular political ideology, party or State leader above all others; (3) religious fundamentalism - strict and literal adherence to a particular set of religious beliefs; and (4) cultural and national fundamentalism - the belief that certain cultures, languages, nations or traditions are superior to others.

Where can I find the report?

The report ([A/HRC/32/36](#)) is available at the following link: <http://freeassembly.net/reports/fundamentalism/>

Factsheet: Fundamentalism's impact on the rights to freedom of peaceful assembly and of association

Special Rapporteur Maina Kiai's report to the Human Rights Council, June 2016 (A/HRC/32/36)

“STATES TREAD A DANGEROUS PATH WHEN THEY PRIORITIZE THE FREEDOM OF THE MARKET OVER THE FREEDOM OF HUMAN BEINGS. THE ECONOMIC RIGHTS OF INVESTORS SHOULD NEVER TRUMP FUNDAMENTAL HUMAN RIGHTS IN THE ICCPR.”

A/HRC/32/36, para 34 (discussing free market fundamentalism)

Cultural and nationalist fundamentalisms (paras 68-79)



Description: Belief that certain cultures, languages, traditions or nations are superior to others. Cultural and national identities are often conflated, making these overlapping concepts. Often, but not always, distinct from racism and xenophobia, in that the characteristic in focus is culture or nationality rather than skin color or race.

Risk: Elevation of certain cultures or groups (or denigration of others) can result in the deprivation of assembly and association rights for those who are not part of the dominant group. This can occur via State policy, State inaction in the face of private discrimination or uneven and discriminatory enforcement of the law.

Example: In India, protests by lowest caste individuals - Dalits - are often met with violence and excessive use of force, and Dalit activists have been detained and prosecuted on serious charges. India has also prevented the accreditation of the International Dalit Solidarity Network, an international NGO, before the UN ECOSOC Committee on NGOs.

Religious fundamentalism (paras 53-67)



Description: Strict and literal adherence to a particular set of religious beliefs. The report also covers anti-religious fundamentalism.

Risk: Limits on the ability of those from minority faiths - or those holding no religious beliefs at all - to assemble and associate, for religious purposes or otherwise (such restrictions also implicate Art. 18 of the ICCPR, which protects freedom of thought, conscience and religion).

Often has a disproportionate impact upon the assembly and association rights of women.

Examples: Saudi Arabia severely restricts the practice of religions other than Islam, and public non-Muslim places of worship are not allowed. Nigeria and Uganda have seized upon majority Christian opposition to homosexuality to severely restrict the assembly and association rights of LGBTI groups and individuals. Vietnam imposes tight government control over official religious communities and “constant surveillance, intimidation, harassment and persecution” over unrecognized groups.

Political fundamentalism (paras 42-52)



Description: Elevation of a political ideology, party or State leader above all others, so that those holding competing ideas are limited in expressing competing views. Groupings may be based on a political philosophy, or rooted in alliances of convenience.

Risk: Expression of peaceful dissent or ideas that question party platforms or leaders can be severely punished. Exercise of the rights to freedom of peaceful assembly and of association – which function as democratic vehicles to express peaceful dissent and constructive government criticism – are often severely limited.

Example: In the Democratic People's Republic of Korea, opposition political parties are not permitted to exist and challenges to the ruling party are not tolerated. Police and security systematically employ violence and punishments in order to create a climate of fear that pre-empts any challenge to the current system of government and its ideology.

Market fundamentalism (paras 27-41)



Description: Belief that free market economic policies are infallible, and the best way to solve economic and social problems (a similar fundamentalist viewpoint exists regarding command economies, though it is less common today). Tied closely with the belief that maximum economic wealth is inherently good for society, and that it should be prioritized over other societal interests.

Risk: Dogmatic adherence to free market principles may infringe upon the assembly and association rights of those who question whether freer markets are better for all. Particular risk for individuals exercising assembly and association rights in the context of labor issues or those working on environmental issues.

Example: The Workplaces (Protection from Protesters) Act 2014 in the Australian state of Tasmania makes it a criminal offence to participate in a protest that may obstruct or prevent a business activity or access to a business premises.

Selected recommendations

(directed to UN Member State governments unless otherwise noted)

- Ratify all relevant international human rights instruments that protect the rights to freedom of peaceful assembly and of association;
- Take all necessary measures to ensure that discrimination on prohibited grounds under international human rights law is eliminated, including in legislation or in practice, whether by the State or by non-State actors;
- Take positive measures to ensure that all individuals belonging to groups at risk of being targeted by fundamentalists have the ability to effectively exercise their peaceful assembly and association rights;
- Ensure that no individual is criminalized for exercising his/her rights to freedom of peaceful assembly and of association, nor is subject to threats or use of violence, harassment, persecution, intimidation or reprisals;
- Ensure accountability for those who violate the rights of individuals belonging to groups at risk of being targeted by fundamentalist groups;
- Use ordinary provisions of the criminal code to prosecute extremist or terrorist acts, and refrain from enacting legislation that specifically targets religious activities, civil society, human rights defenders and activists;
- Be less restrictive in regulating civil society and the rights to freedom of peaceful assembly and of association, and recall that democracy, tolerance and inclusiveness are among the most reliable indicators for long-term security, prosperity and moderation;
- To religious leaders: increase efforts to foster dialogue and tolerance between their followers, other religious communities, and non-religious communities. Unequivocally condemn the use of violence and make it clear that those who use or advocate violence are not legitimately acting in the name of their faith.
- To donors: increase funding for the promotion of democracy, particularly for local organizations and activists. Strengthening democracy is the best long-term strategy for countering extremism, as people are less likely to act upon extreme or violent views when they feel that they have a stake in their society.

(for full recommendations, see A/HRC/32/36, paras 90-97)