



The Assembly and Association Briefing

Newsletter of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association

Vol. 2, No. 7 (Issue 16) - Published November 3, 2015

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Special Rapporteur news in brief: October 2015

Special Rapporteur Maina Kiai enters Moneda Palace ahead of his meeting with Chilean President Michelle Bachelet on Sept. 30, 2015. Kiai conducted an official visit to Chile on Sept. 21-30.

The Special Rapporteur speaks during a press conference in Santiago on Sept. 30, 2015, at the conclusion of his official visit to Chile



Kiai calls on Chile to eliminate “vestiges of dictatorship” detrimental to assembly rights

SANTIAGO / GENEVA — United Nations Special Rapporteur Maina Kiai on Sept. 30 [urged](#) the Government of Chile to eliminate “vestiges of dictatorship” that are detrimental to the freedom of peaceful assembly in the country, and continue reforms so that the country can “take its rightful place as a global leader in human rights.”

English

Read Kiai's full statement

Español

Leer la declaración

Photos

of the visit

Audio

of the press conference

“Chile has made enormous strides since its return to democracy 25 years ago,” Kiai said at the end of the first visit to the country by an independent expert tasked by the UN Human Rights Council with promoting the realization of the rights to freedom of peaceful assembly and of association worldwide.

“However, there are still remnants of yesteryear that have no place in the Chile of today,” he noted. “The ghost of this era looms particularly large over the security sector, chiefly the police—and specifically the Special Forces—and their function in policing social conflicts and assemblies.”

The expert expressed concern about Chile’s practical management of protests. During his visit, he was informed of numerous and varied examples of violations perpetrated by police during protests, including excessive force and harassment of activists.

A particularly disturbing example, he said, was the July 2015 killing of Nelson Quichillao, a copper mine worker who was shot dead by Special Forces in the town of El Salvador during a labor protest.

Kiai also drew attention to multiple reports—from both civil society and Government—that agents provocateurs frequently disrupt otherwise peaceful protests by students and workers, causing violence and property damage. Authorities then use this disruption to justify the wholesale use of force against all protesters.

“The presence of a few people engaging in violence in and around a protest does not authorize police to brand the entire protest violent. Rather, the violent elements should be extracted from the protest and dealt with in accordance with the rule of law,” he stated.

The independent expert also highlighted several areas of Chile’s legal framework in need of urgent reform, including regulations on the authorization of peaceful assemblies. While the Chilean Constitution recognizes the right to peaceful assembly, its exercise is unduly restricted by Supreme Decree 1086, which allows local officials to prevent or dissolve assemblies that were not previously authorized by authorities.

During his 10-day visit, Mr. Kiai met State officials, members of the judiciary and of Parliament, members of civil society, and the diplomatic community. His visit included stops in Santiago, Temuco, Copiapó, El Salvador and Valparaíso.

The Special Rapporteur will present a final report on his visit to the Human Rights Council during its 32nd session in June 2016. The full story is available on our website, in both [English](#) and [Spanish](#).

“There are still remnants of yesteryear that have no place in the Chile of today. The ghost of this era looms particularly large over the security sector, chiefly the police—and specifically the Special Forces—and their function in policing social conflicts and assemblies.”

Maina Kiai in his Sept. 30 statement at the conclusion of his official visit to Chile

UNSR presents report to General Assembly, urges States to promote civil society by elevating its treatment to the same level as business

NEW YORK - Civil society's contributions to a nation's well-being are just as important as those made by businesses, UN expert Maina Kiai [told the UN General Assembly](#) on Oct. 27. He called on States to give the same level of respect and create enabling environments for civil society groups, just as they do for companies.

Speaking during the presentation of his latest report, which compares the operating environments for commercial and civil society sectors worldwide, Kiai said that it was clear that businesses generally operate in better environments than non-profit entities, largely because States go to great lengths to create such facilitating environments. Unfortunately, governments make comparatively little effort to improve conditions for civil society, resulting in its marginalization.

"There is no compelling reason why the civil society sector should have to operate in such a hostile environment, when it is possible for States to do much more to facilitate and promote a more enabling environment, like they do for businesses," said Kiai, who is the Special Rapporteur on the rights to freedom of peaceful assembly and of association. "Both sectors, after all, are equally deserving of promotion by the State, and both contribute enormously to the overall well-being of a nation."

The Special Rapporteur cited a long list of policies that discriminate against civil society, and highlighted the absurdity of applying these same regulations to businesses.

In Nicaragua, for example, the granting of legal entity status to non-profit organizations requires an act of the National Assembly; starting a company is comparatively easy, with no significant State discretion. In Rwanda, foreign NGOs face a 20 per cent limit on overhead costs in programmes, a level of government interference unimaginable in the commercial sector. And countries such as Egypt, Ethiopia, India and Russia, have recently tightened restrictions on associations' access to foreign funding, while simultaneously opening up their economies to much greater commercial investment from abroad.

Kiai called on States to adopt the principle of "sectoral equity" as a remedy to what he termed a "concrete, systematic and often unjustifiable differentiation in treatment of the two sectors."

"Sectoral equity is not about treating businesses and associations identically," Kiai said. "Rather, it implies a fair, transparent and impartial approach in which the regulation of each sector is grounded in international law, standards and norms."

"Sectoral equity also means States should recognise that civil society is just as valuable to the economy and the labour market as businesses and therefore just as deserving of proactive measures to create an enabling environment," he added.

The UN expert said he was optimistic about the prospects of States elevating their treatment of civil society because this goal ultimately serves the business community's interests as well.

"The presence of a robust, vocal and critical civil society sector guarantees, almost without exception, that a State also possesses a good business environment," Kiai said. "The rule of law is stronger, transparency is greater and markets are less tainted by corruption. In other words, when civil society does well, business does well too. This is not a fanciful hypothesis or wishful thinking. It is an undeniable fact."

For the full press release, please see our [website](#).

Read

the full report in all six UN languages

Read

the Special Rapporteur's statement to UNGA

Photos

of Kiai at the General Assembly

Video

of Kiai's statement at UNGA

Factsheet

the report summarized on one page

A view of UN headquarters in New York on Oct. 26, 2015

Experts urge Latin America and Caribbean: adopt trend-setting environmental agreement

GENEVA — In an open statement published on Oct. 22, a group of United Nations human rights experts, including Maina Kiai, have [expressed](#) their strong support for the efforts by governments in Latin America and the Caribbean to agree on a regional legal instrument on rights of access to information, participation, and justice in environmental matters.

“Sustainable development and human rights are interrelated,” said the UN Special Rapporteur on human rights and the environment, John Knox, as 20 country members of the Economic Commission for Latin America and the Caribbean (ECLAC), representing more than 500 million people, prepare for the next round of negotiations in Panama City.

“Rights of access to information, participation, and justice are at the fulcrum of the relationship,” Knox said on behalf of the group of UN experts. “When the people most affected by environment and development policies, including indigenous peoples and women, who are often the primary caregivers in the family, can exercise their human rights to information, participation, and remedy, then the policies are most responsive, fair and effective.”

“This negotiation is one of the most important steps ever taken to protect and promote environmental democracy at the international level,” he stressed; “and it will provide a model



for other regions and countries.”

In their open statement, the experts noted that a strong regional instrument on access rights will further enhance robust domestic laws implementing multilateral environmental agreements and domestic policies in other areas, including climate change, chemicals and waste management, and biological diversity.

However, they warned that, while most of the countries have expressed their intention to conclude a legally binding instrument, they have not yet adopted a formal decision on the question.

“We urge the negotiators to adopt a treaty or other binding legal instrument as the best way to promote the effective implementation of access rights and sustainable development and to ensure that the instrument strengthens capacities in public institutions and in civil society,” Knox said.

The 20 countries engaged in the negotiation are Antigua and Barbuda, Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Panama, Paraguay, Peru, Saint Vincent and the Grenadines, Trinidad and Tobago, and Uruguay. See our website for the [full story](#), and the full statement (in [English](#) and [Spanish](#)) from the experts.



UN expert urges Angola to release 14 activists detained for criticizing Government

GENEVA — The United Nations Special Rapporteur on the situation of human rights defenders, Michel Forst, on Oct. 23 [urged](#) the Government of Angola to release fourteen activists arrested in June after taking part in peaceful meetings to criticize lack of good governance in the country.

“Deprivation of liberty on the sole ground of having promoted good governance and exercised the rights to free expression and peaceful assembly may be considered arbitrary,” Forst warned referring to the case of Luaty Beirão, a prominent Angolan musician and rights activist, and the other defenders arrested.

“Such criticism is not only fully legitimate according to Angola’s obligations under human rights law; it is also essential to the free and public debate necessary for a healthy civil society in the country,” the independent expert stressed.

After their arrest, the ‘Angola fourteen’ were charged in September, together with two women rights defenders who remain at liberty awaiting trial, for the ‘preparatory acts to practice rebellion’ and ‘plotting’ against state institutions, both of which are considered to be crimes against the security of the Angolan State. Held in pre-trial detention for longer than 90 days, the pro-democracy activists were formally informed of the indictment on Oct. 8 and their trial is to be held in mid-November.

Disturbing allegations have surfaced of ill-treatment of the activists during the detention. Some

detainees have resorted to hunger strike in protest, triggering concerns about their health conditions.

“Defending and promoting human right has become an extraordinarily dangerous activity in many countries,” the Special Rapporteur said quoting his latest report to the UN General Assembly. “Attacks against human rights defenders can be seen as devious attempts to undermine human rights.”

In his report, the independent expert draws attention to worrying global trends of threats and challenges facing human rights defenders, who are increasingly attacked or arrested, threatened or harassed, intimidated or detained.

“As the UN Human Rights Council independent envoy on human rights defenders, I call on the charges against all the rights activists to be dropped and that the ‘Angolan fourteen’ are released immediately,” the expert urged.

Forst’s statement was endorsed by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye; the Special Rapporteur on torture, Juan E. Méndez; and the Chair of the Working Group on arbitrary detention, Seong-Phil Hong.

Freedom of association & assembly:

By the numbers

957

Minimum number of NGOs in Kenya [targeted for closure](#) in an October directive issued by the NGO Coordination Board, which claims the organizations were guilty of financial improprieties

10

Approximate [percentage](#) of all of Kenyan NGOs that this allegedly represents

2

Number of [days](#) after the initial announcement that the directive was cancelled

10,000

Number of students who [protested](#) rising university fees and social inequality in Pretoria, South Africa, on Oct. 23 (protests continued throughout the month, both before and after that date)

1

Rank, in size, of this protest compared to all other student protests in South Africa since 1976, according to [one report](#)

50,000

Estimated bribe required (in US dollars) to become a lawyer in Cambodia, according to a [new report](#) by the International Bar Association's (IBA) Human Rights Institute

90

Percentage of court cases that involve bribes in Cambodia, according to the same report

40,000

Number of cases of [police abuse](#) reported in Chile between 1990 and 2011, according to the country's National Institute for Human Rights

1.5

Percentage of these cases in which perpetrators were sanctioned

60

Number of countries which have [proposed or passed laws](#) restricting freedom of assembly or the foreign funding and activities of civil society organizations in the past three years

5

Maximum prison term, in years, [faced by a man in Russia](#) charged under a new law that punishes individuals detained at unauthorized protests four times or more within a six-month period

2,300

Maximum fine (in US dollars) imposed by Malaysia's Peaceful Assembly Act of 2012 upon organizers of "unauthorized" assemblies; a court recently found the provision [constitutional](#)



Germans protesting against hate and Nazi propaganda in the city of Mainz on Oct. 29, 2015 (photo: [Franz Ferdinand Photography/Flickr](#))

Draft law threatens independence and existence of Kazakh NGOs, Kiai warns

GENEVA — United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association Maina Kiai [warned](#) on Oct. 15 that Kazakhstan's Bill amending the Law on Non-profit organizations "may not only compromise the independence of associations, but challenge their very existence."

The draft law establishes an operator with the right to allocate both governmental and non-governmental grants, including grants from international organizations, diplomatic missions or international not-for-profit organizations, to non-governmental organizations.

"The possibility for a centralized Government's operator to distribute all grants irrespective of sources, be it public or private funds, enables the authorities to arbitrarily limit resources and to control the entire not-for-profit sector," Kiai cautioned. "By controlling the sources of funds, the draft law would limit associations' functional autonomy and put their independence and existence at serious risk."

"Access to financial resources is an integral and vital part of the right to freedom of association," the expert underscored.

The new legislative amendments were adopted by the Senate on Oct. 8, 2015. The text would now be with the Lower House of the Parliament for its final consideration and it may be adopted at any time.

The draft law also bars associations receiving governmental grants from using more than 10 percent of their funding for administrative expenditures. "Other countries have adopted such laws in recent years and we now know, from experience, that this has had a devastating impact on civil society organizations," Kiai said. "Many were forced to stop their activities, leaving society deprived from these organizations' essential contribution in the economic, cultural, political and social fields and devoid of important voices often representing the most marginalized."

"By preventing associations to decide freely on their activities, such limitation questions the very meaning of freedom of association and, as experience shows, endangers the very existence of associations," he said.

Kiai recalled the recommendations made at the end of [his country visit to Kazakhstan](#) earlier this year, in which he stressed the need for any amendments concerning access to funding not to jeopardize the independence of associations.

"In this regard, I reiterate my call to the authorities for the draft law to be repealed," he said.

Kiai's appeal was endorsed by Special Rapporteurs David Kaye and Michel Forst. The [full statement](#) is available at our website.

Heyns and Kiai wrap up consultations for recommendations on facilitating assemblies

GENEVA — Special Rapporteurs Christof Heyns and Maina Kiai [have held](#) three final consultations in Geneva on their [joint project](#) to develop practical recommendations for the proper management of assemblies, as requested by the Human Rights Council in resolution 25/38.

Heyns, who is the Special Rapporteur on extrajudicial, summary or arbitrary executions, and Kiai, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, are scheduled to present the recommendations to the Council at its 31st session in March 2016.

On Oct. 22, the Special Rapporteurs met with representatives of 54 Member States to provide an opportunity for the exchange of perspectives and experiences on the proper management of assemblies, and to raise issues of specific interest or concern with the Special Rapporteurs.

This was followed on Oct. 23 by a consultation with experts from across Europe and Central Asia - the final regional meeting in a series of four. The consultation brought together experts from a range of backgrounds, including serving and retired law enforcement officers, UN bodies, academics, members of civil society, and representatives of NHRIs and ombudsmen.

On Oct. 24, the Special Rapporteurs met with the Advisory Panel, which was convened to provide guidance throughout the course of the project. The Advisory Panel reviewed the progress of the project, and offered advice on issues of interest raised by the Special Rapporteurs.

The conclusion of these meetings brings to a close the formal consultation phase of the project, in advance of the presentation of the final report to the Human Rights Council in March 2016.

Special Rapporteur news in brief:

October 2015

World Movement for Democracy 8th Global Assembly

The Special Rapporteur traveled to Seoul, the Republic of Korea, in early November to take part in the World Movement for Democracy's [Eighth World Assembly](#). The event, whose theme was "Empowering Civil Society for Democracy and Its Renewal," took place Nov. 1-4. Some 450 democracy activists, practitioners, scholars, and donors from more than 100 countries are attended and took part in practical workshops, panel discussions and more. Kiai was a [panelist](#) for the Assembly's opening plenary session, which was titled "Understanding the Global Assault on Democracy."

Official visit to the Republic of Korea confirmed for Jan. 2016

Special Rapporteur Maina Kiai will embark upon an official visit to the Republic of Korea in late January, his first such visit to the East Asia region. The exact dates are expected to be announced before the end of 2015. Keep an eye on our [Facebook](#) and [Twitter](#) pages for updates on the visit.

Kiai joins Civil Society Week in Stockholm

Maina Kiai traveled to Stockholm, Sweden, on Oct. 12-13 to take part in [Stockholm Civil Society Week](#), an event organized by Sida and the Swedish Ministry of Foreign Affairs. The event [centered](#) around a series of events aimed at improving understanding of and support to civil society and featured hundreds of guests from CSOs, governments, academia and the private sector. The Special Rapporteur gave the keynote

welcoming address at the event's opening plenary session, and spoke on the topic of "Civic Space in the World Today." (A recap story is [available here](#) in Swedish)

Upcoming & other news

- **"Fundamentalism and its effect on assembly and association rights":** The Special Rapporteur is in the process of preparing his next thematic report to the Human Rights Council, which will focus on fundamentalism - broadly defined - and how it impacts the rights to freedom of peaceful assembly and of association. The report will be presented at the body's 32nd session in June 2016. Kiai is planning to organize a consultation for the report in late 2015, and will be accepting submissions from governments, civil society and others. Keep an eye on our [website](#) for more information.
- **17th European Union-NGO Human Rights Forum:** Maina Kiai will be in Brussels, Belgium, on Dec. 4-5 for the European Union Human Rights Forum; the theme of the event this year is "Protecting and Promoting Civil Society Space." [See here](#) for a press release on last year's event.
- **Redesigned report pages at [freeassembly.net](#):** The mandate continued its redesign of its website by rolling out new and improved pages to host all of the Special Rapporteur's reports. The new pages are color coded for easy recognition, and link all materials related to the report on one page. Check out the Special Rapporteur's [elections report](#) from 2013 for a sample.



Special Rapporteur Maina Kiai prepares to present his latest report to the UN General Assembly in New York on Oct. 27, 2015. At right: Margaret Jungk, Chair of the Working Group on the issue of human rights and transnational corporations and other business enterprises

World briefing: Freedom of assembly and association in the news

South Africa

South Africa's universities [erupted in protest](#) during October, as students walked out to demonstrate against rising school fees and rising social inequality. At least three universities [closed](#) as protests grew. One protest in Pretoria attracted 10,000 people — the [largest](#) student protest since the 1976 Soweto anti-apartheid demonstration. Some protests were met with riot police equipped with tear gas and stun grenades, [media reported](#).

Cambodia

Two opposition members of parliament were [attacked and beaten](#) outside the National Assembly in Phnom Penh on Oct. 26, in what rights groups were calling a “[well-organised, brutal](#)” assault. The incident came after hundreds of protesters loyal to ruling Cambodian People's Party gathered to demand the resignation of the opposition's co-president, who also serves as the Assembly's deputy president. Police, “who routinely and at times violently obstruct or break up peaceful demonstrations led by the opposition, took no effective action to stop the violence,” Human Rights Watch [said in a statement](#).

Kenya

NGOs Coordination Board Chair Executive Officer Fazul Mohamed [announced](#) on Oct. 27 that 957 non-governmental organizations would be deregistered after failing to account for more than Sh25.6 billion received from donors, among other issues. Those targeted included the Kenya Human Rights Commission, one of Kenya's oldest human rights NGOs (it was also co-founded by Special Rapporteur Maina Kiai, and he currently sits on its board). The NGOs claim that the allegations are [false](#), and that they were [not even contacted](#) by the NGO board prior to the announcement. Two days later, following a massive outcry, the directive was [cancelled](#) by Devolution Cabinet Secretary Anne Waiguru.

Turkey

Some 100 people were [killed](#) on Oct. 10 when two bombs exploded during a protest in Ankara. The incident happened during a [peace march](#) involving the pro-Kurdish People's Democratic Party. Witnesses and victims' families [blamed the government](#) for allegedly failing to provide security measures ahead of the rally, and said that police responding after the blast fired tear gas at grieving families who rushed there to inquire about their loved ones. The government [suspected Islamic State](#) of carrying out the attack. Less than a month later, Turkish President Tayyip Erdogan's AK Party regained its parliamentary majority in elections, though international monitors [said the voting was unfair](#).

Tunisia

The Nobel Peace Prize was awarded on Oct. 9 to the [Tunisian National Dialogue Quartet](#), for its “decisive contribution to the building of a pluralistic democracy in Tunisia in the wake of the Jasmine Revolution of 2011.” The Quartet was formed in 2013 when the democratization process was threatened by political assassinations and social unrest. The Nobel Committee noted that the group of civil society actors “established an alternative, peaceful political process at a time when the country was on the brink of civil war. It was thus instrumental in enabling Tunisia ... to establish a constitutional system of government guaranteeing fundamental rights for the entire population.”

Elsewhere

A Venezuelan prosecutor who helped convict opposition leader Leopoldo Lopez claims that the government [long plotted Lopez's arrest](#) • Imprisoned Omani MP Talib Al Mamari will receive the [2015 Alkarama Award for Human Rights Defenders](#) • Some 60,000 people [marched](#) against austerity measures in Manchester, United Kingdom on Oct. 4 • Meanwhile in the UK, the country's top Foreign Office official said that human rights [were no longer a “top priority”](#) for the government • FATF: “The obscure global organization that's unwittingly [undermining civil society](#)” • The Christian Science Monitor on the Nobel Peace Prize's [lesson for civil society](#) • A court in Ethiopia [acquitted](#) four Zone 9 bloggers who were charged with terrorism over their media work • Four people were [killed in the Republic of Congo](#) in late October during protests against a constitutional reform that would make the president eligible for a new term • Laos said it would not host a [meeting of civil society](#) on the sidelines of an ASEAN summit next year, citing potential criticism by participants as one reason for the decision

Mass meeting of South African students on Jammie Plaza, University of Cape Town Upper Campus on Oct. 22, 2015
(photo: [Tony Carr/Flickr](#))

OUR VOICES
WILL NOT BE
SILENCED