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

What is the 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://www.afrinews.net/reports/fundamentalism/
“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.”

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; and
- 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 legal, human rights, 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.

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)

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).

**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 free 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.

United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai (published June 2016)

For more factsheets, see the Special Rapporteur’s website at http://freedomofassembly.net/factsheets/