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**Promotion and protection of human rights:  
Human rights questions, including alternative  
approaches for improving the effective enjoyment  
of human rights and fundamental freedoms**

## **Rights to freedom of peaceful assembly and of association\*\***

### **Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, submitted in accordance with Human Rights Council resolution 24/5.

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\* A/69/150.

\*\* Late submission.



## **Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association**

### *Summary*

The present report addresses concerns about the exercise of the rights to freedom of peaceful assembly and of association in the context of multilateral institutions.

## I. Introduction

1. This is the second report submitted to the General Assembly by the Special Rapporteur, upon the request of the Human Rights Council, in its resolution 24/5.

2. In the report the Special Rapporteur underscores that States should guarantee the free exercise of the rights to freedom of peaceful assembly and of association at all levels, within each State's jurisdiction and in the international arena. Increasingly, global governance is becoming fragmented and diffused among a broad range of multilateral entities, including the more well-known ones such as the United Nations and its specialized agencies. Others are less well-known or understood, and while they are opaque in their operations, their decisions have a profound impact on the lives of ordinary people in many countries across the globe. The Special Rapporteur hopes in this report to assess how multilateral organizations in their actions or omissions expand or constrain civic space.

3. The Special Rapporteur approaches the subject with the recognition that there have been and are a number of efforts/initiatives to strengthen civil society's participation at the multilateral level. He particularly notes the work of the Panel of Eminent Persons on United Nations-Civil Society Relations, Chaired by Fernando Henrique Cardoso, which extensively reviewed the relationship between the United Nations and civil society and produced a report that was submitted to the General Assembly (A/58/817) in 2004. The Special Rapporteur also acknowledges a variety of other multilateral agencies that have or are in the process of institutionalizing mechanisms for engaging civil society organizations and groups (as well as a broader array of stakeholders) such as the World Bank and the United Nations Environment Programme (UNEP). He is greatly encouraged by such initiatives and urges these institutions to ensure effective and meaningful avenues of engagement with civil society groups.

4. The Special Rapporteur benefited greatly for this report from participating in an expert meeting held on 27 and 28 June 2014 in Istanbul, Turkey. He would like to sincerely thank the organizers and participants of this meeting, and those who shared their experiences through other means, including in response to his questionnaire. The Special Rapporteur, in addition, took into account relevant elements of work available within the United Nations system.<sup>1</sup>

## II. Conceptual and legal framework

5. In previous thematic reports to the Human Rights Council and the General Assembly, the Special Rapporteur has emphasized State obligations to ensure the free exercise of the rights to peacefully assemble and to associate at the national level. In this report, he examines State actions at the multilateral level and their impact, recognizing that such actions have repercussions on civil society's ability to engage and participate in social, economic, political and other pursuits. The Special Rapporteur considers that both an enabling environment for civil society and a vibrant civil society are indispensable for the enjoyment of the rights to freedom of peaceful assembly and of association.

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<sup>1</sup> Some country situations mentioned in the present report have been the subject of communications sent to Governments, as well as press releases and reports issued by special procedures mandate holders and high-level United Nations officials.

6. In its most basic form, the concept of multilateralism is understood to involve three or more States acting jointly on a particular issue. Global governance is largely still thought of as revolving around States as the primary entities engaged in negotiating the interests of the world's citizens. These engagements may take place within formally structured institutions created by treaties or may take advantage of more flexible arrangements without formal mandates, treaties or legal powers. Interactions may be focused within a geographical area or may coalesce around issues of mutual interest. In this report, the focus is on multilateral institutions acting at the global level on a variety of interests.

7. In recent times, non-State actors have challenged the State-centric approach to global governance and are demanding a place at the negotiating table. Civil society in particular insists that discussions and decisions of multilateral institutions should focus on people's concerns and human rights rather than being confined to geopolitical and economic interests that primarily occupy States and corporations. The Special Rapporteur believes that the concept of multilateralism should be expanded beyond action by States alone to include the effective participation of a variety of voices within those States. With this in mind, the report highlights the challenges experienced by civil society actors in having an effective voice at the multilateral level.

8. The Special Rapporteur underlines the fact that "non-governmental organizations" (NGOs) are not synonymous with "civil society". NGOs are merely one component of civil society, and in some circumstances they may not be the most important sector for multilateral entities to consult. The concept of multi-stakeholder engagement should be extended to include more grass-roots groups and even spontaneous social movements, which may manifest themselves through peaceful assembly. Groups should not have to be organized or registered to be considered a serious stakeholder in multilateral affairs.

9. The Special Rapporteur notes that the rationales for restricting the rights to freedom of peaceful assembly and of association at the national level are broadly similar and related to those used to marginalize civil society at the multilateral level. Parallels include:

(a) Reporting that civil society organizations that express criticism of authorities and policies, including through demonstrations, are a threat to national security and public order;

(b) Using State sovereignty as a justification to limit assembly and association rights;

(c) Alleging that NGOs lack accountability and questioning their motives and interests at the national and international levels;

(d) Restricting access to resources, especially funding from foreign sources.

10. Shrinking space for civil society at the international level can also be attributed to Governments increasingly accommodating private sector contradictory interests with civil society. The Special Rapporteur broadly understands countries as comprising the public sector or government and non-state actors, the latter consisting of the for-profit private sector or business and the non-profit civil society sector, which covers a wide array of formations through which people join together to pursue mutual interests.

11. The theme of sectoral equity is one that the Special Rapporteur has referred to in his previous reports (see [A/HRC/23/39](#) and [A/HRC/26/29/Add.2](#)). He has observed that Governments often treat businesses and civil society differently, even where no reasonable justification in accordance with international norms exists. For example, registration requirements for businesses are considerably less cumbersome and faster in Rwanda than requirements for registration of NGOs. Similarly, no special financial regulations at the global level exist to regulate the private sector as a whole, other than guidance for financial institutions in detecting terrorist financing. Yet recommendation 8 of the Financial Action Task Force on Money Laundering requires that laws and regulations of member States on non-profit organizations be reviewed so as to prevent abuse of such organizations for the financing of terrorism.<sup>2</sup> There is no evidence that the civil society sector is more prone than the private sector to money-laundering activities or terrorism-related financial activity or even that any such activity in the civil society sector justifies the sector-wide approach that the Task Force has adopted. Furthermore, States do not generally object to corporations investing capital from foreign sources in their jurisdictions in the same way they do if civil society organizations receive foreign funding.

12. Decision-making at the multilateral level appears to take a similar trajectory, where the private sector is playing an increasingly dominant role in implementing the global development agenda, compared to civil society involvement. The for-profit sector has a variety of avenues to impact the post-2015 development agenda. For example, corporate interests are represented and have been active in multiple forums that have an influence on the post-2015 agenda processes such as the High-Level Panel established by the Secretary-General, the United Nations Global Compact and the Sustainable Development Solutions Network. Indeed, the Economic and Social Council accreditation criteria for NGOs allow business organizations to participate as “civil society” despite the fact that they typically represent for-profit interests. The inequality in avenues available to corporate interests versus non-profit interests creates a power imbalance influencing global governance and its outcomes that favours for-profit interests.

13. The similarities in restrictions on civic space at the national and international levels suggest an interrelationship between the effective exercise of the rights to freedom of peaceful assembly and of association at the national level, and the effective participation by civil society at the multilateral level. Enabling environments for civil society should exist at both these levels. With the increased interconnectedness in domestic and international affairs, and with decision-making at the international level having a significant impact in national policies and practices, it is essential that such decisions are made in a transparent, accountable and participatory manner. The Special Rapporteur wishes to emphasize the legitimacy of civic action at the international level and underscores the need for States to listen to the views and voices of their constituents, whether they are expressed at the domestic or the international level.

14. The Special Rapporteur thus believes that the rights to freedom of peaceful assembly and of association — guaranteed at the national level in articles 21 and 22 of the International Covenant on Civil and Political Rights — are equally

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<sup>2</sup> Best practices: Combating the abuse of non-profit organizations (recommendation 8). Available from [www.fatf-gafi.org/topics/fatf/recommendations](http://www.fatf-gafi.org/topics/fatf/recommendations).

fundamental, and protected, at the international level. These rights are necessary in order to aggregate and amplify the voices of those who would otherwise not be heard on the multilateral stage. As the Special Rapporteur has stated previously, they serve as a vehicle for the exercise of many other civil, cultural, economic, political and social rights (see [A/HRC/20/27](#)). At the heart of the rights to freedom of peaceful assembly and of association is the obligation for States to create and ensure environments in which civil society can exist and thrive.

15. In order to provide robust protection to civic engagement at the multilateral level, it must be recognized that freedom of peaceful assembly and of association are inextricably intertwined with the right to take part in the conduct of public affairs, the right to freedom of opinion and expression, the right of access to information and other relevant rights, such as articles 25 and 19 of the International Covenant. The Human Rights Committee, in general comment 25, paragraph 5, recognizes the right to participate in public affairs to cover “all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels”. Similarly, the freedoms of opinion and expression are necessary components to ensuring that civic voices are heard at the multilateral platforms. For civil society to engage effectively in global decision-making, the right to access information is indispensable.

16. The understanding that assembly and association rights should be upheld at the national and international levels is implicit in the concept that civic engagement is essential for the functioning of a participatory, democratic government. States are obliged to uphold these human rights within their national jurisdiction and when they act at the international arena, whether individually, bilaterally or multilaterally. The Special Rapporteur considers that States are not exempt from upholding fundamental rights simply by moving their actions outside their domestic jurisdictions. If international human rights norms and standards are to be meaningful, States are bound to ratify and uphold them in all their activities.

17. The legitimacy of civil society participation at the international level is further affirmed by the Charter of the United Nations, which acknowledges that the Economic and Social Council may consult with NGOs concerned with matters within its competence. The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms in its preamble stated that the General Assembly recognizes “the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels”. Article 5 of the Declaration recognizes the right of everyone, individually and in association with others, at the national and international levels, to communicate with non-governmental and intergovernmental organizations. These organizations have an implicit corresponding obligation to take action on such communications.

### **III. Actions at the multilateral level and their impact on the rights to freedom of peaceful assembly and of association**

18. Multilateral institutions, as do States, bear the responsibility to recognize the positive role of peaceful protests and to create space in which civil society organizations can strengthen human rights and democracy. Indeed, multilateral

institutions play a key role in stimulating global public debate by strengthening the visibility of civil society organizations and by facilitating peaceful assembly within their structures and programmes.

19. Today, however, multilateral institutions find themselves caught between civil society's demands for real civic participation and inclusiveness and pushback from Governments which are uncomfortable with, or are threatened by, citizen involvement. The Special Rapporteur observes with concern how at the multilateral level the space and autonomy given to associations and people to exercise their fundamental rights is in far too many instances determined by world politics and limited and/or suspicious national conceptions of the role of civil movements in global societies.

20. In the last decade, the securitization of civil society “whereby civil society becomes viewed on the one hand as potentially functional to achieving global and national security goals, and on the other hand, as potentially threatening to the security of liberal democratic states” predominates.<sup>3</sup> The Special Rapporteur is concerned that the growing preoccupation of States with terrorism and security following the attacks of 11 September 2001 has discouraged the participative model of civil society. Instead, there is a tendency in many States to view associations and peaceful assemblies as threats to national stability and security. He also finds it worrisome to see national policies feeding back into the policies and actions of multilateral institutions, which allows bad practices to gain a sense of legitimacy; these are then often replicated elsewhere at the national level.

21. In this context, the safeguards adopted by multilateral forums to prevent human rights abuses become all the more important. It is also significant because multilateral institutions are uniquely positioned to help foster the rights to freedom of peaceful assembly and of association at the national level by pressing member States to comply with international laws and standards, or even requiring it.<sup>4</sup>

#### **A. Norms regulating the rights to freedom of association and of peaceful assembly at the multilateral level**

22. Most multilateral institutions recognize that citizens must be given a seat at the decision-making table and encourage — or even require — engagement with civil society in their charters or policies. Article 71 of the Charter of the United Nations, for example, states that the Economic and Social Council “may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence”. Other examples include the World Trade Organization (WTO), the Community of Democracies and the World Bank (which at the time of writing was drafting a citizen engagement strategy). A more restrictive process is in place under the United Nations Convention against Corruption, prohibiting civil society from participating in the Implementation Review Group and working groups.<sup>5</sup> Civil society is involved in a civil society

<sup>3</sup> See Jude Howell, “Shifting global influences on civil society: times for reflection”, in *Global Civil Society: Shifting Powers in a Shifting World*, eds. Heidi Moksnes and Mia Melin (Uppsala Centre for Sustainable Development, Uppsala, Sweden, 2012), p. 45.

<sup>4</sup> See Jackie Smith, “Transnational activism and global social change”, in *Global Civil Society: Shifting Powers in a Shifting World*, p. 9.

<sup>5</sup> Resolution 4/6, Non-governmental organizations and the Mechanism for the Review of Implementation of the United Nations Convention against Corruption.

“Briefing Day”, but is prohibited from mentioning any “specific country situation”. Moreover, although civil society’s participation is praised in article 13 of the United Nations Convention against Corruption (General Assembly resolution 58/4, annex), the terms of reference of the Mechanism for the Review of Implementation of the Convention make it optional for States parties under review to include civil society organization in different stages of the review process.

23. Civil society engagement policies are an important first step in ensuring the right to freedom of association at the multilateral level, but they are not enough by themselves.

24. Article 71 of the Charter of the United Nations, for example, is implemented primarily via the United Nations Committee on Non-Governmental Organizations, which recommends Economic and Social Council status for NGOs wishing to participate in the Council. Status is required of NGOs to attend and participate in many United Nations meetings, and to make statements before the Human Rights Council. The Special Rapporteur received numerous complaints that the process of obtaining Council status is long, complex, costly, beyond the capability of many small civil society organizations and impossible to obtain for informal organizations and grass-roots networks, in particular those which do not have access to the Internet. This has resulted in a perceived underrepresentation of smaller organizations, such as lesbian, gay, bisexual and transgender groups<sup>6</sup> and civic organizations from the Global South. In addition to these practical barriers, NGO applicants also face political ones. The Special Rapporteur reviews both in section IV below.

25. Effective engagement also requires a robust mechanism for ordinary citizens to submit information and complaints. Multilateral institutions should do more to expand their efforts in this area. The World Bank, for example, has the Office of the Compliance Advisor/Ombudsman and its Inspection Panel, an independent complaints mechanism for people and communities who believe that they have been, or are likely to be, adversely affected by a World Bank-funded project.<sup>7</sup> Although some have criticized these processes for failing to protect labour rights and not adequately guarding against discrimination, the concept of having such a complaint system is a good one and should be encouraged.

26. The United Nations does not have an individual complaint mechanism similar to the World Bank, although the Special Rapporteur welcomes the various human rights mechanisms put in place by the Human Rights Council which allow for individual complaints to be lodged, such as with the Special Procedures and the Complaint Procedure. In addition, the Universal Periodic Review (UPR) — also established by the Human Rights Council — allows civil society groups to submit information on the human rights situation of those countries under review. These initiatives encourage civil society participation at the multilateral level and should be replicated in other multilateral contexts.

27. The flow of information is crucial, and if civil society has limited access to information, they are at a disadvantage. The World Bank and other global financial

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<sup>6</sup> “International Service for Human Rights, UN takes forward step on LGBT rights and backward step on sexual and reproductive rights”. Available from <http://www.ishr.ch/news/un-takes-forward-step-lgbt-rights-and-backward-step-sexual-and-reproductive-rights>, 2 June 2014.

<sup>7</sup> For more information on the Panel, see <http://ewebapps.worldbank.org/apps/ip/Pages/Home.aspx>.



institutions tend to have reasonably comprehensive access to information policies, although they are not perfect. The United Nations has not yet adopted a general comprehensive policy on public access to information. Only in 2004 and after fierce campaigns of civil society did it begin providing online access to its documents to the global public.

28. Liberal access to information policies should be encouraged. These policies help keep multilateral institutions accountable and provide a model which citizens can cite in pressing their own Governments to become more transparent. The Global Transparency Initiative has released a Transparency Charter for International Financial Institutions, which the Special Rapporteur recommends as guidance for the access-to-information policies of all multilateral institutions.<sup>8</sup>

29. In addition to a good engagement policy allowing institutional access to organized associations, the Special Rapporteur also emphasizes the importance of recognizing the right to freedom of peaceful assembly as another key channel for constructive engagement. Multilateral institutions policies rarely, if ever, set forth comprehensive guidelines on the policing of assemblies. Rather, this duty is typically delegated to the national authorities where protests take place.

30. The Special Rapporteur cautions multilateral institutions against what he sees as a total absence of will to take stock of situations that are often created or exacerbated by their own projects and meetings. The Special Rapporteur is alarmed at the extremely high number of reported violations to the right of peaceful assembly during summits of multilateral institutions as regularly happens with the North Atlantic Treaty Organization (NATO) and the G20. The organizing States often react with determination to rein in the civil society multitude, using militarized security measures, cordoned-off zones for official meetings, repression of peaceful protesters, and a general reduction of space for democratic discussion with increasing penalties for public misbehaviour — rules that appear much more permanent than temporary and that receive the implicit consent of the multilateral summit organizers.

31. Private multilateral bodies, such as the International Olympic Committee and the Fédération Internationale de Football Association (FIFA) — which both wield enormous economic power to pressure countries hosting their lucrative events — are not exempt from the responsibility to respect, if not promote, universally recognized human rights. In spite of this, in its Charter the International Olympic Committee altogether bans demonstrations at their events<sup>9</sup> and FIFA's secretary-general openly stated with apparent impunity that “less democracy” or even oppressive military Governments is “better for organizing a World Cup”.<sup>10</sup> The Special Rapporteur is of the opinion that the requirements for transparency and accountability of multilateral institutions, whether private or public, expand as power and influence increase. In addition, he considers that the failure to encourage and facilitate peaceful assembly represents a lost opportunity for engagement.

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<sup>8</sup> Transparency Charter for International Financial Institutions: Claiming our Right to Know. Available from [www.ifitransparency.org/doc/charter\\_en.pdf](http://www.ifitransparency.org/doc/charter_en.pdf).

<sup>9</sup> Olympic Charter, in force as of 9 September 2013 ([www.olympic.org/documents/olympic\\_charter\\_en.pdf](http://www.olympic.org/documents/olympic_charter_en.pdf)).

<sup>10</sup> See [www.reuters.com/article/2013/04/24/us-soccer-fifa-idUSBRE93N18F20130424](http://www.reuters.com/article/2013/04/24/us-soccer-fifa-idUSBRE93N18F20130424).

32. The Special Rapporteur is convinced that day-to-day operational policies of multilateral institutions can have an impact on the right to freedom of peaceful assembly, even if this impact is subtle.

33. The United Nations Development Programme (UNDP) in Kenya and Malawi, for example, has a requirement that money from their “basket funds” cannot be used for protests. The Special Rapporteur finds this requirement inappropriate, given the fundamental nature of the right to freedom of peaceful assembly. Conversely, the United Nations Office of the High Commissioner for Human Rights (OHCHR) monitors public assemblies in countries where it has field presences, such as in Cambodia — and may also intervene with authorities to remedy violations of demonstrators’ right of assembly. However, this does not apply consistently everywhere OHCHR has a field presence, for example, the OHCHR office in Ethiopia does not carry out programming on human rights at the national level.

34. Multilateral institutions also wield significant influence over individuals’ right to freedom of association with others.

35. Since 2001, the Financial Action Task Force on Money Laundering (FATF) has been trying to introduce guiding principles for and robust oversight mechanisms over civil society organizations to achieve security goals. FATF is an intergovernmental organization based at the headquarters of the Organisation for Economic Co-operation and Development (OECD) and founded in 1989 on the initiative of the main economic council of wealthy nations (the G7). FATF argues in a recommendation paper of 2013 for action against the misuse of non-profit organizations for the financing of terrorism<sup>11</sup> and in a report of 2014 demands that countries review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism.<sup>12</sup> This call has been followed by a wave of new restrictions worldwide on funding for civil society. Many of these restrictions, unfortunately, do nothing to legitimately advance the fight against money-laundering and terrorism. Rather, the battle against crime and terrorism has been used by some States as a cover for imposing politically motivated restrictions on civil society funding. The Special Rapporteur thus remains concerned about the risk of over-regulation that FATF recommendations introduce (see [A/HRC/23/39](#)). FATF and other regulatory regimes also have an impact on the business-friendliness of countries, and blurred lines may be interpreted bluntly to comply and protect the economy, to the detriment of the right of associations to operate freely.

36. The Special Rapporteur views FATF and other similar regulations as posing a serious, disproportionate and unfair threat to those who have no connection with terrorism, including civil society organizations.

## **B. Practice of the rights to freedom of association and of assembly at the multilateral level**

37. The Special Rapporteur believes that the protection of rights of assembly and association at the multilateral level starts with good policy, but it can be effective only when paired with good practices. On a day-to-day basis, engagement with civil society is often determined more by informal decisions than by centralized policy.

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<sup>11</sup> Best practices: Combating the abuse of non-profit organizations (recommendation 8). Available from [www.fatf-gafi.org](http://www.fatf-gafi.org).

<sup>12</sup> Risk of Terrorist Abuse in Non-profit Organisations. Available from [www.fatf-gafi.org](http://www.fatf-gafi.org).

38. Protection of the right to freedom of association at the multilateral level begins with ensuring the effective participation of civil society. It is not enough to say that associations are allowed to exist. Citizens must be given a seat at the decision-making table. Otherwise, multilateral institutions run the risk of becoming private clubs where States implement policy sheltered from public view and input.

39. Since its inception with 41 organizations in 1945, the Economic and Social Council has granted consultative status to about 4,000 NGOs. It was the first venue to include NGOs in formal deliberations of the United Nations. In the 1990s, it widened their role and allowed NGOs to access influential national-level organizations. However, attempts to increase and diversify access were soon met with financial and security considerations — the sheer number of NGOs began to be seen as too costly and as a security threat. The Special Rapporteur received numerous reports suggesting a feeling of discouragement of some of these organizations, in particular the smaller ones, to go through the application process, in addition to other challenges elaborated in section IV.

40. The Special Rapporteur is also concerned that the various United Nations bodies, including the World Intellectual Property Organization (WIPO), the United Nations Conference on Trade and Development (UNCTAD), the International Labour Organization (ILO), the World Trade Organization (WTO) all require different and uncoordinated processes of registration of NGOs — the only commonality being that they are all burdensome. Furthermore, it has been brought to the Special Rapporteur's attention that the International Telecommunication Union (ITU), which deals with the whole information technology sector, is currently made up exclusively of States and private companies. ITU also charges exorbitant membership fees, meaning civil society is unlikely to gain access soon, unless they are exempted from payment.

41. In addition, the Special Rapporteur notes with concern the uneven level of civil society engagement and participation among various United Nations bodies. While he recognizes positive United Nations processes, such as the Major Groups Facilitating Committee of the United Nations Environment Programme (UNEP), the Special Rapporteur regrets that since 2010 NGOs have been significantly impeded in their attempts to participate as observers in the United Nations Convention against Corruption.

42. Similarly, regional multilateralism also sways from inclusive to more restrictive approaches towards civil society recognition and involvement. The Special Rapporteur received reports, for example, stressing that it can be difficult to keep regional human rights mechanisms independent within multilateral institutions with an intergovernmental structure. He discourages practices which minimize or prevent interactions with civil society organizations.

43. The Special Rapporteur also believes that a pro-civil society organization culture within multilateral organizations is crucial. Such a culture should be rooted in the attitude that the organization is an agent dedicated to upholding ideals and effecting change, rather than a bureaucracy built to maintain the status quo. There must also be a willingness to call out Member States who fail to respect fundamental rights. Stating that some issues are “too political” — as the World Bank allegedly did when Human Rights Watch warned them that the Government was

closing space for civil society in Egypt<sup>13</sup> — is not acceptable. Finally, it should be acknowledged that a strong civil society sector is essential for multilateral institutions' effectiveness, as it is often the best source of information on the ground.

44. Moreover, multilateral institutions should improve their outreach and communications efforts. They often work on dense, technical subjects that can contain excessive jargon. This can make their materials difficult for laypeople to understand, particularly if the text is not in their native language. The problem extends to the accessibility of information online, for example where websites are difficult to navigate and are not user-friendly. The Special Rapporteur thus urges multilateral institutions to be conscious of a wider public looking into their work, to step out from the shadows of technical language and make greater efforts to make their work more accessible to lay audiences, both online and offline.

45. Practical accessibility is also important. Most multilateral institutions do not maintain a large number of country offices, meaning there is little opportunity for day-to-day engagement with local civil society. This problem may arise from a lack of adequate resources. For example, of the three pillars of the United Nations work, peace and security, and development receive the largest share of funds, while human rights receives only 3 per cent of the total United Nations budget. In addition, States may decline to allow field presences to some multilateral entities or hamper the effective operations of existing field offices.

46. A human rights activist from Malaysia noted that in his country he felt that there are no “good” or “bad” experiences in dealing with multilateral institutions; there are simply “no experiences”. The lack of a local presence means that power and access remains concentrated at headquarters — many located in North America and Western Europe, two of the world's regions for which it is most difficult to obtain visas. Efforts to bridge this geographic gap have been mixed. In this regard, the Special Rapporteur encourages the increased use of information technology and the creation of independent grant schemes to fund a more diverse array of civil society organizations to participate in multilateral consultations and events.

47. Many multilateral institutions now hold regional or local consultations as a way to improve engagement with local civil society organizations, but the Special Rapporteur has received reports that implementation is uneven. One source said that the World Bank, for example, has put together some excellent consultations, but that many feel as if they are indifferent and done to “tick the box” of including civil society. Indeed, one source referred to them mockingly as “insultations”.

48. Many complaints focused on the selection of attendees at consultations and the failure to take the “multi-stakeholder” model seriously. The World Bank 2012 consultation on its Country Assistance Strategy in India, for example, was labelled a “farce” by a group of more than 20 civil society organizations.<sup>14</sup> They claimed that the World Bank invited only a select group of NGOs, deliberately avoiding the ones

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<sup>13</sup> “Human Rights Watch, A Human Rights Agenda for the World Bank's New President”, 27 April 2012. Available from [www.hrw.org/news/2012/04/27/human-rights-agenda-world-bank-s-new-president](http://www.hrw.org/news/2012/04/27/human-rights-agenda-world-bank-s-new-president).

<sup>14</sup> Bank Information Centre, “The World Bank's Country Assistance Strategy (CAS) 2013-2016 Consultation is Farce”, 31 May 2012. Available from [www.bicusa.org/indian-civil-society-groups-world-banks-cas-consultation-is-farce/](http://www.bicusa.org/indian-civil-society-groups-world-banks-cas-consultation-is-farce/).

which are critical of World Bank policies, or are working on the social and environmental impacts of the projects funded by the World Bank. Similarly in Indonesia, civil society organizations claimed that consultations ahead of a \$70 million investment from the World Bank-administered Forest Investment Program were non-transparent and “non-inclusive of peoples’ participation”. Civil society organizations felt that the project would “bring benefits to private businesses in the forestry sector only”.<sup>15</sup>

49. The exclusion of local associations or grass-roots groups from consultation processes is sometimes rationalized based on their inability to “speak the language” of multilateral institutions. This results in a disproportionate number of professionalized NGOs being involved in consultation processes. The inclusion of professionalized groups is not bad per se, but the Special Rapporteur believes that “capacity” assessments are often backwards: sometimes it is the multilateral forum that “lacks capacity” to reach out to local grass-roots groups, whether that capacity is technical, linguistic or otherwise. Multilateral institutions should redouble their efforts to meaningfully consult a wider variety of groups and make diversity of opinion the paramount factor in guiding their consultation processes.

50. Civil society participation should also be evaluated in comparison with other sectors, particularly the for-profit businesses sector. Space at the multilateral level, particularly in the finance-related multilaterals, is often occupied disproportionately by for-profit interests — i.e., large banks and corporations. They may wield more financial resources, but this should not automatically rank it as a pre-eminent representative of a country or region. Again, sectoral equity is key: civil society representatives should be given the same access, input and power as the private for-profit sector.

51. Multilateral institutions should likewise consider reprisals against local civil society leaders who participate in and/or collaborate with them on their projects. Multilateral institutions must take aggressive action when such reprisals take place, including by intervening in specific cases and publicly condemning the Member State(s) involved.

52. Civil society organizations also report increasing challenges in accessing multilateral institutions and a reluctance by multilaterals to promote peaceful assemblies out of fear of instability. Currently, in a world more than ever marked by security considerations (see [A/HRC/20/27](#), paras. 20-23), the Special Rapporteur cautions against the practice of certain multilateral institutions to politically frame civil society and censure peaceful assemblies, hiding behind security justifications.

53. As noted in the previous section, multilateral entities have a responsibility with respect to policing assemblies and promoting the right to freedom of peaceful assembly. However, the practices of multilateral institutions do not always support assembly rights in places where they operate.

54. The United Nations Resident Coordinator Office in Kenya (UN-Kenya), for example, recently joined the Kenya Private Sector Alliance in a joint statement discouraging opposition-led rallies planned for 7 July 2014.<sup>16</sup> This example also

<sup>15</sup> Bretton Woods Project, Forest Investment Program (FIP), CIFs Monitor 8, 23 October 2013. Available from [www.brettonwoodsproject.org/2013/10/forest-investment-program-fip/](http://www.brettonwoodsproject.org/2013/10/forest-investment-program-fip/).

<sup>16</sup> “Joint communiqué by the Kenya Private Sector Alliance and the United Nations Systems”, 3 July 2014. Available from <http://kassfm.co.ke/home/index.php/component/k2/item/813>.

raises the issue of “sectoral equity”, with UN-Kenya supporting the business community’s call for “stability” at the expense of ordinary peoples’ fundamental rights.

55. Another example is the World Bank’s practice of completely delegating the monitoring of assemblies to local police. Despite the legitimate security concern surrounding World Bank buildings, designated as embassies, the repeated mass arrests, including of bystanders, journalists and tourists, make it difficult and frightening for anyone to participate in or observe World Bank-related demonstrations. Similar examples, such as the excessive force used by authorities during the so-called “Battle of Seattle” surrounding WTO meetings in 1999 stand out as practices that should be combated robustly by multilateral institutions.

56. Moreover, multilateral institutions should also note the complex effects of the projects they sponsor. In addition to involving all relevant parties in the initial phases, they should closely monitor local policing to ensure compliance with international law and best practice,<sup>17</sup> as too often local protests against projects funds by multilateral institutions are violently repressed.

#### **IV. Actions by States which impact on the exercise of the rights to freedom of peaceful assembly and of association at the multilateral level**

57. States are primarily responsible and accountable for facilitating and protecting human rights — including the rights to freedom of peaceful assembly and of association — within their borders. This obligation, however, does not cease with respect to the enjoyment of these rights in the context of multilateral organizations of whom States are members. By accessing foundational treaties of intergovernmental organizations which allow for the engagement of citizens, States have an equal obligation to ensure that citizens can exercise their rights to freedom of peaceful assembly and of association in multilateral arenas.

##### **A. State policies pertaining to the exercise of the rights to freedom of peaceful assembly and of association at the multilateral level**

58. The Special Rapporteur welcomes a series of initiatives/policies from Member States aimed at ensuring that civil society can make their voices heard at multilateral forums.

59. Ireland, in its response to the questionnaire sent by the Special Rapporteur, together with Chile, Japan, Sierra Leone and Tunisia, led the adoption of an important resolution in the Human Rights Council on ensuring a safe and enabling environment for civil society (see Council resolution 24/21). In paragraph 5 of the resolution, the Council emphasizes the essential role of civil society in subregional,

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<sup>17</sup> A positive example of this occurred in 2002, after a Government brutal crackdown on a protest in Cambodia. A World Bank official condemned the crackdown, calling it “unacceptable ... You can’t talk about participation and consultation on one hand and beat people who express their opinions on the other.” Available from [www.cambodiadaily.com/archives/world-bank-rips-handling-of-forestry-protest-36495/](http://www.cambodiadaily.com/archives/world-bank-rips-handling-of-forestry-protest-36495/).

regional and international organizations, including in support of the organizations' work, and in sharing experience and expertise through participation in meetings in accordance with relevant rules and modalities and, in this regard, reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with subregional, regional and international bodies, in particular the United Nations, its representatives and mechanisms.

60. Several countries, including Ireland, other European Union countries and Mexico, have sought to secure engagement by civil society when negotiating modalities for United Nations conferences and other events. Importantly, Ireland has encouraged multilateral organizations to strengthen their dialogue with civil society organizations and where possible develop links with them in their area.

61. In October 2013, the Government of Lithuania, in collaboration with the Civil Society Section of the OHCHR, organized a one-day seminar, held in Vilnius, with a view to informing local NGOs on ways to engage with the United Nations human rights mechanisms and contribute to the strengthening of interaction between the United Nations system and civil society. It included in the response from Lithuania to the questionnaire sent by the Special Rapporteur, a presentation on how to file an application for Economic and Social Council status before the NGO Committee. Ireland has provided specific support to civil society organizations to engage at the multilateral level, including through partnerships with a number of NGOs which build the capacity of local civil society actors to interact with multilateral institutions.

62. Portugal has reportedly been using new information technologies in relation to human rights education, information and awareness-raising efforts. It has also established a national human rights committee to meet on a regular basis with civil society actors to discuss the reports of Portugal submitted to United Nations bodies, the follow-up given by the authorities to the recommendations of these bodies, and other issues related to the multilateral human rights agenda in the response from Portugal to the questionnaire sent by the Special Rapporteur.

## **B. State practices pertaining to the exercise of the rights to freedom of peaceful assembly and of association at the multilateral level**

63. While committing to the principles of genuine participation of civil society in multilateral arenas, some States have in practice hampered such participation.

64. States have repeatedly targeted individuals because of their advocacy work in multilateral arenas. Such acts of reprisals are of utmost concern to the Special Rapporteur.

65. There have been repeated instances of reprisals against individuals, or their relatives, participating or seeking to participate in sessions of the Human Rights Council. The most dramatic forms of retaliation involved the loss of lives. For instance, Cao Shunli, a Chinese human rights defender who worked on increasing citizen inputs to the preparations of China's UPR, was arrested in September 2013 before boarding her flight to Geneva to participate in a human rights seminar and observe China's UPR. She was subsequently charged with the crime of "provocation". While in detention, her health dramatically deteriorated as she was

allegedly denied medical treatment. She died on 14 March 2014.<sup>18</sup> In December 2008, Edwin Legarda, an indigenous leader and husband of Aida Quilcué Vivas, was killed by security forces on his way to collect his wife at the airport. She was returning from Geneva, where she had participated in the UPR session of Colombia. Six former members of the military were subsequently arrested, tried and sentenced to 40 years' imprisonment.<sup>19</sup>

66. Other forms of reprisals include threats from State officials for delivering statements at the Council (e.g., Bahrain,<sup>20</sup> Bangladesh,<sup>21</sup> China,<sup>22</sup> India,<sup>23</sup> Malawi,<sup>24</sup> Sri Lanka,<sup>25</sup> and Yemen<sup>26</sup>); acts of torture and ill-treatment (e.g., Israel<sup>27</sup> and United Arab Emirates<sup>28</sup>); arbitrary arrest and detention (e.g., China<sup>29</sup> and Viet Nam<sup>30</sup>); acts of surveillance (e.g., Bangladesh<sup>31</sup> and United Arab Emirates<sup>32</sup>); and confiscation of passport/travel bans (e.g., China, Israel,<sup>33</sup> Saudi Arabia,<sup>34</sup> United Arab Emirates,<sup>35</sup> Viet Nam<sup>36</sup>).

67. Activists from Bahrain,<sup>37</sup> Malawi,<sup>38</sup> Sri Lanka<sup>39</sup> participating in Human Rights Council sessions have had their names and pictures taken by State representatives and reproduced in local newspapers and social media, and been accused of tarnishing the image of their respective countries. In Malaysia, the Coalition of Malaysian NGOs (COMANGO) was the subject of a smear campaign run by various groups after it had made submissions to Malaysia's second UPR in 2013.<sup>40</sup> A local newspaper and Islamic organizations made inflammatory comments against COMANGO, and the Malaysian Ministry of Home Affairs subsequently declared it illegal, before backtracking on its position a few months later.<sup>41</sup> In Saudi Arabia, civil society activists who participated in United Nations forums to report

<sup>18</sup> See also "Deadly reprisals: UN experts deplore the events leading to the death of Chinese human rights defender Cao Shunli, and ask for full investigation (18 March 2014)". Available from [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14394&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14394&LangID=E).

<sup>19</sup> The reported killing of Edwin Legarda was the subject of a joint urgent appeal to Colombia on 29 December 2008 by Special Procedures mandate holders.

<sup>20</sup> See [A/HRC/21/18](#), paras. 15-24.

<sup>21</sup> See [A/HRC/18/19](#), paras. 25-27.

<sup>22</sup> See [A/HRC/27/38](#), paras. 17-20.

<sup>23</sup> *Ibid.*, paras. 24-26.

<sup>24</sup> *Ibid.*, para. 51.

<sup>25</sup> See [A/HRC/21/18](#), paras. 38-46.

<sup>26</sup> See [A/HRC/14/19](#), paras. 48-51.

<sup>27</sup> See [A/HRC/27/38](#), para. 25.

<sup>28</sup> *Ibid.*, paras. 37-38 and 45.

<sup>29</sup> *Ibid.*, paras. 17-20.

<sup>30</sup> *Ibid.*, paras. 39-40.

<sup>31</sup> See [A/HRC/18/19](#), para. 26.

<sup>32</sup> See [A/HRC/27/38](#), paras. 37-38.

<sup>33</sup> *Ibid.*, para. 25.

<sup>34</sup> *Ibid.*, para. 30.

<sup>35</sup> *Ibid.*, para. 38.

<sup>36</sup> *Ibid.*, para. 40.

<sup>37</sup> See [A/HRC/18/19](#), para. 20; [A/HRC/21/18](#), paras. 18-19; and [A/HRC/24/29](#), para. 19.

<sup>38</sup> *Ibid.*, para. 51.

<sup>39</sup> See [A/HRC/14/19](#), paras. 40-43; [A/HRC/21/18](#), paras. 38 and 41-43; and [A/HRC/27/38](#), paras. 31-34.

<sup>40</sup> The reported smear campaign against COMANGO following its intervention at the UPR was the subject of a joint urgent appeal to Malaysia on 22 January 2014 by Special Procedures mandate holders (see [A/HRC/26/21](#)).

<sup>41</sup> See [A/HRC/27/38](#), para. 28.



on human rights violations in the country have been labelled as “terrorists” or acting against Islam.<sup>42</sup>

68. Civil society actors communicating with United Nations treaty bodies were similarly subject to reprisals. In 2012, a human rights defender from Belarus was temporarily forbidden to leave the country after he participated in an NGO briefing to the Committee against Torture on Belarus during its forty-seventh session.<sup>43</sup> In 2013, two Cuban NGO representatives were harassed and intimidated by a State official and members of government organized NGOs during the fifty-fifth session of the Committee on Discrimination against Women.<sup>44</sup> In 2013, the premises of an Egyptian NGO were raided and members arrested after having cooperated with the Committee on Economic, Social and Cultural Rights.<sup>45</sup> In 2010, several indigenous organizations from Guatemala were subject to a smear campaign following their participation in the seventy-sixth session of the Committee on the Elimination of Racial Discrimination.<sup>46</sup> In 2012, two NGOs were charged under the Russian foreign agent legislation following submissions they made to the Committee against Torture during the consideration of the fifth periodic report of the Russian Federation.<sup>47</sup>

69. The Special Rapporteur remains deeply concerned about the enforced disappearance of the Laotian human rights defender Mr. Somphone in December 2012. Prior to his disappearance, Mr. Somphone had been involved in the organization of the Asia-Europe People’s Forum held alongside the Asia-Europe Meeting Summit in November 2012. He had tried to address alleged threats from officials against the participants of the People’s Forum who had spoken out against the practice of land grabbing. Moreover, in Azerbaijan, in January 2013, law enforcement authorities arrested a large group of peaceful protestors in Baku a few days after a delegation of human rights defenders returned from an advocacy trip to the Council of Europe. During that trip, the delegation had welcomed the adoption of a resolution by the Parliamentary Assembly of the Council of Europe expressing concern about the human rights situation in Azerbaijan.

70. The Special Rapporteur warns against the chilling effect of reprisals on civil society actors, often forcing them to censor themselves. He stresses the obligation of States to provide full protection to those who participate or seek to participate in multilateral arenas.

71. The Special Rapporteur welcomes the initiatives of many States to address instances of reprisals against those interacting in multilateral arenas, such as the joint statement made by Botswana, on behalf of 54 States, highlighting that the current response by the United Nations and the Member States in preventing and addressing reprisals is inadequate.<sup>48</sup> In this context, a group of States have been supporting resolutions condemning reprisals against those cooperating with the United Nations, its representatives and mechanisms in the field of human rights. The latest resolution in this regard, Human Rights Council resolution 24/24, reaffirmed

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<sup>42</sup> Ibid., para. 30.

<sup>43</sup> See [A/HRC/21/18](#), paras. 22-23.

<sup>44</sup> See [A/HRC/27/38](#), para. 21.

<sup>45</sup> Ibid., para. 23.

<sup>46</sup> See [A/HRC/18/19](#), paras. 75-76.

<sup>47</sup> See [A/HRC/24/29](#), para. 31.

<sup>48</sup> See [A/HRC/27/38](#), para. 3.

the right of everyone to have full access to and communicate with international bodies, urged States to take appropriate preventive and accountability measures, and requested the Secretary-General to appoint a United Nations-wide senior focal point dealing with reprisals (see Council resolution 24/24). In this regard, the Special Rapporteur echoes his joint statement pointing out that reprisals are a “critical challenge facing the United Nations system and its human rights mechanisms. The designation of a focal point on this issue is currently under discussion at the General Assembly. We look forward to the designation of the focal point as soon as possible.”<sup>49</sup>

72. The Special Rapporteur has also been apprised of challenges regarding the accreditation process within the United Nations. As he mentioned above, the Committee recommends NGOs applying for consultative status to the Economic and Social Council members. This Committee is composed of 19 Member States: five from Africa, four from Asia, two from Eastern Europe, four from Latin America and the Caribbean, and four from Western Europe.<sup>50</sup>

73. Pursuant to Economic and Social Council resolution 1996/31, part I, the Committee on Non-Governmental Organizations in considering applications for consultative status with the United Nations “should ensure, to the extent possible, participation of non-governmental organizations from all regions, and particularly from developing countries, in order to help to achieve a just, balanced, effective and genuine involvement of non-governmental organizations from all regions and areas of the world”.

74. The Special Rapporteur is concerned that the Committee has on several occasions acted in a manner contrary to the spirit of resolution 1996/31. He was informed that the Committee has arbitrarily deferred applications for consultative status of NGOs, several for many years. As of April 2014, out of the 48 organizations which have had their accreditations repeatedly deferred, 46 work on human rights issues, such as children and women’s rights, minorities and country situations: e.g., the Asia Centre for Human Rights (since 2008), the Child Rights Information Network (since 2010), the Iran Human Rights Documentation Centre (since 2010) and the Global Network for Rights and Development (since 2011). The Committee has reportedly addressed either repetitive or irrelevant questions to such organizations. The case of the International Dalit Solidarity Network, an international NGO focusing on caste-based discrimination and other forms of discrimination based on work and descent, is particularly troubling: since 2008, the Network has received 64 written questions from the Committee, all raised by India. It is now the longest pending application before the Committee.

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<sup>49</sup> Statement of the United Nations Special Procedures Mandate Holders on the occasion of Human Rights Day, 10 December 2013. Available from [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14082&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14082&LangID=E).

<sup>50</sup> For the period 2011-2014, the following States are members of the Committee: Belgium, Bulgaria, Burundi, China, Cuba, India, Israel, Kyrgyzstan, Morocco, Mozambique, Nicaragua, Pakistan, Peru, Russian Federation, Senegal, Sudan, Turkey, United States of America and Venezuela (Bolivarian Republic of). For the period 2015-2019, the following States are members of the Committee: Azerbaijan, Burundi, China, Cuba, Greece, Guinea, India, Iran (Islamic Republic of), Israel, Mauritania, Nicaragua, Pakistan, Russian Federation, South Africa, Sudan, Turkey, United States of America, Uruguay, and Venezuela (Bolivarian Republic of).

75. Moreover, in May 2014, the Committee voted the closure of the application of the Fundación Centro para la Apertura y el Desarrollo de América Latina, at the request of Cuba (with the support of China, the Russian Federation and the Bolivarian Republic of Venezuela), which claimed that the organization is engaged in “subversive activities”.<sup>51</sup> Furthermore and despite repeated attempts, the NGO Human Rights in China has yet to be accredited by the Committee owing to the opposition of the Government of China, which has questioned the legitimacy of the organization.<sup>52</sup>

76. NGOs working on sexual orientation and gender identity issues in particular have faced difficulties in obtaining consultative status. Since 2011, only four such organizations have been recommended by the Committee. Nine other organizations were accredited because the Economic and Social Council quashed negative recommendations by the Committee.

77. Additionally, the Committee places obstacles to accredited NGOs by intentionally deferring consideration of the quadrennial reports that they are requested to produce. In January 2014, the Committee deferred 11 reports of NGOs, including Human Rights Watch, following questions from Cuba and the Russian Federation.<sup>53</sup> In addition, the Committee postponed further consideration of all 23 previously deferred quadrennial reports of organizations such as Amnesty International, Freedom House, Human Rights First, International PEN, and Reporters sans frontières international (see [E/2014/32 \(Part I\)](#)).

78. The Committee has also decided on the suspension or withdrawal of the consultative status of NGOs in a manner which does not comply with the provisions of Economic and Social Council resolution 1996/31. For example, in July 2010, 31 NGOs and groups sent a joint letter to Ambassadors to the Economic and Social Council expressing concern about the decisions made by the Committee calling for the suspension of the consultative status of Interfaith International and Centre Europe-Tiers Monde/Third World International for two years, at the request of Pakistan and Turkey, respectively; and the withdrawal of the consultative status of the General Federation of Iraqi Women, at the request of Iraq. According to the signatories of the letter, “the process used by the Committee to decide on the suspension or withdrawal of the status of these NGOs was hurried and failed to respect the procedural safeguards required by Economic and Social Council resolution 1996/31. In particular, the process did not allow the NGOs a reasonable opportunity to respond to the allegations against them.”<sup>54</sup>

79. The Special Rapporteur is similarly concerned about the so-called “no-objection” procedure which allows for the participation of NGOs without consultative status in United Nations high-level events, unless States object to it. However, States which object do not have to provide any justification and remain anonymous. The Special Rapporteur was informed that States have increasingly

<sup>51</sup> See [www.un.org/News/Press/docs/2014/ecosoc6619.doc.htm](http://www.un.org/News/Press/docs/2014/ecosoc6619.doc.htm).

<sup>52</sup> “NGOs evolving relationship with the United Nations”. Available from [www.un.org/esa/desa/desaNews/desa34.html](http://www.un.org/esa/desa/desaNews/desa34.html).

<sup>53</sup> “More NGOs gain access to the UN, but arbitrary blockades remain for many”. Available from [www.ishr.ch/news/more-ngos-gain-access-un-arbitrary-blockades-remain-many](http://www.ishr.ch/news/more-ngos-gain-access-un-arbitrary-blockades-remain-many).

<sup>54</sup> Committee on NGOs draft decisions to suspend and withdraw NGO consultative status, joint letter by 31 NGOs, 13 July 2010. Available from [www.files.ishr.ch/public/other-docs/100713-Letter-ECOSOC-Committee-NGOs.pdf](http://www.files.ishr.ch/public/other-docs/100713-Letter-ECOSOC-Committee-NGOs.pdf).

used this procedure to restrict the access of NGOs in several meetings at United Nations Headquarters, for instance during the 2013 high-level meeting of the General Assembly on the realization of the Millennium Development Goals for persons with disabilities, the 2013 high-level dialogue on international migration and development, and the high-level meeting on rule of law.

80. The Special Rapporteur finds all these practices deeply disconcerting, and believes that they profoundly undermine the ability of the United Nations to constructively engage with civil society. States sitting on the Committee should champion the right to freedom of association and the right to freedom of peaceful assembly. In this context, he voiced concern about the election of Azerbaijan to the Committee after criminal charges were filed against three of that country's most prominent human rights defenders.<sup>55</sup> His concerns only increased after the three were convicted.

81. On a positive note, some States within the Committee have expressed support to human rights organizations. The Special Rapporteur praises Belgium, Chile, Mexico and Uruguay, among others, for their role in combating attempts by peer members to arbitrarily dismiss applications of NGOs.

82. To counterbalance critical voices at home and abroad, States have resorted to sending GONGOs (government-operated NGOs) to multilateral arenas. Such organizations have made statements, and organized side-events in the margins of sessions, in support of States' policies (e.g. GONGOs from the Islamic Republic of Iran and the Sudan). While the Special Rapporteur recognizes that they are a manifestation of the exercise of the right to freedom of association, he notes with concern that such organizations have often monopolized the space meant for independent associations. In his view, multilateral institutions should strike a balance, bearing in mind the principles of broad-mindedness, tolerance and diversity of voices.

83. The Special Rapporteur has also been informed of disconcerting practices by some State officials during sessions of the Human Rights Council and International Criminal Court's Assembly of States Parties to throw away civil society's leaflets made available on tables.

84. Another issue of concern brought to the attention of the Special Rapporteur by many civil society activists is the inhospitable visa regimes in countries where multilateral organizations are located, such as Switzerland and the United States of America.

85. In addition, it appears that States often do not inform their population about forthcoming multilateral events and decisions taken or to be taken in multilateral forums.

## V. Conclusions and recommendations

**86. The Special Rapporteur reiterates that the ability to peacefully assemble and freely associate is a key aspect of a vibrant democracy and critical for development. In today's globalized world, the meaning and practice of**

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<sup>55</sup> See "UN experts urge Azerbaijan to drop charges against human rights defenders", 9 May 2014. Available from [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14582](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14582).

democracy stretches beyond national boundaries. Multilateral entities thus have positive responsibilities to actively protect peaceful assemblies and to establish and maintain an enabling environment for civil society. This is all the more valid when multilateral institutions claim to represent States, which are the primary actors accountable for the respect and promotion of civil liberties. In addition, the Special Rapporteur underlines the obligation of States to protect and facilitate the rights to freedom of peaceful assembly and of association of those engaging with multilateral institutions.

87. The Special Rapporteur calls, therefore, upon multilateral institutions to:

(a) Implement thorough and consistent policies that emphasize the importance of substantive engagement with civil society organizations and recognize that participation at the multilateral level is an inherent component of the right to freedom of association. Such a policy should grant civil society:

- (i) Full and effective participation in all activities (including planning, agenda setting, decision-making and policymaking);
- (ii) Access to all meetings, processes and bodies (including through the final stages of decision-making) at all levels;
- (iii) Speaking rights in all meetings, as a rule, with the same opportunities as Governments and private sector entities to express views and opinions;
- (iv) The right to submit documents equivalent to Member States;

(b) Open up the engagement process with smaller, local civil society organizations including grass-roots groups, spontaneous social movements and civil society organizations which deal with marginalized groups;

(c) Encourage diversity of perspectives and geography among civil society organization representatives;

(d) Introduce an independent grant system — similar to the Lifeline concept — to help facilitate the attendance and participation of smaller, local civil society groups at key consultations, meetings and gatherings;

(e) Increase use of information technology, such as videoconferencing and online tools, to encourage greater and more diverse civil society participation in multilateral processes;

(f) Implement a system to continually test how responsive their actions and policies are to peoples' needs on the ground, including regular surveys and consultations with local civil society;

(g) Undertake studies on comparative good practices in civil society engagement, with recommendations on critical areas for improvement in accordance with international standards, and establish accountability mechanisms, such as the World Bank's Inspection Panel. Such a system should also include a means for individuals and organizations to file a complaint if they believe they have been subject to reprisals because of their cooperation with — or action to oppose — the multilateral organization or one of its programmes;

(h) **Ensure that heads of multilateral institutions publicly denounce each and every instance of reprisals;**

(i) **Designate a focal point on reprisals within each multilateral institution;**

(j) **Make their materials — including websites, reports, press releases, and other written materials — more accessible to non-technical audiences, both online and offline, and in multiple languages;**

(k) **Ensure that they have comprehensive and fair access to information policies in place, and that these policies include, inter alia, guarantees of timely and easy access to all information and documents, a limited list of specific exemptions, a public interest test, and an independent appeals board. In this regard, the Special Rapporteur recommends The Global Transparency Initiative’s Transparency Charter for International Financial Institutions<sup>56</sup> as a model;**

(l) **Have strict internal guidelines governing the policing of assemblies, rather than simply handing this function over to local authorities. These guidelines should mirror international law and good practices. Moreover, multilateral organizations should not organize major events likely to draw protests in locations where they cannot receive assurances that local authorities have the political will and technical capacity to uphold international standards. The Special Rapporteur also strongly recommends that multilateral institutions require domestic authorities to produce a report detailing how demonstrations, protests and other public gatherings around international events were managed by police, and that such reports be made public.**

**88. The Special Rapporteur calls upon the United Nations specifically to:**

(a) **Reform the Committee on Non-Governmental Organizations to prevent Member States from blocking accreditation applications with perpetual questioning and to unilaterally vetoing applications. The reform process should be guided by the principle that the United Nations functions best when it is accessible to the greatest diversity of voices possible;**

(b) **Continue to support the Secretary-General’s recently instituted “Rights Up Front” policy.<sup>57</sup> The Special Rapporteur welcomes this policy and hopes it has a positive impact on the United Nations promotion of human rights;**

(c) **Promote human rights in all United Nations work and to understand that all staff and agency actions, policy and work often has a profound impact on the human rights landscape — even if these staff and agencies are not working directly on human rights;**

(d) **Select OHCHR, as the United Nations agency with preeminent expertise on human rights issues, to take the leading role in the implementation of human rights issues, including where States put resources in “basket funds” at the national level.**

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<sup>56</sup> See footnote 8.

<sup>57</sup> Rights Up Front, May 2014. Available from [www.un.org/sg/rightsupfront/doc/RuFAP-summary-General-Assembly.htm](http://www.un.org/sg/rightsupfront/doc/RuFAP-summary-General-Assembly.htm).

89. **The Special Rapporteur also calls upon States to increase funding to the human rights pillar of the United Nations work.**

90. **Moreover, the Special Rapporteur calls upon States members of multilateral institutions to:**

(a) **Based on the provisions of Human Rights Council resolution 24/24 on cooperation with the United Nations, its representatives and mechanism in the field of human rights:**

(i) **Prevent and refrain from all acts of reprisals against those engaging or seeking to engage with multilateral institutions;**

(ii) **Adopt and implement specific legislation and policies, and issue appropriate guidance to national authorities to effectively protect those engaging or seeking to engage with multilateral institutions;**

(iii) **Ensure accountability for any acts of reprisal through impartial, prompt and thorough investigations of any acts of reprisal, and access to effective remedies for victims;**

(iv) **Consider establishing national focal points on reprisals;**

(b) **Publicly condemn all acts of reprisal by State and non-State actors against those engaging or seeking to engage with multilateral institutions;**

(c) **Refrain from unduly preventing NGOs from obtaining accreditation with multilateral institutions, arbitrarily withdrawing accreditations, or deferring the examination of periodic reports of accredited organizations;**

(d) **Refrain from using government-organized NGOs to stifle independent voices in multilateral arenas;**

(e) **Refrain from throwing away/destroying leaflets and other documents produced by civil society actors and made available in multilateral arenas;**

(f) **Facilitate the issuance of visas for those seeking to engage with multilateral bodies based on their territory;**

(g) **Duly inform the population within their territory about forthcoming multilateral events and decisions taken or to be taken in multilateral forums.**

91. **Furthermore, the Special Rapporteur calls upon civil society actors to:**

(a) **Support the participation of fellow actors who are less aware of/proficient in procedures governing the participation within multilateral institutions, in particular local civil society organizations, grass-roots groups, spontaneous social movements and civil society organizations dealing with marginalized groups;**

(b) **Continue to report on human rights violations and abuses against those engaging or seeking to engage with multilateral institutions.**