

THE STATE OF ARTISTIC FREEDOM 2019  
WHOSE NARRATIVES COUNT?



**FREEMUSE**

Freemuse is an independent international organisation advocating for and **defending freedom of artistic expression.**

We believe that at the heart of violations of artistic freedom is the effort to silence opposing or less preferred views and values by those in power – politically, religiously or societally – mostly due to fear of their transformative effect. With this assumption, we can address root causes rather than just symptoms – if we hold violators accountable.

Our approach to artistic freedom is human rights-based as it provides an international legal framework and lays out the principles of accountability, equality and non-discrimination, and participation.

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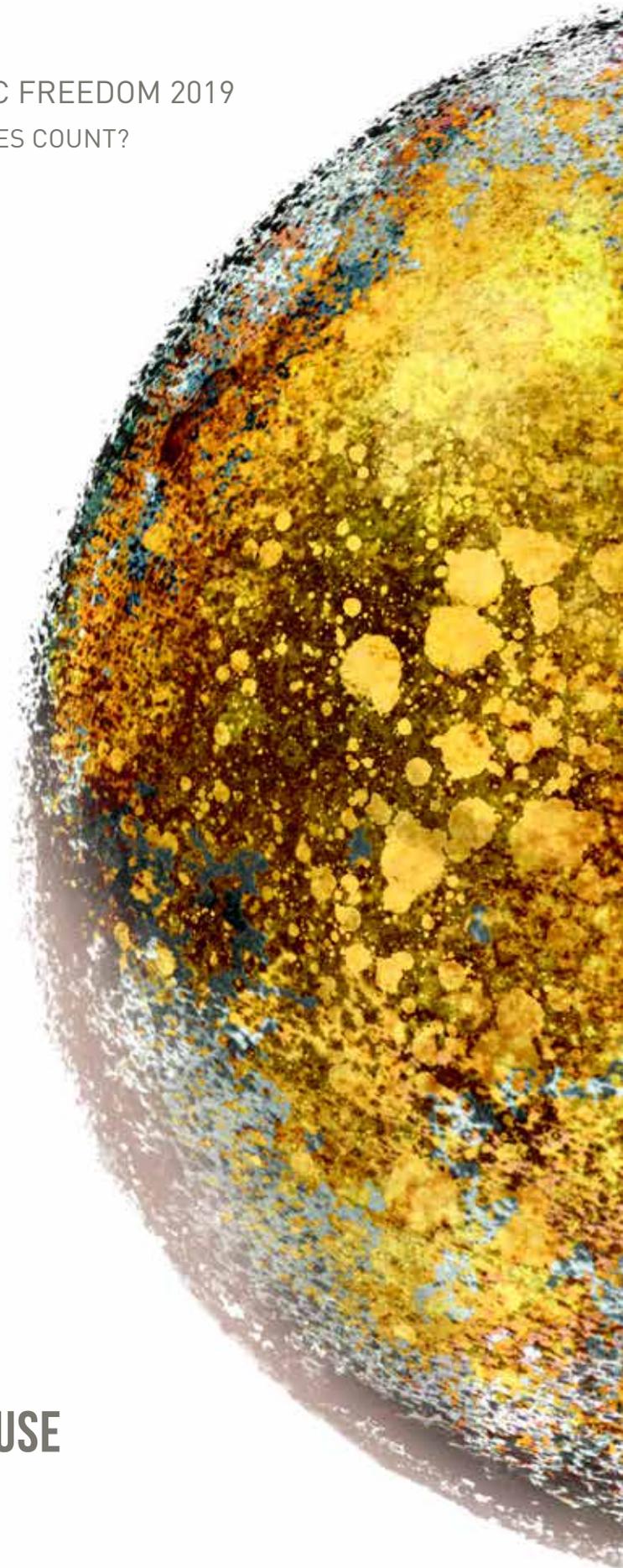
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Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of February 2019. Nevertheless, Freemuse cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

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**FREEMUSE**

“ This is the ‘keep quiet’ message to the opposition groups: Do not write, draw, talk, but obey the message. It is a threat to all intellectuals and artists who openly oppose. It is in our hands to make this threat impossible. Instead of acting according to circumstances and power, **we will insist on defending the values of freedom of thought and democracy without hesitation and fear.** ”

MUSICIAN **FERHAT TUNÇ**, *FREEMUSE* INTERVIEW, 26 SEPTEMBER 2018. TUNÇ WAS SENTENCED TO JAIL IN TURKEY FOR “MAKING PROPAGANDA OF A TERRORIST ORGANISATION”

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# SUMMARY

**Arts and culture are crucial for developing vibrant societies, broadening people's perspectives on different political, cultural and social issues as well as being important indicators of democratic health. Besides expressing their inner feelings and emotions, through arts and culture individuals question the world they live in and often share political ideas. Freedom of creative and artistic expression as such has been recognised as a fundamental human right. Yet, the violations of people's right to express themselves through different art forms have been constantly registered in different corners of the globe, while artists are physically attacked, prosecuted, detained and in other ways intimidated because of the content of their artwork.**

The State of Artistic Freedom report is a research publication produced annually by Freemuse through analytical examination of documented cases of violation of artistic freedom. This year's edition analyses 673 cases which occurred in different cultural spheres in 80 countries throughout the 2018 calendar year. It identifies key challenges for artists' freedom of expression and points out the violation patterns and trends. In addition, it provides analysis of legal, political and social developments occurring in different countries which have significantly impacted the state of artistic freedom and creativity. In order to determine how violations of artists' rights influenced their professional and personal life, this report also contains the findings acquired through a number of interviews conducted with those who were subjected to limitations of artistic freedoms.

This report shows that the intolerance and violence against artists and all who have the right to freedom of artistic expression has been widespread. Freemuse documented that in 2018 four artists were killed—two in Pakistan, one in Brazil and one in Bangladesh. A further 14 artists were attacked. At least 157 artists were imprisoned or detained in 29 countries. Spain, Turkey and Russia jailed the highest number of artists in the Global North,

while China, Egypt, Iran and Cuba jailed the highest number of artists in the Global South. Censorship was practiced in at least 60 countries, affecting 1,807 artists and artworks. Music, film and visual arts were among the top three targeted art forms. Musicians' freedom of expression was limited in 55 countries, with one third of all documented cases concerning musicians occurring in Nigeria, Russia and Turkey. Freemuse also registered on average two attacks on film artistic freedom per week.

These figures, as well as our constant monitoring, show that the culture of silencing artists has been continuously present in different forms in countries of both the Global North and South. Some of the most severe violations of artistic creativity in 2018 occurred in those autocratic countries which systematically limit freedom of expression, while their citizens are, contrary to the international human rights standards, exposed to unlawful prosecution, arbitrary detention and other forms of intimidation and suppression. In other countries, the practice of stifling artists mainly appeared as a mechanism for alleged protection of state laws, public morals, and social and religious norms. In these cases, different actors often misused national legislation by wrongfully limiting freedom of expression or suppressing it in the name of the defence of other human rights.

The state of artistic freedom in 22 countries in different corners of the globe which Freemuse singled out for deeper analysis supports these claims. These countries are: China, Croatia, Cuba, Egypt, Germany, Hungary, India, Iran, Israel, Nigeria, Pakistan, Poland, Russia, Saudi Arabia, Serbia, Spain, Tanzania, Turkey, Uganda, Ukraine, USA and Uzbekistan. They were identified in order to draw attention to alarming trends which occur in them: either because of the high number of documented violations or clear patterns of suppression of artistic freedoms.

The analyses provided in this report exemplify the

targeting of artists on different grounds. Artists were subjected to physical attacks, prosecution, imprisonment, fines, restricted mobility and censorship either because of the content of their artwork or statements made during public appearances or on social media. The top reason artists were targeted was for expressing political opinions in their country, mainly for being critical of governments. This trend was followed by stifling those who through their artworks challenged dominant social, cultural and religious norms.

Freemuse also found that in Israel, Russia, Ukraine, India and Pakistan, freedom of artistic expression was heavily influenced by ongoing conflicts, while China, Turkey and Azerbaijan censored artworks outside their national borders. Apart from being censored, detained and prosecuted under anti-defamation laws, artists in at least nine countries were silenced under counter-terrorism legislations and measures. Freemuse believes that in some of these countries, these practices are illegitimate and highly questionable.

This report also shows that the artworks produced by women, LGBTI and minority artists or dedicated to the issues these groups face in daily life continued to be particularly targeted. China, Turkey and USA were among the countries in which minority-related violations were most frequently registered. LGBTI artists and artworks were attacked in 20 countries, with 56 per cent of cases registered in countries that do not criminalise homosexuality.

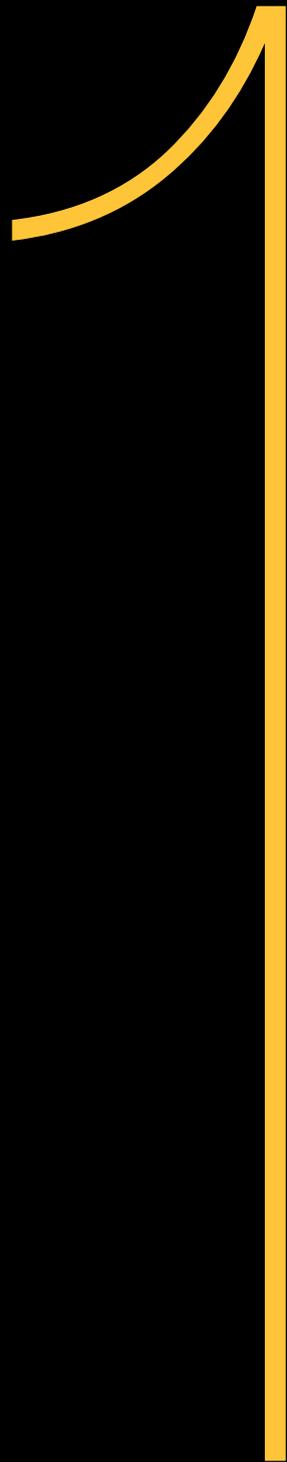
Finally, this report raises attention to the increase in censorship exercised by different social media platforms, as well as harassment artists are exposed to in the digital space. The report points out the need for social media companies to revise their community guidelines so that they better align with international human rights standards.

Upon comprehensive analyses of documented cases which occurred in 2018, Freemuse is concerned that many governments fail to respect freedom of artistic expression. In addition, in those cases where violations were triggered by non-state actors—such as religious authorities, fundamentalist groups and social media companies—state authorities are yet to fulfil obligations in regard of prevention.

In line with the call for accountability for violations of the freedom of artistic expression, in this report Freemuse offers a number of recommendations that aim to combat impunity and create better environments for artists to exercise freedom of expression. The recommendations highlight the need for sufficiently addressing illegitimate legislations and policy measures that are inconsistent with international human rights standards in the first place. Being aware that the protection of artistic freedom requires mutual efforts of different stakeholders, Freemuse calls on the UN and other global and regional bodies, national governments as well as non-governmental organisations and artistic communities to contribute in this regard.

“ My case and my poetry have inspired hundreds of artists around the world. Some have written poems, others have written stories or plays, drawn pictures or composed music for my poem and sang it... **it is proof that art and poetry can neither be restricted nor imprisoned.** ”

PALESTINIAN POET **DAREEN TATOUR**, *FREEMUSE* INTERVIEW, 4 JANUARY 2019. TATOUR WAS SENTENCED TO FIVE MONTHS IN PRISON FOR “INCITING TERRORISM AND SUPPORTING ISLAMIC JIHAD”



CHAPTER 1: THE VISUAL STORY

# INTOLERANCE AND VIOLENCE

FREEMUSE EXAMINED **673 CASES OF VIOLATIONS OF ARTISTIC FREEDOM IN 80 COUNTRIES IN 2018.** THEY SHOW WIDESPREAD INTOLERANCE AND VIOLENCE AGAINST PEOPLE EXERCISING THEIR RIGHT TO FREEDOM OF ARTISTIC EXPRESSION.

## 4 KILLED:

1 MUSICIAN IN BRAZIL  
1 MUSICIAN IN PAKISTAN  
1 DANCER IN PAKISTAN  
1 WRITER IN BANGLADESH

» PAKISTANI SINGER *SUMBUL KHAN* WAS REPORTEDLY MURDERED BY GUNMEN BECAUSE SHE REFUSED TO PERFORM FOR THEM AT A PARTY.

## ATTACKED:

14 attacks on artists or audiences in 11 countries.

## IMPRISONED:

60 artists imprisoned in 13 countries, including 14 in Spain, 11 in China, 9 in Turkey, 9 in Iran, 8 in Egypt, 2 in Russia and 1 in each of the following countries: Israel, Malawi, Malaysia, Oman, Saudi Arabia, Somalia, Tunisia.

» 36 musicians, 17 writers, 3 actors, 3 visual artists, 1 filmmaker.  
» Most had terrorism charges as well as inciting debauchery, insulting the sacred or the president, seditiously splitting the state and inciting subversion of state power.

## DETAINED:

97 artists detained in 25 countries, including: 20 in Turkey, 19 in Cuba, 11 in Russia, 9 in Egypt, 6 in China.

» 24 musicians, 24 actors, 20 visual artists, 13 cultural workers, 9 dancers, 5 writers, 2 filmmakers.

## THREATENED/HARASSED:

**44 artists were threatened or harassed in 19 countries.**

- » 14 musicians, 14 actors, 3 filmmakers, 2 writers, 11 visual artists.
- » Main reasons for threats were related to indecency (43%) and politics (36%).

## SANCTIONED/FINED:

**48 artists were sanctioned or fined in 7 countries.**

## PERSECUTED:

**55 cases of persecution in 26 countries.**

- » 31 musicians, 6 film directors, 5 theatre directors, 6 actors, 4 visual artists, 2 writers, 1 cultural centre.
- » 55% of artists were persecuted for political reasons.

## PROSECUTED:

**37 artists prosecuted in 18 countries.**

- » 16 musicians, 11 actors, 5 visual artists, 4 writers, 1 dancer.
- » 32% of artists were prosecuted for political reasons.

## TRAVEL BAN:

**At least 14 artists experienced travel ban in 9 countries.**

Artists not allowed **IN**: Cuba, Guatemala, Israel, Serbia and Ukraine.

Artists not allowed **OUT**: Cuba, Egypt, Iran, Tanzania and Russia.

## CENSORED:

**286 acts of censorship in 60 countries.**

# ART FORMS *SILENCED* IN 2018

IN MANY PARTS OF THE WORLD ARTISTS AND ARTISTIC FREEDOM DEFENDERS ARE SILENCED FOR THEIR WORK AS THEIR CREATIVITY QUESTIONS POLITICAL NARRATIVES, RELIGIOUS BELIEFS AND SOCIAL VALUES. **THESE FIGURES SHOW THAT THOSE IN POWER ARE GROWING IMPATIENT.**

## MUSIC:

**270** DOCUMENTED CASES IN 55 COUNTRIES

## FILM:

**108** DOCUMENTED CASES IN 35 COUNTRIES

## VISUAL ARTS:

**147** DOCUMENTED CASES IN 37 COUNTRIES

## THEATRE:

**70** DOCUMENTED CASES IN 24 COUNTRIES

## LITERATURE:

**50** DOCUMENTED CASES IN 17 COUNTRIES

## DANCE:

**14** DOCUMENTED CASES IN 9 COUNTRIES

## OTHER ARTISTIC FREEDOM DEFENDERS SILENCED IN 2018:

**14** DOCUMENTED CASES IN 2 COUNTRIES

# PARENTING SOCIETY: CENSORSHIP IN 2018

286 ACTS OF CENSORSHIP IN 60 COUNTRIES

## GLOBAL SOUTH - 38%

IN 32 COUNTRIES, INCLUDING:

CHINA - 15  
INDIA - 9  
PAKISTAN - 8  
UZBEKISTAN - 8  
EGYPT - 5

## GLOBAL NORTH - 62%

IN 28 COUNTRIES, INCLUDING:

USA - 47  
RUSSIA - 24  
UK - 18  
TURKEY - 10  
GERMANY - 7

## ARTFORMS

MUSIC - 32%  
VISUAL ART - 30%  
FILM - 24%  
THEATRE - 8%  
LITERATURE - 5%  
DANCE - 1%

8% of all documented censorship acts in 2018 were done by social media

82% of these cases were on the ground of indecency

# 1807

ARTISTS AND  
ARTWORKS  
AFFECTED BY  
CENSORSHIP

CENSORSHIP  
BOARDS -  
"MORALITY  
POLICE OF  
SOCIETY"

67%  
OF  
CENSORSHIP  
ACTS WERE  
COMMITTED BY  
GOVERNMENT  
AUTHORITIES

FREQUENTLY-USED  
REASONS BY  
GOVERNMENTS  
TO CENSOR  
ARTWORKS:

- Deemed offensive, inappropriate or vulgar
- Encourages the revolution
- Hurts religious sentiments
- Disruption of peace
- Incites public violence, cannibalism or suicide
- Encourages drug use and criminal behaviour
- Glorifies the enemy
- Visual imagery does not match lyrics
- Upon the request of another government

Some governments, including China and Turkey, press their censorship efforts across the globe.

# COUNTER-TERRORISM CURTAILS CREATIVE EXPRESSION

MISUSE OF ANTI-TERRORISM AND ANTI-EXTREMISM LEGISLATION THREATENS FREEDOM OF ARTISTIC EXPRESSION

**19** ARTISTS IMPRISONED



**10** ARTISTS DETAINED



**6** ARTISTS PROSECUTED



**3** ARTISTS PERSECUTED



**2** ARTISTS CENSORED



**SPAIN:**

14 Spanish rappers—Pablo Rivadulla (aka Pablo Hasel), Miguel Arenas Beltran (aka Valtonyc), and 12 members of the La Insurgencia—were charged for “glorifying terrorism” under Article 578 of the Spanish Criminal Code.

**9**

COUNTRIES ARE FOUND TO HAVE USED ANTI-TERRORISM AND ANTI-EXTREMISM LEGISLATION AND MEASURES AGAINST ARTISTS IN 2018.

BELARUS EGYPT GEORGIA ISRAEL NICARAGUA RUSSIA SPAIN TURKEY USA

**40**

ARTISTIC LIVES AFFECTED

**29** **5** **2**

MUSICIANS WRITERS FILMMAKERS

**3** **1**

ACTORS VISUAL ARTIST

**TURKEY:**

13 artists were charged or are still under investigation for allegedly being members of a terrorist organisation or making propaganda of a terrorist organisation. After the failed coup attempt the situation deteriorated and now artists are being prosecuted under Articles 2, 7 and 8 of the Anti-Terrorism Law adopted in April 1991.

# LEGAL, BUT ILLEGITIMATE?

QUESTIONABLE LAWS USED TO SILENCE ARTISTS WORLDWIDE

## UKRAINE

**146** artists were blacklisted and thus banned from entering Ukraine since 2015 under the law "On Amendments to Some Laws of Ukraine on the Protection of the Information Television and Radio Broadcasting of Ukraine" because they "threaten national security" by speaking out in support of violating the territorial integrity and sovereignty of Ukraine.

## EGYPT

**5** artists were prosecuted or detained in Egypt under Law No. 10/1961, on the Combating of Prostitution on charges of **inciting debauchery** with their art or outfit.

## IRAN

**6** artists were imprisoned and **1** prosecuted in Iran under Articles 513-515 of the Penal Code for "insulting the sacred" and "insulting senior officials".

## TURKEY

**4** artists were detained or imprisoned in Turkey under Article 299 of the Penal Code for insulting the President of the Republic.

## NEW CONTROVERSIAL LAWS IN 2018 & 2019

**Cuba:** Decree 349/2018 on the "contraventions of the regulations in the matter of political culture and the carrying out of artistic services", came into effect in December 2018, which criminalises artistic services that are not regulated and recognised by the official cultural institutions in Cuba. At least 14 artists were arrested in Cuba for protesting the law.

**Indonesia:** The Music Bill (RUU Permusikan), drafted in August 2018, will criminalise musicians for "bringing negative influences from foreign cultures and/or degrading human dignity" to Indonesia and for blasphemy.

**Uganda:** regulations to be passed in March 2019 under the Stage Plays and Public Entertainments Act, will require artists to register and obtain artist licenses, and submit their artworks— such as song lyrics or film scripts— to authorities for a vetting process.

ANTI-TERRORISM & ANTI-EXTREMISM

35

ARTISTS WERE CHARGED OR ARE STILL UNDER INVESTIGATION UNDER ANTI-TERRORISM AND ANTI-EXTREMISM LEGISLATION IN 9 COUNTRIES:

Belarus • Egypt • Georgia  
Israel • Nicaragua • Russia  
Spain • Turkey • USA

# 29 DANGEROUS PLACES FOR ARTISTS

157 ARTISTS WERE IMPRISONED OR DETAINED IN 29 COUNTRIES

*Main grounds for imprisonment and detention were related to:*

**56%**

POLITICS,  
MOSTLY CRITICISING  
GOVERNMENTS

**18%**

COUNTER-  
TERRORISM

**12%**

RELIGION

**9%**

MINORITY  
GROUPS

## IMPRISONMENT AND DETENTION WORLDWIDE:

**59%**

GLOBAL SOUTH

(22 COUNTRIES), INCLUDING:

**CHINA: 11 ARTISTS IMPRISONED,**  
*6 artists detained*

**EGYPT: 8 ARTISTS IMPRISONED,**  
*9 artists detained*

**IRAN: 9 ARTISTS IMPRISONED,**  
*3 artists detained*

**CUBA: 19 cases of artists detained**

Malawi	Bangladesh	Nigeria
Malaysia	Chad	Sudan
Oman	Ghana	Tanzania
Saudi Arabia	India	Uganda
Somalia	Liberia	Yemen
Tunisia	Nicaragua	Zambia

**41%**

GLOBAL NORTH

(7 COUNTRIES), INCLUDING:

**SPAIN: 14 MUSICIANS IMPRISONED**

**TURKEY: 9 ARTISTS IMPRISONED,**  
*20 artists detained*

**RUSSIA: 2 ARTISTS IMPRISONED,**  
*11 artists detained*

**ISRAEL: 1 WRITER IMPRISONED,**  
*2 artists detained*

Georgia  
Belarus  
France



# ARTISTS IMPRISONED OR DETAINED IN 2018

**60 MUSICIANS** WERE IMPRISONED OR DETAINED IN 17 COUNTRIES

- » **Turkey:** 4 musicians with Kurdish origin were imprisoned or detained.
- » **China:** 7 minority representatives—2 Uyghurs and 5 Tibetans—were imprisoned or detained in China for expressing political or religious dissent.

**23 VISUAL ARTISTS** WERE IMPRISONED OR DETAINED IN 6 COUNTRIES

- » **Cuba:** At least 14 artists were detained for opposing Decree 349 that institutionalises censorship.

**22 WRITERS** WERE IMPRISONED OR DETAINED IN 10 COUNTRIES

- » **China:** 6 writers were imprisoned or detained, 5 of them for political reasons.

**9 DANCERS** WERE DETAINED IN 5 COUNTRIES, SOME BECAUSE DANCE IS CONSIDERED ILLEGAL OR A RELIGIOUS SIN:

- » **Iran:** Gymnast and blogger Maedeh Hojabri was detained for dancing at home in videos shared with thousands of followers on Instagram. Iranian government laws prohibit women from dancing in public or appearing without a headscarf.
- » **Yemen:** Security forces detained five hip-hop dancers from WaxOn crew and released the dancers after they signed a document saying they would stop dancing hip-hop in public because “it was a religious sin”.

**31 FILM/THEATRE ACTORS AND DIRECTORS** WERE IMPRISONED OR DETAINED IN 8 COUNTRIES, **1/5** OF THEM ON TERRORISM CHARGES:

- » 2 film actors were imprisoned or detained for posting political content on social media in **Bangladesh** and **Egypt**.

**Turkish** police arrested 13 cultural workers at the Istanbul-based NGO Anadolu Kültür (Anatolian Culture)—a non-profit advocating for artistic rights and cultural diversity. They were charged with “creating chaos and mayhem” and “seeking to overthrow the government” for their support of the 2013 Gezi Park protests.

# HARD HITS ON MUSICIANS

THESE 3 COUNTRIES ACCOUNTED FOR 1/3 OF ALL 270 DOCUMENTED VIOLATIONS AGAINST MUSICIANS IN 55 COUNTRIES IN 2018:

## NIGERIA • RUSSIA • TURKEY



### 36 MUSICIANS IMPRISONED IN 8 COUNTRIES:

14 in Spain, 6 in Egypt, 6 in China, 4 in Turkey, 3 in Iran and 1 in each of the following countries: Malawi, Russia, Tunisia

### 24 musicians DETAINED

in 14 countries: China, Cuba, Georgia, Liberia, Nicaragua, Turkey, Chad, Egypt, Malawi, Malaysia, Russia, Sudan, Tanzania, Uganda.

### 16 musicians PROSECUTED

in 8 countries: 6 in Turkey; 2 each in Indonesia, Kenya, Tanzania and 1 each in Egypt, Poland, Russia and Uzbekistan.

Musicians attacked in Russia, Somalia, Uganda, Vietnam and Zambia

### 31 musicians PERSECUTED:

Half of all documented cases are in Russia and Ukraine combined. Others are in Belarus, Croatia, Egypt, France, Guinea, India, Nigeria, Spain, Thailand, Turkey, Uganda, Uzbekistan and Zambia.

### 44 musicians SANCTIONED/FINED:

81% were documented in Nigeria. Others are in Israel, Russia, Tanzania, Turkey and Zimbabwe.

Threats to and harassments of musicians are documented in at least 9 countries: highest number of case were recorded in the USA.



### 92 cases of music censorship documented in 2018, including:

29 songs officially banned, 4 events cancelled.

#### Discrimination in Sweden:

The women-only Statement festival was found guilty of discrimination by Sweden's Discrimination Ombudsman in December 2018.

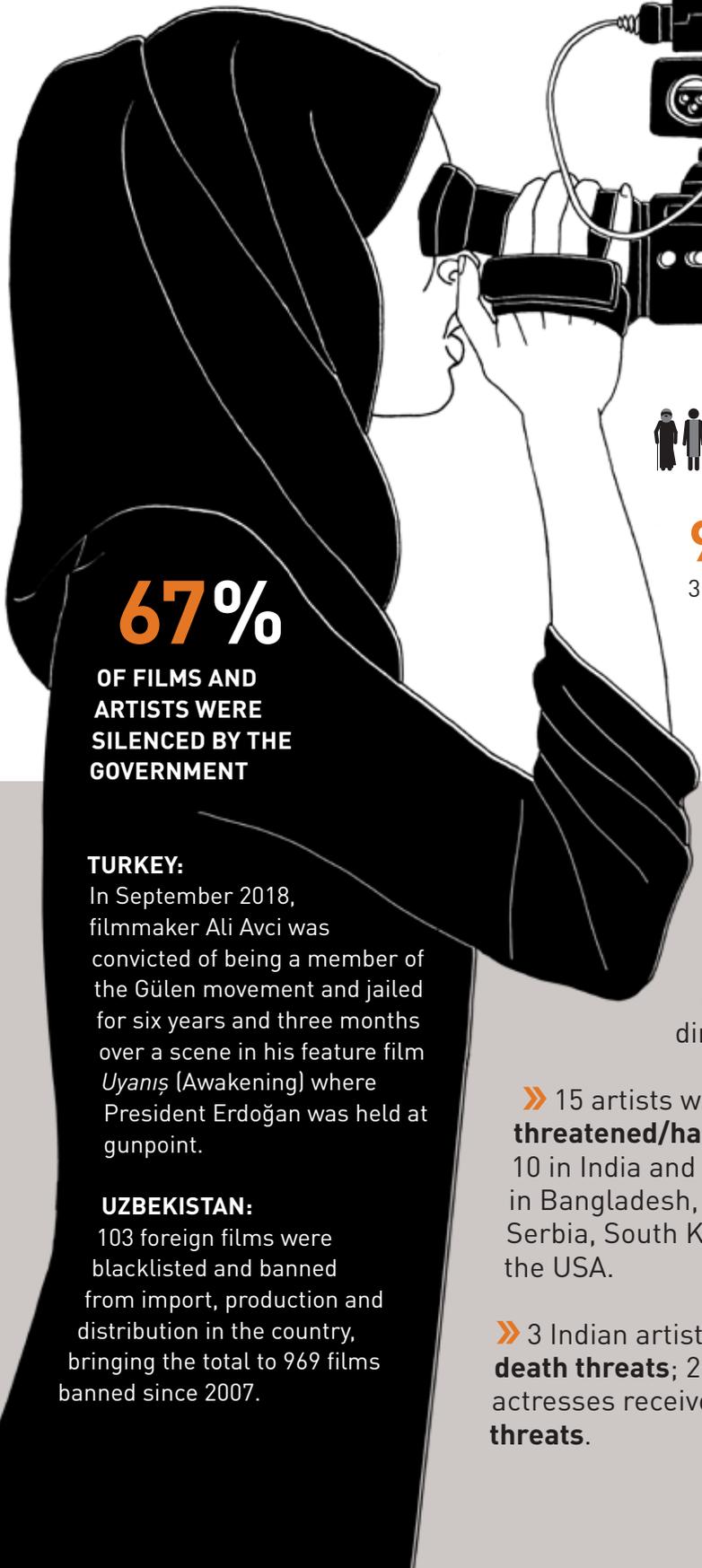
**Pakistan:** Singer Samina Sindhu was shot reportedly for not standing up while singing. She was eight months pregnant.

**Uzbekistan:** Five musicians were advised to reshoot their music videos because the visual imagery did not match the lyrics of their songs.

**Egypt:** Singer Laila Amer was sentenced to two years in prison on charges of inciting debauchery in a music video; similar to pop singer Shyma (Shayma Ahmad) arrested in 2017.

# ACTION TAKEN AGAINST FILM

DESPITE BEING KNOWN FOR GLITZ AND GLAMOUR, THE FILM INDUSTRY EXPERIENCED **108 VIOLATIONS** IN 35 COUNTRIES, AND THE PROBLEM IS NOT GOING AWAY ANY TIME SOON



IN 2018 ON AVERAGE

**2**

**ATTACKS ON FILM ARTISTIC FREEDOM PER WEEK**

**67%**  
OF FILMS AND ARTISTS WERE SILENCED BY THE GOVERNMENT

## TURKEY:

In September 2018, filmmaker Ali Avcı was convicted of being a member of the Gülen movement and jailed for six years and three months over a scene in his feature film *Uyanış* (Awakening) where President Erdoğan was held at gunpoint.

## UZBEKISTAN:

103 foreign films were blacklisted and banned from import, production and distribution in the country, bringing the total to 969 films banned since 2007.



**2 ARTISTS IMPRISONED:**  
1 each in Egypt and Turkey

**9**

**ARTISTS PERSECUTED:** 3 in India, 3 in the USA and 1 each in Iran, Kuwait and Russia



**4 ARTISTS DETAINED:**  
3 in Turkey and 1 in Bangladesh

» 3 actors **prosecuted** in Egypt, Spain and Tanzania; and a Moroccan court ordered the dissolution of Racines, a cultural rights NGO, for hosting two episodes of the show "1 dîner, 2 cons" (1 dinner, 2 dumbs).

» 15 artists were **threatened/harassed:** 10 in India and 1 each in Bangladesh, Croatia, Serbia, South Korea and the USA.

» 3 Indian artists received **death threats**; 2 Indian actresses received **rape threats**.

**67 ACTS OF CENSORSHIP, INCLUDING:**

- 54 movies censored, including 7 Indian films censored in Pakistan
- 1 film festival in Russia and 1 in Belarus cancelled by the government

# SILENCING ARTISTS ON THE STAGE

**70** ACTS OF VIOLATIONS AGAINST THEATRE ARTS IN **24** COUNTRIES



**IMPRISONED:**  
1 ACTOR IN  
TURKEY AND 1  
PERFORMANCE  
ARTIST IN CHINA



**ARTISTS DETAINED:**  
10 IN RUSSIA, 7 IN  
EGYPT, 2 IN IRAN  
AND 1 EACH IN  
CHINA, FRANCE,  
SAUDI ARABIA



**ARTISTS AND 2  
THEATRE PRODUCTIONS  
PERSECUTED:** 2 IN  
SERBIA, 2 IN KOSOVO AND  
1 EACH IN: GERMANY,  
INDIA, SPAIN, UK

**3** ARTISTS **ATTACKED** IN ITALY, UKRAINE, USA

**7** ARTISTS **PROSECUTED:** 3 IN BELARUS, 2 IN  
LEBANON AND 1 EACH IN SPAIN AND SINGAPORE

**2** ARTISTS **THREATENED/HARASSED** IN  
PAKISTAN AND USA

**1** ARTIST ISSUED **TRAVEL BAN** IN RUSSIA

**1** ARTIST **FINED** IN RUSSIA

## **24** ACTS OF CENSORSHIP

**5** ARTISTS WERE **BANNED** FROM THE  
STAGE OR DISMISSED FROM THEIR JOB

- **Kosovo:** Agim Sopi, director of the National Theatre of Kosovo, dismissed after complaining about censorship exercised by the theatre governing board.

**18** PLAYS WERE **CANCELLED:** 72% FOR  
POLITICAL REASONS

**76%** OF ARTISTS AND ARTWORKS WERE  
SILENCED BY THE GOVERNMENT

**EGYPT:** Six people were arrested for their involvement in a play seen as insulting to security forces in Egypt. The play's title is the name of a police conscript, Suliman Khater, who killed seven Israeli tourists in the Sinai Peninsula in 1985.

**BELARUS:** Three of Belarus Free Theatre's 'Studio Fortinbras' students were arrested and fined for "holding an unauthorised mass event" when they dressed as police officers with rainbow epaulettes for a public performance addressing homophobia on in November 2018.

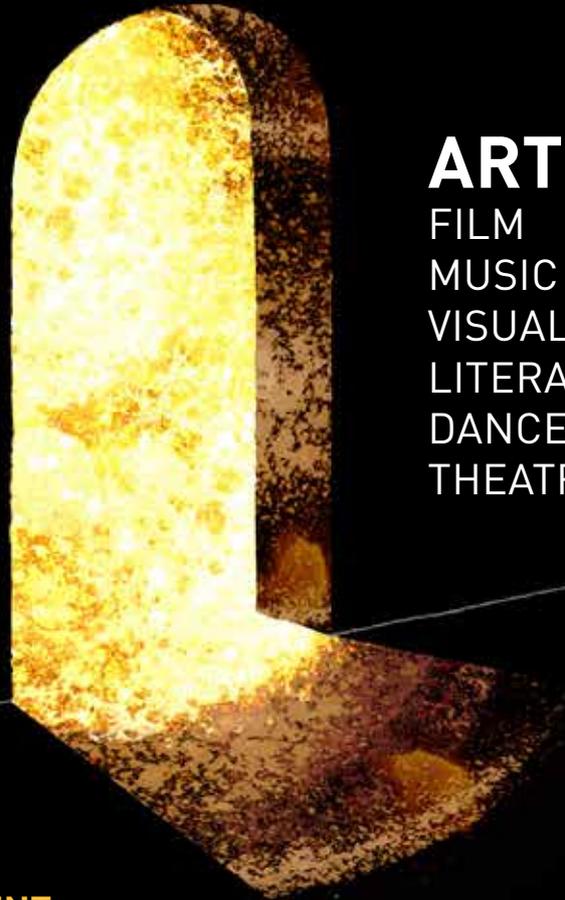
**TURKEY:** Istanbul authorities banned a play 'Just a Dictator', invoking powers granted under the state of emergency imposed after a failed coup attempt in 2016.

# ARTISTICALLY SOUND, RELIGIOUSLY DANGEROUS

THE RIGHT TO FREEDOM OF ARTISTIC EXPRESSION WAS ILLEGITIMATELY RESTRICTED ON THE GROUND OF RELIGION AT LEAST **77 TIMES IN 28 COUNTRIES** IN 2018

## ARTISTS HAVE THEIR ARTISTIC FREEDOM VIOLATED FOR CONTENT:

- Found to be disrespectful of religious symbols and sentiments
- Deemed indecent, vulgar or hate speech from a religious point of view
- Considered a threat of religious extremism by the authorities
- Undermines national values
- Insults the sacred
- Artist believed to be an enemy of the dominant religion
- Dancing deemed a religious sin



## ARTFORMS:

FILM	27%
MUSIC	26%
VISUAL ART	19%
LITERATURE	16%
DANCE	8%
THEATRE	4%

# 69%

## COMMITTED BY GOVERNMENT AUTHORITIES

**10 ARTISTS IMPRISONED IN EGYPT, IRAN AND SAUDI ARABIA**

**9 ARTISTS DETAINED IN CHINA, MALAYSIA, YEMEN AND ZAMBIA**

CHINA: at least 2 Uyghur musicians were sent to re-education camps because of their alleged threat of religious extremism

**6 ARTISTS PROSECUTED IN INDIA, IRAN, POLAND, RUSSIA AND SPAIN**

RUSSIA: An artist was accused of "inciting hatred" against religious believers for a series of satirical images in social media platform VKontakte.

### 1 ARTIST KILLED

BANGLADESH: Shahzahan Bachchu, a writer and outspoken proponent of secular principles, was reportedly killed by Islamist extremists.

### 5 ARTISTS THREATENED/HARASSED IN BANGLADESH, BOLIVIA, INDIA AND USA

INDIA: Bollywood actress Richa Chadha received rape and murder threats after tweeting about Hinduism.

**25 ARTWORKS CENSORED AND 4 ARTISTS FORBIDDEN FROM DOING THEIR JOB IN 16 COUNTRIES**

# ARTISTIC FREEDOM CAUGHT IN THE MIDDLE OF ARMED CONFLICT SITUATIONS

**IN TIMES OF CONFLICT, CULTURAL PRODUCTION SUFFERS THE CONSEQUENCES OF POLITICAL DECISIONS.** CONFLICT IS OFTEN USED AS JUSTIFICATION FOR LIMITING ARTISTIC FREEDOM AND SILENCING ARTISTS CRITICAL TO THE POLITICAL AGENDA.

CONFLICTING COUNTRIES OFTEN SILENCE DISSENT AND THOSE WHO EXPRESS SYMPATHY TO **"THE ENEMY"**.

## RUSSIA & UKRAINE CONFLICT

### RUSSIA

- Ukrainian film director arrested for joining the protest against the annexation of Crimea and sentenced on terrorism charges for a 20-year prison term by a military court.
- Former director of the Library of Ukrainian Literature was given a four-year suspended sentence after being found guilty of "inciting hatred", "embezzlement" and having "extremist literature" at the library.

### UKRAINE

- Three regions banned all Russian-language cultural products, such as books, films and songs, in 2018.
  - National Council of Television and Radio Broadcasting removed 15 Russian TV channels from its broadcasting providers in 2016.
- Parliament has voted to ban all Russian films made since 1 January 2014 as a means to limit "propaganda used by an occupant-state" and defend "national security in the information sphere" in 2016.
- Cultural Ministry continues to maintain a blacklist since 2015 of artists who are seen as a threat to national security and/or support the annexation of Crimea.

## ARMED CONFLICT BETWEEN PALESTINE AND ISRAEL

### PALESTINE

- No registered documentation by Palestinian authorities.

### ISRAEL

- A member of the Decolonize this Place art collective was arrested in January 2018 for their art initiative disagreeing with having Jerusalem as Israel's capital. After a week the case was dismissed by the military court.
- An Israeli court sentenced a Palestinian poet in 2018 to 5 months in prison for "inciting terrorism" for a poem she posted on social media.

## CONFLICT BETWEEN INDIA AND PAKISTAN

### INDIA

- Indian Motion Picture Producers Association (IMPPA) demanded a complete ban for Pakistani artists in March 2018.

### PAKISTAN

- Central Board of Film Censors (CBFC) banned and cut 7 films from India in 2018.
  - Government prohibited importers and distributors from exhibiting and screening Indian films in cinemas two days before, during, and two weeks after Eid.
- In 2018, a court reinstated a 2016 ban on the broadcast of Indian TV and FM radio.
  - Pakistan Film Producers Association (PFPA) demanded a complete ban on Indian films.

# WOMEN

## DENIED RIGHTS TO ARTISTIC FREEDOM

### FREEMUSE DOCUMENTED 48 VIOLATIONS IN 22 COUNTRIES IN 2018

**Discrimination of women by tradition, religion and society were found in 22 countries in 2018:** *Bolivia, Canada, Croatia, Egypt, India, Iran, Kyrgyzstan, New Zealand, Nigeria, Pakistan, Peru, South Korea, Spain, Sudan, Tajikistan, Tanzania, Turkey, Uganda, UK, USA, Uzbekistan and Zambia.*

**39% ASIA & PACIFIC**  
**22% MIDDLE EAST & NORTH AFRICA**  
**15% AFRICA**  
**12% NORTH & SOUTH AMERICA**  
**12% EUROPE**

### MAIN RATIONALES FOR SILENCING WOMEN:

**64% INDECENCY 13% RELIGION 8% POLITICS**

### MAIN VIOLATORS:

**56% GOVERNMENT 25% UNKNOWN**  
**15% SOCIAL MEDIA PLATFORM 4% ARTISTIC COMMUNITY**

### SEVERE VIOLATIONS:

**2** women artists were **killed** in Pakistan reportedly for refusing to perform a certain way

**5** women artists were **imprisoned**: 4 in Egypt and 1 in Iran

**2** Imprisoned Egyptian musicians were **charged** for inciting debauchery in a music video

**6** women artists were **detained**, all for being deemed indecent or making indecent art: 3 in Iran and 1 each in Sudan, Tanzania and Zambia

## SOCIAL MEDIA

Out of all the violations registered by Freemuse in the digital space, **40%** were against women-related art – all deemed indecent

**IRAN:** An artist was detained for dancing in a video she shared with her followers.

**KYRGYZSTAN AND TAJIKISTAN:** 2 women artists were threatened online for speaking up about women rights in Central Asia through their art.

At least 7 artists experienced their posts or entire pages deleted on social media for posting art featuring nude women or women breasts.

### MOST COMMON REASONS FOR DENYING WOMEN'S RIGHT TO ARTISTIC FREEDOM:

Performance or a music video had **SEXUAL OVERTONES**

Performance or an image contained **NUDITY OR WOMEN'S BREASTS**

Women should not be on stage or perform **IN FRONT OF, OR WITH, MEN**

Wearing **INDECENT** clothes

# LGBTI TARGETING THE RAINBOW

LGBTI ARTISTS AND ART WERE CHALLENGED IN AT LEAST **20 COUNTRIES IN 2018**, AND IN 8 OF THE COUNTRIES HOMOSEXUALITY IS CRIMINALISED

*LGBTI artists and artwork are attacked in countries that both criminalise and do not criminalise homosexuality*

COUNTRIES WHERE HOMOSEXUALITY OR ITS PROMOTION ARE CRIMINALISED

**44%** of violations in 10 countries

THERE IS NO LAW CRIMINALISING HOMOSEXUALITY

**56%** of violations in 10 countries

*LGBTI artists and communities have their artistic freedom violated for content:*

- Deemed indecent or obscene
- That talks about LGBTI issues
- Created by LGBTI people

**68%** of violations were committed by **governments** in 16 countries, 7 of which do not criminalise homosexuality.

## ARTFORMS

MUSIC – **32%**

FILM – **24%**

VISUAL ART – **20%**

THEATRE – **15%**

LITERATURE – **7%**

DANCE – **2%**

# VOICES OF MINORITIES

VULNERABLE AND SILENCED



**ARTISTS HAVE THEIR ARTISTIC FREEDOM VIOLATED:**

**29%** FOR BEING RELATED TO RACIAL ISSUES  
**15%** ON TERRORISM RELATED CHARGES  
**6%** FOR SEDITIOUSLY SPLITTING THE STATE

“ The fight that you take on is for everyone’s benefit, but not everyone externalises their support even when deep inside they think like you, because they fear losing a job or they are terrified of the machinery that the regime unfolds to end their lives. ”

VISUAL ARTIST **LUIS MANUEL OTERO ALCÁNTARA**, *FREEMUSE* INTERVIEW, 15 FEBRUARY 2019. OTERO ALCÁNTARA HAS BEEN ARRESTED MULTIPLE TIMES WHILE PROTESTING CUBA'S DECREE 349



CHAPTER 2: WHOSE NARRATIVES COUNT? PATTERNS AND TRENDS  
OF VIOLATIONS OF ARTISTIC FREEDOM IN 2018

# WHOSE NARRATIVES COUNT?

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*"Thank you, Mr. President. This statement is read on behalf of a group of 53 states.*

*...Those who suppress artistic expression fear its transformative effect. We have seen artistic expressions and creations come under attack because they convey specific messages and articulate symbolic values in a powerful way. There are many reasons used, wrongly, to silence artists, to quell their music, to hide their works from the world. Reasons for censorship include the suppression of political dissent and of different values or beliefs. Women and persons belonging to minority groups are often affected most.*

*Artists in many parts of the world are facing violations of their human rights. In some cases, artists are even murdered, beaten, facing death threats, arbitrarily detained, their work censored or criminalised, their art and instruments destroyed. We condemn such violations. We strongly believe that reactions to controversial artwork should be expressed not through violence but through dialogue and engagement that are based on the exercise of the rights to freedom of expression and peaceful assembly. States must protect against and ensure accountability for violations of the right to freedom of expression.*

*We will continue to defend the right to freedom of expression, including artistic and creative expression, wherever it is threatened.*

*We believe that this important topic merits the continued engagement of this Council and we look forward to doing so in a constructive manner.*

*Thank you Mr. President."*

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This is a part of the statement supported by 53 states delivered by the Permanent Mission of Latvia to the UN 30th session of the Human Rights Council in 2015. The statement gives a comprehensive picture of challenges faced by artists and everyone who has the right to enjoy arts and creativity. It also shows that artistic freedom has been recognised by states at one of the most important gatherings on human rights.

Yet in 2018, Freemuse illustrated in its first *State of Artistic Freedom* report that evidence shows "a global culture of silencing others" is being formed by states and non-state actors including religious bodies, fundamentalist groups, social media, and individuals. Such a phenomenon is enabled by questionable laws, policy measures and law enforcement.

In the context of low levels of tolerance driven by anti-others politics, behind most cases of censorship and other forms of violations of artistic freedom are clashes of reality and narratives between individuals and groups. Artists from political, religious, social, ethnic and sexual orientation minorities are often vulnerable to the rules and mechanisms set up by those in power to silence different narratives.

The state of artistic freedom is a report of battles of reality and narratives between those with institutional power and those without. The rules of engagement and international human rights standards are often compromised as storytellers of alternative narratives fall victim.

In reviewing 673 cases from 80 countries in this report, it is evident that the right to artistic freedom

has been denied on various grounds including opposing the governments, hurting religious feeling, indecency, national security and counter-terrorism. Artists in the global north and south are detained, prosecuted and imprisoned for exercising their rights; others are censored, attacked and harassed. Women, LGBTI and minority artists and art communities are particularly vulnerable depending on the level of intolerance in specific countries.

States have three legal obligations: *respect*, *protect* and *fulfil* artistic freedom. That is, *respect* human rights by not committing violations; *protect* against violations by third parties; and *fulfil* the obligation by providing resources and infrastructure for cultural and artistic expression.

This chapter begins by outlining concerns on violations of artistic freedom by the state. Evidence shows that states use legislation and policy measures to restrict artistic freedom in ways that are inconsistent with international human rights standards. This becomes a worrying trend as new restrictive measures are developed or already put in place in 2018 including in Cuba, Indonesia and Uganda. Laws and by-laws in many countries continue to restrict artistic freedom in the name of defamation or insulting the heads of state and government, despite international legally-binding human rights standards that state “all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition.”<sup>1</sup>

At least nine governments use anti-terrorism measures to censor, detain, prosecute and imprison artists. There are concerns about the uses of these

measures in a number of cases. Several governments restrict artistic freedom by using fines and financial measures directly and indirectly against artists and art communities. Others use travel restrictions and visa bans to control performances and unwanted messages from artists.

The second part focuses on concerns over illegitimate restrictions of artistic freedom in specific situations. This includes in armed and post-armed conflicts where narratives deviating from governments’ nationalistic tones are subjected to censorship, prosecutions and other forms of restrictions. While governments use restrictive and questionable cultural policies that serve as a defence mechanism against those considered as enemies or supporting enemies, others use diplomatic channels to silence their own artists from spreading messages abroad.

There is little evidence of improvement to restrictions of artistic freedom related to religion—which often result in severe punishment against artists and art communities—and restrictions of artistic freedom on social media, which continued to be documented at an alarming level. Social media companies’ community guidelines are yet to be in line with human rights standards.

The third part examines artists and groups vulnerable to attacks and denial of the right to artistic freedom. Women artists are imprisoned for expression deemed indecent, others are attacked and harassed online and off-line. LGBTI artists and communities remained target for censorship and attacks in countries that criminalise and do not criminalise same-sex relations. Cultural and artistic expression from minorities faced restrictions in the global north more than global south in terms of number of cases in 2018.

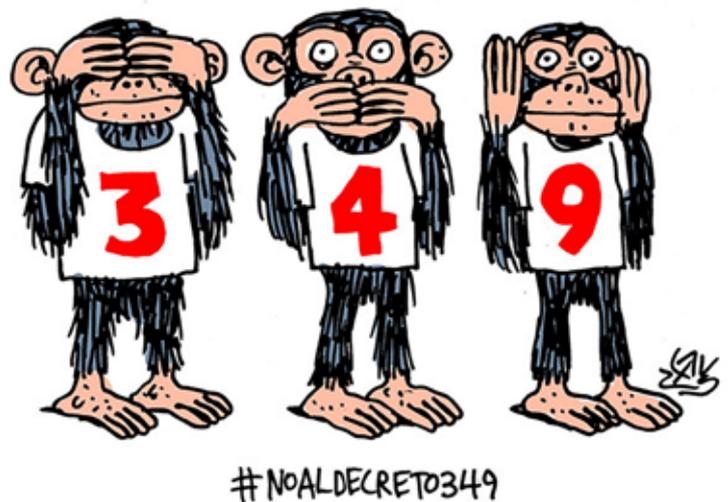
# 1. CONCERNS OF RESTRICTIONS BY THE STATE

*"If we don't start to fight the situation now, it will be too late. Art cannot exist without an independent agenda. The moment someone dictates to you, it is no longer art, but propaganda."*

ISRAELI ILLUSTRATOR ZEEV ENGELMAYER, *I24 NEWS*, 26 NOVEMBER 2018

## RESTRICTIVE LAWS

In 2018 a number of governments across the globe introduced new legislation and state policies that endangered and undermined the right to freedom of artistic expression. These measures continue to shrink the space for artistic creation and complicate the conditions under which artists produce and promote their artworks. In Saudi Arabia and Rwanda, new regulations bizarrely targeting all forms of satire were brought into effect. Authorities in several countries dedicated efforts to legally prevent "indecent" behaviours, often under the guise of wanting to protect culture. Some of the regulations adopted in 2018 introduced mandatory licensing, forcing artists to register and be regulated by a central governmental entity and pay registration fees. Such measures affected both domestic as well as foreign artists and placed additional financial obstacles for presenting artworks in public. Freemuse also documented ongoing initiatives and proposed plans to pass restrictive laws in a number of countries, which are yet to be approved by legislative bodies. Support for some of these initiatives was growing and their likely adoption in the near future was a strong possibility, sending worrying signals about how states are increasingly prone and willing to curb fundamental freedoms such as freedom of expression.



*#NoAlDecreto349 by Alen Lauzán. Image courtesy of the artist*

## CUBA AND ISRAEL: INTRODUCING LEGISLATION WHICH LEGALISES GOVERNMENT CENSORSHIP

On 7 December 2018, Cuban authorities introduced Decree 349, which censors any form of artistic production unless it is authorised by the state. The law, which was signed by President Miguel Díaz-Canel in April 2018, prevents independent artists from presenting their artworks in public or private spaces without prior approval from the Ministry of Culture. The Decree prescribes fines and seizure of



Cuban artists protesting Decree 349 in Havana. Credit: Laritza Diversent

property for visual, written, audio and video artists selling their artworks who are found to have broken the law. This applies especially in cases where artists have included national symbols—such as the national anthem or flag—in their artwork or use content which the authorities deem “damages ethic and cultural values”, or is thought to have abused its “use of electronic equipment or media”.<sup>2</sup>

The failure of the state to provide clear criteria for assessing who is in violation of its new provisions provides the authorities enormous scope to bring criminal charges against artists. Furthermore, the procedural requirements stipulated within the Decree do not allow for appeals to be heard in the courts but instead filed exclusively with the Ministry of Culture.<sup>3</sup> Since July 2018, when the government published the text of the decree in the Official Gazette, groups of artists held a series of protests and were subsequently arrested and detained.<sup>4</sup>

In November 2018, the legislative branch of the Israeli government—the Knesset—was scheduled to vote for the adoption of a law allowing the government to revoke funding from cultural institutions that question Israel as a Jewish and democratic state.<sup>5</sup> This proposal linking public funding of culture institutions with their unquestioning loyalty to the state was initiated by the Culture Minister Miri Regev. The controversial bill was scheduled to be brought to a final vote, but on 26 November

2018 it was postponed after being pulled from the parliamentary agenda due to a lack of necessary political support amid a wider political crisis in the Knesset which left the government with a majority of one seat.<sup>6</sup>

The proposal, often referred to as the ‘Cultural Loyalty Law’, also faced stiff public opposition, with thousands of Israelis protesting for months on end. A day before the Knesset was due to vote on it, artists based in Tel Aviv launched a protest “Burning Art: Artists against the Loyalty Law” calling on colleagues who work with materials to burn their artworks, or alternately to display them in public.<sup>7</sup>



Artists burn artworks in Tel Aviv Square to protest ‘Cultural Loyalty’ Bill. Credit: Haaretz on YouTube

## SAUDI ARABIA AND RWANDA: CRACKING DOWN ON DISSENT EXPRESSED THROUGH SATIRE

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*“Any person who, verbally, by gestures or threats, in writings or cartoons, humiliates a member of Parliament when exercising his/her mandate, a member of the Cabinet, security officers or any other person in charge of a public service in the performance or in connection with the performance of his/her duties, commits an offence. [...]”*

ARTICLE 233, RWANDAN CRIMINAL CODE

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On 3 September 2018, the Saudi Public Prosecutor announced on Twitter that publishing satire in all forms on social media would be punished with a fine or imprisonment. Persons found to have produced or distributed social media content which “mocks, provokes or disrupts public order, religious values and public morals” would risk imprisonment up to five years and a fine of three million riyals (about 700,000 euros).<sup>8</sup> For more, see the Saudi Arabia section in Chapter 3.

Similarly, in Rwanda, revisions to the Criminal Code have now criminalised drawing cartoons or producing writing that “humiliates” a government official; these modifications came into effect on 27 September 2018. Anyone found in breach of article 233 of the Rwandan Criminal Code will face a minimum of one year and up to two years in prison, and a fine of up to one million Rwandan francs (about 1000 euros), but if a cartoon mocks a top-ranking official, the penalty is doubled.<sup>9</sup>

## CHINA, INDIA AND TURKMENISTAN: COMBATING INDECENCY THROUGH NEW LEGISLATION

In January 2018, China’s state media regulatory body, the State Administration of Press, Publication, Radio, Film and Television of the People’s Republic

of China banned programs featuring non-mainstream, “decadent” culture, including hip-hop. This was part of a set of directives establishing a list of dos and don’ts that artists shall adhere to when appearing on radio and television; another of the directive’s premises was the ban on tattoos from public display. This directive is to be applied to “tasteless, vulgar and obscene” artists, those with “problematic moral integrity” and “low ideological level”.<sup>10</sup> The catalyst for this prohibitive regulation came after an incident in which the authorities specifically

targeted hip-hop artists Wang Hao (known as PG One) and Zhou Yan (known as GAI) for “bad” behaviour. This included “distasteful” lyrics, which triggered a forced apology by the artists and a wave of official criticism which saw their avenues for distributing their content decimated.<sup>11</sup>

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*“Absolutely do not use actors whose heart and morality are not aligned with the party and whose morality is not noble. Absolutely do not use actors who are tasteless, vulgar and obscene. Absolutely do not use actors whose ideological level is low and have no class. Absolutely do not use actors with stains, scandals and problematic moral integrity.”*

GAO CHANGLI, DIRECTOR OF THE STATE ADMINISTRATION OF PRESS, PUBLICATION, RADIO, FILM AND TELEVISION OF THE PEOPLE’S REPUBLIC OF CHINA’S PUBLICITY DEPARTMENT.

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On 31 March 2018, a culture commission was set up in India’s Punjab state in order to eradicate vulgarity and content that promotes violence and drugs in music. Cultural Minister Navjot Singh Sidhu announced that the commission’s mandate would be to ensure that the provisions from the Indian Penal Code concerning obscenity, glorification of drugs and violence are not violated.<sup>12</sup> Musicians

whose songs appear indecent will be invited for counselling before the commission, but if they fail to comply with the given instructions, they risk facing criminal charges.

Cultural Affairs and Tourism Minister Navjot Singh Sidhu said the commission's recommendation would be mainly based on Sections 290 and 294 of the Indian Penal Code (IPC), and on Sections 67 and 67A of the *Information Technology Act, 2000*. The enforcement of these provisions with a dedicated commission may be problematic due to the character of the Sections themselves; for instance, Section 294 of the IPC penalises "whoever, [...] sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."<sup>13</sup>

On 5 January 2018, Turkmenistan's President Gurbanguly Berdimuhamedov signed a law prohibiting sex, violence and "bad habits" from featuring in films and TV programs. The government asserted that this law would protect minors from exposure to "information which has negative impact on their physical, mental or moral development".<sup>14</sup> In addition, it is reported that government authorities endorsed this measure as part of their efforts to protect national interests and support the creation of "a positive image" of Turkmenistan, a country which exercises strict control on all types of media, including cable and satellite television.

## KENYA AND SEYCHELLES: IMPOSING MANDATORY LICENCES WHICH MAY ENABLE PRE-CENSORSHIP

Chapter 222 of the Kenyan *Film and Stage Plays Act* requires films made for public consumption to have a filming licence; it was passed in November

**KENYA FILM CLASSIFICATION BOARD**

**PUBLIC NOTICE**

**REQUIREMENTS FOR FILMING IN KENYA AND PENALTIES FOR NON-COMPLIANCE**

Kenya Film Classification Board (KFCB) is a State Corporation established under the Film and Stage Plays Act Cap 222 to regulate film and broadcast content at the creation, broadcast, distribution, exhibition and possession levels by imposing age restrictions in order to promote our national values and culture, as well as to protect children from exposure to harmful content.

It has come to our attention that there are some filmmakers, both local and international, operating in the country without filming licenses. In this regard, the Board would like to inform all film agents, producers, and the general public that:

1. Creation of any film meant for public exhibition without a filming license from KFCB is illegal (**Section 4 (1) of Cap222**).
2. Any person guilty of this offense contravenes the law and shall be liable to a fine not exceeding **Ksh100,000** or imprisonment for a term not exceeding **five (5) years**, or both (**Section 32 of Cap222**).
3. Where the offense is committed by a company or other body corporate, or by a society, association or body of persons, every person charged with, or concerned or acting in, the control or management shall be guilty and liable to be punished accordingly (**Section 34 of Cap222**).

By way of this **ANNOUNCEMENT**, the Board hereby issues a fourteen (14) days' **NOTICE** to all offenders and defaulters to comply with the provisions of the **Film and Stage Plays Act Cap222**. At the expiry of this **NOTICE**, the Board will proceed to institute legal proceedings against the offenders in line with the law.

The Board pledges to continue offering efficient and timely services to its customers in line with the law and our service charter.

For further information and enquiries please reach us on:

Telephone: **(020) 2250600/ 2241804 / 0711222204 / 0773753355**  
 Website: [www.kfcb.co.ke](http://www.kfcb.co.ke)  
 Email: [info@kfcb.co.ke](mailto:info@kfcb.co.ke)

OR

**Dr. Ezekiel Mutua, MBS,  
 Chief Executive Officer,  
 Kenya Film Classification Board  
 Uchumi House 14<sup>th</sup> & 15<sup>th</sup> Floor  
 P.o. Box 44226-00100 Nairobi.**

CEO of the Kenya Film Classification Board Dr Ezekiel Mutua, MBS, on Twitter

1962 and entered into force nearly a year later.<sup>15</sup> In line with this provision, on 14 May 2018, the Kenya Film Classification Board (KFCB) issued a public notice that the creation of any film meant for public exhibition without a valid filming licence is illegal. Anyone found to have breached the law is liable to a fine of up to 100,000 Kenyan shillings (about 870 euros) or face imprisonment for up to five years or both. In the notice, KFCB gave filmmakers 14 days to comply with the law before legal proceedings would be initiated.<sup>16</sup>

*"We feel strongly that KFCB has become too obsessed with introducing fees for every work of art thereby curtailing every effort of industry players both existing and upcoming to eke a living from creative content."*

KENYA FILM COMMISSION STATEMENT

The notice issued to filmmakers caused huge controversy and outrage, and the Kenya Film Commission issued a statement criticising the KFCB over its insistence to introduce fees for every artwork. Artists requested clarification on whether this provision also applies to content posted on social media. Although initially the KFCB claimed that it was also in charge of this content, its head Ezekiel Mutua later clarified that people do not need a licence to post private videos on social media, but KFCB will monitor the content for unlawful activities such as terror and child abuse.<sup>17</sup>

In January 2018, the Seychelles' Creative Industries and National Events Agency (CINEA) proposed a new regulation which will require foreign artists to apply to perform in its territory. Besides requesting approval for the participation in a cultural event, CINEA proposed the introduction of taxes for performances, recalling the practice of some other countries, such as Mauritius. While those who have drafted this regulation believe it will allow authorities to have a clearer idea of who is performing in the Seychelles—particularly foreigners, who also stand to financially benefit from it—professionals in the cultural industry fear that it will deter foreign artists from performing in the country altogether.<sup>18</sup>

## DEFAMATION AND INSULTS TO STATE AUTHORITIES AND SYMBOLS

Artists were tried for allegedly offending heads of state through their artwork or their political engagement. In many countries across the regions, offences and insults against domestic or foreign heads of state and other public officials are prohibited by defamation laws that tend to undermine crucial rights to freedom of expression all too often.<sup>19</sup>

There were a number of cases where defamation laws were abused against artists (see the Egypt and Turkey sections in Chapter 3 for specific cases). Freemuse also registered cases in which artists were prosecuted or persecuted on the grounds of offending state symbols and authorities on a broader scale. In the majority of these cases, charges were levelled at creators of satirical content, but other forms of artistic expression were not excluded.

### LEBANON: CRIMINAL CHARGES FOR MOCKING THE SAUDI PRINCE AND LEBANESE PRIME MINISTER

In February 2018, Lebanese comedian Hicham Haddad faced criminal charges of libel and defamation of a foreign leader under Article 23 of Law 104/77 for two episodes of his TV program *Lahon W Bass*, Lebanon's most watched satirical show.<sup>20</sup> In the show, the comedian allegedly mocked Saudi Crown Prince Mohammed bin Salman, Lebanese Prime Minister Saad Hariri and the Lebanese judiciary. In the first televised episode which drew the attention of the Public Prosecutor's office, Haddad is seen counselling the prince on



TV show host and comedian Hicham Haddad at the set of *Lahonwbas*. Credit: *Lahonwbas*

his plans for the New Year in which Haddad appears to be berating him for policies which have also drawn global attention. “With everything happening in the region, your advice is that he give up hamburgers? I advise him to stop the fast policies, the fast campaigns, the fast military strikes! But fast food? Why do I care?” said the comedian.<sup>21</sup> After the episode was aired, Lebanese State Prosecutor Judge Samir Hammoud filed charges of libel and defamation of a foreign leader against the artist. In response, in his next episode, Haddad wore a prison uniform and mocked the prosecutor by singing a song where he told him to investigate Lebanon’s failure to pick up its garbage instead, while a belly dancer was dancing suggestively in the background. After this show, the High Judicial Council called for additional charges for damaging the judiciary’s reputation. Haddad’s case was among dozens of prosecution cases against comedians, journalists and activists in what has been identified as a rapidly shrinking environment for free expression.<sup>22</sup>



Los Gatillazo at the Teatro de las Esquinas in Zaragoza on 20 May 2016. Credit: Gaudencio Garcinuño

## **SPAIN: ARTISTS FACING CRIMINAL CHARGES FOR DISRESPECTING POLICE AND NATIONAL FLAG**

In May 2018, punk musician Evaristo Páramos from the band Gatillazo was detained by the Spanish Civil Guard after his concert at the Primavera Trompetera Festival in Jerez de la Frontera. Over the course of the concert, Páramos reportedly shouted obscenities about the police, stating the Spanish equivalent of “fuck the police”. The police filed a complaint against him for allegedly violating the Organic Law for the Protection of Public Security, by showing “lack of respect and consideration” towards police and other state authorities.<sup>23</sup> On Twitter, the Spanish Civil Guard clarified that Páramos had not been under arrest, but was merely detained while being identified and notified of the complaint procedure being initiated against him. This was later confirmed by the Spanish government, which

said that an investigation was initiated against the artist to determine whether a violation of the law had occurred.<sup>24</sup>

On 26 November 2018, Dani Mateo, a Spanish comedian and host of popular satirical TV show *El Intermedio*, appeared in a court in Madrid, accused of a hate crime and insulting the flag during a TV sketch where he blew his nose on the Spanish flag. The complaint against Mateo for allegedly “offending Spain, its symbols, and thereby, the entire democratic society” was filed by Alternativa Sindical de Policía, a labor union representing members of the National Police.<sup>25</sup> Offences under Article 543 (public affront to the symbols of Spain) and Article 510 (hate crime) of the Spanish Criminal Code carry penalties of a fine and up to four years in prison, respectively. The cases against Mateo were dropped in January 2019, with a judge finding no evidence that a crime had been committed.<sup>26</sup>

In addition to the legal prosecution he faced, the artist had to endure a number of threats, which pushed him to stay off social media. One of the threats came from Javier Celaya Brey, the Minister of Culture and Education of the Ceuta regional government (a Spanish autonomous city in Northern Africa). The threat from Brey—who is related to former Spanish president Mariano Rajoy—was posted on Facebook and stated that he was considering offering 1,000 euros from his own pocket to whoever “breaks Dani Mateo’s face”.<sup>27</sup> After facing huge public backlash, Brey deleted the post and apologised, adding that the comment was taken out of context.

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*“He wasn’t challenging the state at all, nor was he inciting against it. He wasn’t even speaking about it. He was ignoring its presence.”*

CARTOONIST **ANDEEL** ON SHADY ABU ZEID, *MADA MASR*, 11 NOVEMBER 2018

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## ARTISTS PROSECUTED ON COUNTER-TERRORISM CHARGES

The increasing and pernicious threat of terrorism across the globe has been paralleled with an increasing misuse of anti-terrorism legislation by governments, which in some countries has been matched by the suppression of fundamental freedoms.<sup>28</sup> Artists have also been caught up in this political turmoil. In 2018, Freemuse documented the prosecution of at least 40 artists in at least nine countries on often spurious charges of inciting extremism and terrorism or supporting alleged terrorist organisations. These artists were largely targeted because of the content of their artwork, their professional participation in public events—some of which the authorities believe were held in support of terrorist activities—or for their statements expressed in media. Turkey, Spain, and Egypt are some of the countries Freemuse believes misused anti-terrorism legislation in 2018.

### **TURKEY:** TARGETING ARTISTS OVER ALLEGED ASSOCIATION WITH FETÖ AND PKK

When Turkey’s state of emergency following the 2016 attempted military coup formally ended in July 2018, the Turkish Parliament subsequently approved new counter-terrorism legislation which further strengthened the power of the authorities to threaten, detain and prosecute dissenters.

These new measures were, in practice, granting authorities powers which were very similar to those that were bestowed upon them under the state of emergency.<sup>29</sup> Among thousands of people tried on terrorism-related charges, at least 13 artists were charged

or are under investigation for being members of, or making propaganda of, a terrorist organisation on the grounds of their artistic expression.

Turkish authorities have largely arrested artists, among many others, because of what the authorities assert to be their alleged association with the illegal Fethullahist Terrorist Organisation (FETÖ), often referred to as the Gülen movement, after the US-based cleric Fethullah Gülen (for more, see the Turkey section in Chapter 3). This organisation has been blamed for the failed coup in 2016, which has been the trigger for this intensified clampdown on dissent across all sectors of society. Artists were also prosecuted over their alleged connection with the outlawed Kurdistan Worker’s Party (PKK; listed as a terrorist organisation by Turkey, the United States and the European Union), and pro-Kurdish Peoples’ Democratic Party (HDP), the second-largest political opposition party in Turkey, which the Turkish authorities accuse of being linked to the PKK.



*Turkish pop singer and journalist Atilla Taş was sentenced to 37 months in prison on charges of “knowingly and willingly aiding an armed terrorist organisation as a non-member”. Credit: Atilla Taş on Facebook*

In March 2018, the İstanbul 25th High Criminal Court sentenced pop singer and journalist Atilla Taş to 37 months in prison on charges of “knowingly and willingly aiding an armed terrorist organisation as a non-member” under Article no. 220/7 of the Turkish Penal Code.<sup>30</sup> An appeals court upheld this decision in September and on 9 November the musician was arrested and sent to Metris Prison.<sup>31</sup> Taş’ arrest was in connection to his work at the *Meydan Daily* as a columnist; the news outlet was shut down following the failed coup in July 2016 and its top editors were arrested as part of a wider crackdown on media outlets. Taş had previously been arrested by the Turkish authorities in 2016, on two occasions: one over a tweet that was critical of then-Prime Minister Ahmet Davutoğlu, and another one over his song *Hırsız* (Thieves), which was allegedly used as an anthem by critics of the Erdoğan regime. On 8 February 2019, it was reported that Taş was released from prison; these reports are based on his lawyer’s tweet announcing the release.<sup>32</sup> The early supervised release has been possible due to the time that the artist had already spent behind bars during the judicial process.

## SPAIN: SILENCING RAPPERS ON THE GROUNDS OF ANTI-TERRORISM

Over the course of 2017, Freemuse documented at least 13 rappers who faced prison sentences in Spain on charges of “glorifying terrorism”. In two separate court cases, rap group La Insurgencia and rapper Valtonyc were both prosecuted over the lyrics of their songs, deemed to express support and glorifying now-defunct terrorist groups. In 2018, these cases continued as both parties appealed their sentences.

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*“I feel good, I am happy. But I am sad for the people in Spain, who unlucky, they don’t have justice like me here.”*

RAPPER VALTONYC, AFTER BELGIUM RULED OUT HIS EXTRADITION, ASSOCIATED PRESS, 17 SEPTEMBER 2018

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*Rapper Valtonyc (right), who is currently in Belgium fleeing a three-and-a-half year prison sentence for his lyrics; and rapper Elgio (left) from rapper group La Insurgencia, whose members were condemned to two years in prison and later reduced to six months under appeal. Credit: Fotomovimiento on Flickr*

On 20 February 2018, rapper Valtonyc (real name Jose Miquel Arenas Beltrán) was sentenced to three years and six months in prison, a fine of 3,000 euros and a ban from holding public office for eight years. He was convicted of glorifying terrorism and insulting the Spanish royal family in his lyrics.<sup>33</sup> He appealed the sentence handed down to him on 22 February 2017 by the Spanish National Court, but the Appeals Chamber of the National Court subsequently upheld the judgment. Nearly a year later, the Supreme Court confirmed the judgment, and in May 2018 Valtonyc elevated his appeal to the last recourse in Spanish justice, the Constitutional Court, which denied his appeal. The rapper fled to Belgium just days before his period of voluntary entry to prison expired. The Spanish authorities subsequently issued a European arrest warrant. In September 2018, a Belgian court in Ghent ruled that Valtonyc should not be extradited to Spain, because glorification of terrorism and insulting the Royal family are not crimes under Belgian law.<sup>34</sup>

On 19 September 2018, the Appeals Chamber of the National Court in Madrid reduced a sentence delivered in December 2017 to twelve members of rap group La Insurgencia. The sentence, which was reduced from two years to six months, was justified by the court on the basis that the terrorist groups<sup>35</sup> La Insurgencia referred to in its songs, including GRAPO and ETA, were already inactive. Although group members perceived the reduction in sentencing as “a small victory”, they still feel that the charges were unfounded.

Amendments introduced in 2018 to existing anti-terror legislation—the Law on Public Security and the Criminal Code—were used in the prosecution of rapper Pablo Hasél (real name Pablo Rivadulla). On 2 March 2018, the Spanish National Court found the rapper guilty of praising terrorism and insulting the Spanish state and royal institutions and sentenced him to a two years in jail and a 24,300 euro fine.<sup>36</sup> The charges related to the rapper’s comments on Twitter about specific members of a now-defunct terrorist organisation as well his song posted on YouTube in which he criticised the Spanish royal family. However, an appeals judge reduced his prison sentence to nine months, on the basis that his tweets did not present a “real threat” to people.<sup>37</sup>

## EGYPT: CRACKDOWN ON SATIRE THROUGH COUNTER-TERRORISM LEGISLATION

Since the adoption of counter-terrorism legislation in 2015, Egypt has been using it to suppress opposition voices, and this has been extended to dissenting artists who have expressed their political opinion either through their artwork or their activism. In several legal cases in 2018, mostly initiated by pro-government lawyers, several of these vague provisions were used to prosecute artists.

Among the many cases which Freemuse documented in Egypt, satirist Shady Abu Zeid ended up behind bars for peacefully expressing his political views. Zeid was arrested on 6 May 2018 in a police raid on his home and charged with “spreading fake news” and “belonging to a terrorist group”.<sup>38</sup> The motives for his arrest are unclear, but they have been linked



Spanish rapper Pablo Hasél, who in March was condemned to two years in prison and fined for his tweets regarding specific members of a now-defunct Spanish terrorist group, and his lyrics regarding members of the Spanish royal family. Credit: Fotomovimiento on Flickr



Egyptian satirist Shady Abu Zeid, who was arrested in May for unspecified reasons linked to his satirical programme *The Rich Content*, in which he deals with issues such as nationalism or religion in a humorous way. Credit: @shadyabuzeid on Instagram

to his Facebook and YouTube pages *The Rich Content*, where he posts satirical videos dealing with topics such as nationalism, religion, or social issues such as the high rate of sexual harassment in Egypt, in a subtle humorous way. His case is part of Case 621/2018, seen as one of the biggest cases instituted against non-Islamist figures: several bloggers, activists and civil rights defenders have been caught in the same net. Amal Fathy, whose case is also covered in Chapter 2 of this report, is part of the same case. Zeid has remained in detention since his arrest, pending the investigation, and in January 2019 was briefly released for a few hours in order to attend his father’s funeral.<sup>39</sup>

For more, see the Egypt section in Chapter 3.

## FINES

In 2018 several governments used monetary fines and other financial measures to repress political dissent by artists. Artists who peacefully expressed their dissenting political opinions through their art or those found to have violated certain laws and regulations—some of which fail to meet obligations under human rights law—were in some instances subjected to hefty fines. In some cases, these fines were used as a standalone measure, in other instances they were part of a broader sentence in which artists also faced imprisonment. Although the penalty rates varied from country to country, they usually presented a significant burden to the targeted artist.

Freemuse’s research found that the application of these punitive financial measures does not only impact the artist affected by them, but also triggers a chilling effect on the artistic community which compromises artistic creation.

### **RUSSIA: ACTIVIST FINED FOR MARCHING WITH ANTI-PUTIN ARTWORK**

On 8 June 2018, the District Court in St. Petersburg fined activist Varya Mikhaylova 160,000 rubles (about 2,150 euros) for violating the law on public assembly, namely Article 20.2 Part 8 of the Russian Administrative Code, when she marched in the May Day parade holding an anti-Putin artwork created in 2015 by the art collective Rodina.<sup>40</sup> Before Mikhaylova was briefly detained on 1 May, she was asked if authorities had approved the banner.

In addition to the fine, the court also ordered the destruction of the artwork, titled *The Nine Stages of the Supreme Leader’s Decomposition*, which featured a series of photos showing grass growing through a decomposing portrait of Putin. In spite of the court order, the digital version of this image was subsequently used in a campaign to raise funds to pay Mikhaylova’s fine.<sup>41</sup> On 23 July, the artist announced on Twitter that she had succeeded in raising the money to pay the fine.<sup>42</sup>



Activist Varya Mikhaylova was handed a fine of 160,000 rubles in June over an artistic banner she carried in a demonstration. Credit: Варя Михайлова (Varya Mikhaylova) on Facebook

### **ZIMBABWE: MUSICIAN TO PAY FINE OR RISK A MONTH IN JAIL**

On 10 May 2018, the Harare Magistrate Court sentenced musician Tawanda Mumanyi, popularly known as Seh Calaz, to pay a fine of US\$ 100 (about 85 euros) for breaching the *Censorship and Entertainment Control Act*. The musician was accused of “polluting public morals” in connection to his song *Kurova Hohwa*, the lyrics of which the authorities believed to be “indecent, unethical and undesirable to the public”.<sup>43</sup> Judge Josephine Sande stated the artist would spend a month in prison if he failed to pay the fine within 15 days.



Popular Zimbabwean musician Seh Calaz got fined in May for “polluting public morals” in his song *Kurova hohwa*. Credit: Seh Calaz on Facebook

During the legal proceedings, Seh Calaz defended himself rather than hiring legal representation; he ultimately apologised and pleaded guilty. Several other Zimbabwean artists observing the trial asserted that the case demonstrated how the Act was outdated because of the nature of the concept of indecency. They also contended that, instead of pleading guilty, Seh Calaz should have hired a lawyer in order to defend his right to produce whatever music he wants.<sup>44</sup>

## **MALAYSIA: POLITICAL CARICATURE WORTH A MONTH IN PRISON AND A FINE**

On 20 February 2018, Malaysian artist Fahmi Reza was sentenced to one month in prison and fined 30,000 Malaysian ringgit (about 6,300 euros) for

caricaturing then-Prime Minister Najib Razak as a clown in a social media post.<sup>45</sup> A court in the northern city of Ipoh held that Reza breached Section 233(1) (a) of the *Communications and Multimedia Act*, which bans the posting and spreading of material perceived to contain offensive online content. Reza had posted the image on his Facebook, Twitter and Instagram accounts on 31 January 2016 with the caption: “In 2015 the Sedition Act was used 91 times. But in a country full of corruption, we are all instigators.” The day after Reza posted the image, he was questioned and placed under police surveillance before being arrested on 4 June 2016.<sup>46</sup>

By the end of May 2018, the artist had managed to collect the money for the penalty through a crowdfunding campaign.<sup>47</sup> However, in November 2018, the High Court in Ipoh quashed the jail sentence and reduced the fine to 10,000 Malaysian ringgit (about 2,100 euros) on appeal.



Malaysian artist Fahmi Reza was sentenced to one month in prison and fined 30,000 Malaysian ringgit over a 2016 caricature of then-Prime Minister Najib Razak. Credit: Fahmi Reza on Facebook

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*“It is a practice all over the world that artists take a stand and criticise the government of the day. That is why I find the judgment unacceptable. It is against the principle of freedom of expression guaranteed by our Federal Constitution. It is the basic right of any artist to express his art. That is what Fahmi did. It is nothing wrong. It is a very comical judgment.”*

CARTOONIST **ZUNAR** ON FAHMI REZA'S SENTENCE, FREE MALAYSIA TODAY, 21 FEBRUARY 2018

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## EGYPT: FINE FOR “SPREADING FAKE NEWS” THROUGH VIDEO TESTIMONY ABOUT SEXUAL HARASSMENT

Actress and human rights activist Amal Fathy was arrested on 11 May 2018—two days after she posted a video on Facebook in which she criticised authorities for failing to address sexual harassment in Egypt. In the video she spoke candidly about her experience of being sexually harassed during a visit to her bank. The video also included references to the poor living conditions in Egypt.

in prison due to a separate case in which she is accused of “membership in a terrorist group”.<sup>49</sup> Fathy is a former activist of the banned April 6 youth movement, which played a pivotal role in overthrowing the former Egyptian President Hosni Mubarak in 2011.

On 27 December 2018, Fathy was released on probation in the case related to terrorism, however, the conditions of probation were effectively a measure of house arrest. On 30 December, an appeals court in Cairo upheld her jail sentence for the video; she is currently still under house arrest and expects to be returned to prison at any time.<sup>50</sup>



*Activist Amal Fathy was arrested in May over a video she posted on social media criticizing Egyptian authorities for not doing more to prevent sexual harassment. Photo: Egyptian Libertarian*

On 29 September 2018, Fathy was convicted of “spreading fake news with intent to harm national security” and possessing “indecent material”. She was sentenced to two years in prison, which could be suspended until appeal, pending payment of a 20,000 Egyptian pound (about 1000 euros) bail and a 10,000 Egyptian pound (about 500 euros) fine.<sup>48</sup> Although she paid the fine, Amal Fathy remained

## TRAVEL RESTRICTIONS

In 2018 artists in various parts of the globe were subjected to arbitrary restrictions on their right to freedom of movement, which not only impacted their opportunities to present their artworks abroad, but also influenced the trajectories of their careers due to their lack of ability to engage with other cultures in which their art may receive international, monetary or political recognition. In at least 14 cases in nine different countries, artists were subjected to deliberate and punitive measures imposed by governments that mainly attempted to suppress dissident voices critical of states.

A number of artists saw their mobility restricted due to ongoing political disputes and unresolved conflicts between some countries. Others were specifically targeted because their art was perceived as harmful to those communities to which they were intending to travel. Travel restrictions were also imposed over artists by authorities in their country of origin as a form of intimidation specifically intended to harass critical voices. On the other hand, current visa

policies in the UK and USA, although not intended to particularly target artists, have negatively impacted the opportunities of the artists from mainly Muslim countries to present their work in these countries.

## **UKRAINE: BANNING RUSSIAN ARTISTS OVER VISITS TO CRIMEA**

Since Russia forcibly seized control over the Crimea Peninsula in 2014, Ukrainian authorities at various levels have adopted a series of measures that have acted to restrict the promotion of Russian art in Ukraine.<sup>51</sup> In a recent development, Kiev authorities have started to ban entry to Russian artists into Ukraine if they have previously visited Crimea. Data circulated in local media says that in 2017 and 2018 more than 120 Russian artists were affected by this measure and barred from visiting Ukraine for a period of three years.

In May 2018, the State Border Guard Service of Ukraine prevented Russian singer Svetlana Surganova from travelling to Kiev. Immigration authorities deemed her trip to Crimea in May 2016 as illegal and subsequently subjected her to a three-year travel ban.<sup>52</sup> The musician confirmed that in May 2016 she spent two days in Crimea.

On 20 June 2018, Russian actor Boris Kamorzin and stuntman Sergei Mikhailov, while travelling together, experienced the same restrictions at the Kyiv airport.<sup>53</sup> Ukrainian authorities justified the travel ban on the grounds that the artists had travelled to Crimea without permission; both artists travelled to Crimea in 2015 in order to shoot a film. A few weeks later, on 10 July 2018, film and theatre actor Anton Makarsky tried to enter Ukraine at a checkpoint on the Ukrainian border with Moldova, but he was also rejected on the same grounds and barred for three years.<sup>54</sup>



*Russian singer Svetlana Surganova was prevented from travelling to Kiev.  
Credit: Svetlana Surganova on Instagram*

## **USA: 'VISA WALL' AFFECTING FREEDOM OF RUSSIAN ARTISTS' MOVEMENT**

Political tensions between Russia and the USA have intensified in recent years in connection with a variety of issues—namely the Russian conflict with Ukraine over Crimea and accusations of Russian interference in USA's political affairs. Diplomatic tensions between these two countries have resulted in increased scrutiny of visa applications by both countries,<sup>55</sup> which has also impacted the rights of artists choosing to travel in their professional and personal capacity to either country.

In April 2018 two prominent ballet dancers from the Russian Bolshoi Theatre were denied visas for their participation in the gala performance of *Stars of Today Meet Stars of Tomorrow* due to take place

in New York. Prima ballerina Olga Smirnova and soloist dancer Jacopo Tissi were due to perform at the Lincoln Center's Koch Theatre on 23 April 2018. While Russian authorities believed that the reasons for this ban were undeniably political, American immigration services disputed this claim. USA authorities claimed that the grounds on which the artists had applied for a visa were invalid as they had applied for a group visa, but were planning to perform as individuals.<sup>56</sup> In response to this, the hosts of the New York gala commented on how the same visa had been granted to the dancers—including Smirnova—in the past.

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*“One interpretation is that it’s political. That’s my knee-jerk reaction, but I can’t figure out why — other than that they’re Russian. But it doesn’t make any sense.”*

LINDA K. MORSE, CHAIR OF YOUTH AMERICA GRAND PRIX, WHICH HOSTED THE STARS OF TODAY MEET STARS OF TOMORROW GALA, PAGE SIX, 18 APRIL 2018.

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## GUATEMALA AND ZAMBIA: ARTISTS BANNED ON THE GROUNDS OF INDECENCY

The content of artworks has also led certain government to ban artists from entering their countries. In September 2018, the Guatemalan Congress blocked Swedish heavy metal band Marduk from entering the country, which subsequently led to the cancellation of their concert scheduled to take place in Guatemala City on 11 October 2018. The band was barred by authorities over their allegedly blasphemous lyrics in their “satanic music”. The ban, passed by congressional decree and adopted with 87



Swedish heavy metal band Marduk was blocked from entering Guatemala. Credit: Marduk on Instagram

to 13 votes in favour, indefinitely prevented Marduk’s band members and their associates from entering Guatemala.<sup>57</sup> While those opposing the decree claimed that it violates the country’s constitution, its proponents argued that the band was offensive to “the morality of the Christian people of Guatemala.”

On 10 March 2018, Zambia’s immigration authorities deported South African dancer Zodwa Wabantu (real name Rebeca Libram) on the grounds that her scheduled performance would undermine “national values”.<sup>58</sup> The National Arts Council rejected Wabantu’s application for the performance in Lusaka where she was also supposed to launch a music album. The artist, known for erotic dancing in tight-fitting clothes and without underwear, has been facing similar restrictions in other African countries where her performances have been deemed indecent.



*South African dancer Zodwa Wabantu was deported by Zambia's immigration authorities. Credit: Zodwa Wabantu on Instagram*

## IRAN AND TANZANIA: PUNISHING “DISOBEDIENT” ARTISTS THROUGH TRAVEL RESTRICTIONS

Some countries impose travel restrictions on their own nationals in an effort to punish these individuals for their political dissent or because their artwork is deemed indecent. In 2018 these regulations meant that some artists were restricted from promoting their artworks outside of their native countries—essentially ensuring that they were prevented from financially and professionally benefiting from performing or exhibiting abroad.

In 2018 Iranian film director Jafar Panahi was prevented from attending the 2018 Cannes Film Festival after a travel ban was imposed on him. This restriction was placed on him as a result of his conviction for supporting the mass protests of 2009 and creating films authorities believed were critical of contemporary Iran. In 2010, Panahi was sentenced to six years in prison for “colluding with the intention to commit crimes against the country’s national security and propaganda against the Islamic Republic”. He was also subjected to a 20-year ban on travelling abroad, speaking to the media and writing or directing.<sup>59</sup>

Throughout 2018 Tanzanian hip hop singer Diamond Platnumz (real name Naseeb Abdul Juma) was subjected to harassment, intimidation and attacks by local authorities who charged him with producing indecent music and using social media platforms for publishing posts similarly considered indecent. In July 2018, he was prevented from boarding a plane at the International Airport in Dar es Salaam to Mayotte Island, located in the Indian Ocean. Tanzania’s entertainment regulatory body—Basata—blocked Platnumz’s trip because they claimed he did not obtain the necessary license required for a foreign performance.<sup>60</sup> Basata representatives asserted that they intervened in this instance as a lesson to other artists who may

not otherwise comply with the state regulation. In addition to this incident, Platnumz was once again informed in December 2018 that he was banned from performing abroad indefinitely because of his performance in Mwanza, where he is accused of having performed an “indecent” song named after Mwanza city, which had previously been banned by authorities.<sup>61</sup>



*Tanzanian hip-hop singer Diamond Platnumz was charged with producing indecent music. Credit: Diamond Platnumz on Instagram*

## UK AND USA: STRICT VISA POLICIES AFFECT FOREIGN ARTISTS

Restrictions on travel, however, are not only imposed on artists where they are deemed to have caused offence or political outrage; there are also a number of cases of religious discrimination in which artists, particularly from Muslim countries, have often been unable to enter the UK and USA due to recently applied visa policies on the grounds of “national security”. These policies appeared to have had a negative effect on the freedom of movement of artists from some countries, explicitly based on their nationality.

Due to the visa regime, tightly applied in the aftermath of the Brexit referendum in 2016, many artists have been facing difficulties in attending cultural events in the UK. In August 2018, dozens of authors from Africa, the Middle East and Belarus who were invited to attend the Edinburgh International Book Festival had difficulties obtaining visas.<sup>62</sup> In July, Chris Smith, the organiser of WOMAD—World Music and Dance Festival—annually held in Wiltshire county asserted that, since the Brexit referendum, the visa regime for entering the UK had become “difficult and humiliating” and that artists were refusing to perform at the festival because of it.<sup>63</sup>

This problem has been frequently raised by organisers of a number of international cultural gatherings in the UK, who complained about a large number of rejected visa applications.<sup>64</sup> Although the Home Office alleged that the primary reason for refusal of so many applications was because of the “incorrect and misleading” information provided by applicants on their forms, different legal experts called this practice “deep underlying racism”.<sup>65</sup>



Nick Barley, Director of the Edinburgh International Book Festival

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*“We’ve had so many problems with visas, we’ve realised it is systematic. This is so serious. We want to talk about it and resolve it, not just for [this festival], but for cultural organisations UK-wide. The amount of energy, money and time that has gone into this is problematic. There needs to be a fix.”*

**NICK BARLEY**, DIRECTOR OF THE EDINBURGH INTERNATIONAL BOOK FESTIVAL, *THE GUARDIAN*, 8 AUGUST 2018

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However, it is not only the arbitrary and opaque nature of the enforcement of visa regulations in the UK that are signalling a worrying trend. The USA government’s outright ban imposed on citizens from eight predominantly Muslim countries has prompted international human rights organisations, such as Amnesty International and Human Rights Watch, to define the measure as xenophobic and a blatant case of religious discrimination. On 25 April 2018, as part of the wider judicial process preceding the imposition of this ban, a discussion was held before the US Supreme Court about the potential harm to art organisations and the American public

in connection with imposed freedom of movement restrictions.<sup>66</sup> Although later in June the Supreme Court upheld President Trump's travel ban in a 5-to-4 decision,<sup>67</sup> a number of artists from Iraq, Iran, Syria and domestic artists from the USA testified how their projects were endangered by this travel ban.

Whether travel restrictions are imposed over artists on an individual basis as intimidation measures for their political dissent or artists are faced with limitations of freedom of movement as a consequence of the tight visa policies applied in some countries, all these cases constitute violations of human rights law and are in collision with international standards. Since the International Covenant on Civil and Political Rights in Article 12(3) justified restrictions in regard of the freedom of movement only in cases "necessary to protect national security, public order, public health or morals or the rights and freedoms of others", the signatories of the Covenant are obliged to apply this provision accordingly. None of the presented cases, specifically those in which artists were targeted on the grounds of dissent and indecency, can be justified from the perspective of necessity. Thus, all measures imposed over particular artists who face these forms of punitive measures solely for peacefully exercising their rights need to be immediately and unconditionally lifted. On the other hand, since international law prohibits the discrimination of different categories of non-citizens vis-a-vis mobility, except for cases concerning the protection of national security, the UK and USA should immediately comply with these standards and enable foreign artists to participate in cultural exchange in their countries.

## 2. CONCERNS OF RESTRICTIONS IN SPECIFIC SITUATIONS

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### ARTISTIC FREEDOM CAUGHT IN ARMED AND POST-ARMED CONFLICTS

Ongoing armed conflicts and post-armed conflicts often create situations where governments remain hostile to governments and artists from the opposite side. They tend to align cultural policy with defence policy, aimed at blocking communications and expressions that support debates or point of views that may deviate from those nationalist ones which governments in armed conflict tend to support. This leads to systemic restrictions of freedom of artistic expression.

Freemuse has documented a number of cases where conflict or post-conflict situations spill over and motivate restrictions of artistic freedom by governments, or instigate retaliation against the artists by non-state groups or individuals. The conflict between Ukraine and Russia, including an armed conflict between pro-Russian guerrillas and the Ukrainian military, has prompted a series of detentions, threats and entry bans targeting artists who are seen as taking sides in the conflict; adding to that, a wave of censorship—associated not only to political allegiance, but also to language—has gravely affected artistic expression on both sides of the border. The conflict between Pakistan and India triggered a cultural war where state-sponsored censorship is recurrently used as a way to silence artists choosing to speak about the conflict, or even seen as "promoting" the adversary's culture. Adding to that, a cultural boycotts prompted event cancellations and even artist expulsions as part of the state's response to cross-border military

killings. Both of these conflicts are further explored in the India, Pakistan, Russia and Ukraine sections in Chapter 3.

The armed conflict between Israel and Palestine, and the existing tensions in the Balkans stemming from years of war between countries formerly integrated into the Federal Republic of Yugoslavia, are looked at below.

## CENSORSHIP RELATED TO THE ISRAELI-PALESTINIAN CONFLICT

The ongoing Israeli-Palestinian territorial disputes, largely fuelled by Israel's continued violations of international legislation and illegal occupation of Palestinian territories—which are increasingly called out and criticised by the international community and international human rights groups—set a climate in which multiple human rights violations have taken place in 2018; this allows the Israeli government to continue to justify censorship of artwork, eviction of cultural centres, cancellation of events and criminal prosecution of Palestinian artists (for more, see the Israel section in Chapter 3). In the majority of the cases of violations of artistic freedom which Freemuse documented in 2018 in relation to this conflict, Israeli authorities used different—but consistently punitive—measures to specifically silence Palestinian artists, and Israeli artists who support the rights of Palestinians, whose work largely centred around the nature of the discriminatory treatment of Palestinians at the hands of the Israeli state.

In October 2018, Israel's Interior Minister Arye Dery warned the mayor of the city of Baqa Al-Gharbiya not to use public venues to support "terrorists", and therefore to cancel the launch of the children's book *The Story of the Oil Secret*. The book, written by Palestinian prisoner Walid Daka, was due to



Israeli Minister of Interior Arye Dery warned the mayor of the city of Baqa Al-Gharbiya not to use public venues to support "terrorists" and instructed him to cancel a children's book launch. Credit: Arye Dery on Facebook

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*"In the State of Israel the writings of a terrorist will not be given voice in a public building owned by the local council."*

ISRAELI INTERIOR MINISTER **ARYE DERY**, *THE TIMES OF ISRAEL*, 9 OCTOBER 2018

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be launched at the municipal cultural centre. The minister's caution came after an appeal by the family of Moshe Tamam, an Israeli soldier who was kidnapped and murdered in 1984—a crime for which Daka is imprisoned. Despite the fact that Daka keeps denying any involvement in the murder of the Israeli soldier, he has been behind bars since 1987 serving a 37-year imprisonment sentence.<sup>68</sup>

The Tamam family appealed against the book's launch particularly as it was being held on public premises owned by the Baqa Al-Gharbiya's municipality, and authored by a prisoner convicted for a terrorism-related murder. The book tells a story about a boy who cannot visit his father in prison. Although local authorities did not find the content of the book harmful, and maintained that they see themselves as a "city of tolerance", they still were forced to comply with the minister's suggestion.<sup>69</sup>

The writer's family claim that the book was authorised to be released through Daka's lawyer,

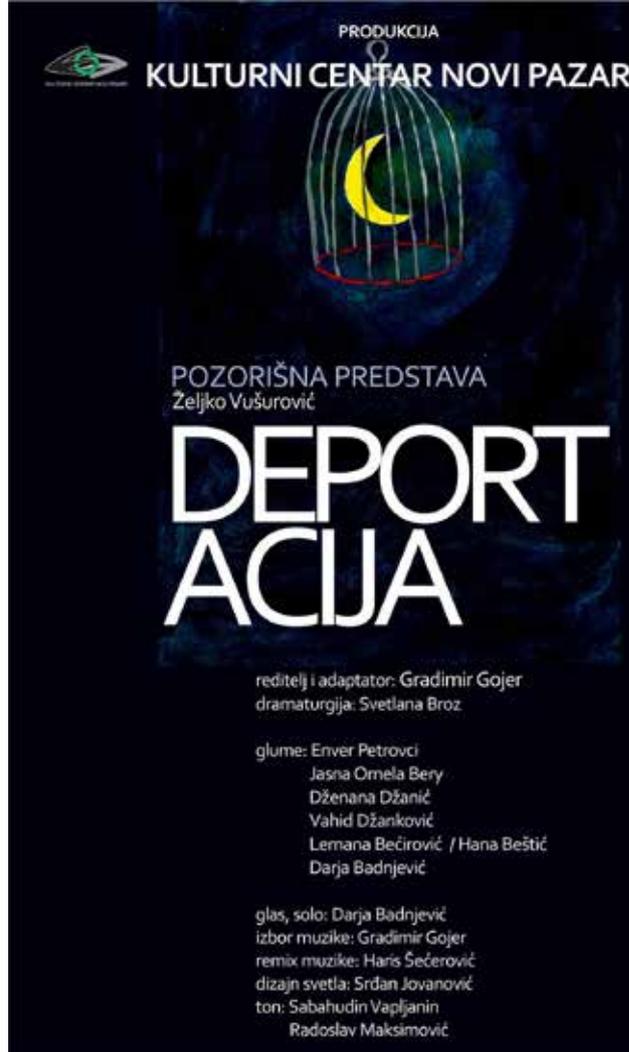
which the Israeli Prison Authority denies. Upon the release of his book, published in Arabic by Tamer Institute for Community Education, the Palestinian Prisoner's Society reported that the author was handed punitive measures by the Israeli Prison Authority in retaliation. These included a two-month restriction on family visits, confiscation of all books and writings that he possesses in prison and a fine of 500 Israeli shekels (about 120 euros).<sup>70</sup>

## THE IMPACT OF THE CONFLICTS IN FORMER YUGOSLAVIA ON ARTISTIC CREATION

Although varying forms of insurgency and ongoing armed conflicts in the territory of former Yugoslavia ended after a decade in 2001,<sup>71</sup> their legacies still persist and tensions reverberate through cultural and artistic spheres. Aside from a range of incidents which hampered artistic freedom, Freemuse also documented several attempts specifically and deliberately targeting the artistic creation of former war adversaries. For more on the legacy of the Serbo-Croatian conflict on artistic expression, see the Croatia section in Chapter 3. For more on the impact of the Kosovo conflict on cultural cooperation between Kosovo and Serbia, see the Serbia section in Chapter 3.

The case of the theatre play *Deportacija* (Deportation) shows how, at times, artistic attempts to unravel the levels of responsibility of countries involved in the conflict and war crimes can be met with a shrinking space to voice these views. The play, written in 2015 by Montenegrin playwright Željko Vušurović, attempts to highlight the responsibility of the Montenegrin authorities in the deportation of more than 60 Muslim refugees from Bosnia and Herzegovina who had fled to Montenegro in 1992; they were later forcibly taken and handed over to the Serb authorities in Bosnia and Herzegovina, who subsequently killed most of them. Vušurović tried incessantly but in vain to find a theatre in Montenegro to stage this play.

It was only recently that the play was able to proceed as originally planned and was staged in a cultural centre in the Serbian city of Novi Pazar.



Poster of the theatre play *Deportacija*, which was rejected by all State-sponsored theatres in Montenegro in what playwright Željko Vušurović says is a case of covert censorship. Credit: *Predstava Deportacija*, event by Kulturni Centar "Nikola Djurkovic" on Facebook

*Deportacija* had its premiere in April 2018 but was only performed two more times: in the Bosnian Cultural Centre in Sarajevo and secondly in a local cultural centre in Plav, Montenegro. None of the state-sponsored theatres, which were approached in the region, were willing to host the play, including the National Theatre in Podgorica.<sup>72</sup>

## CROSS-BORDER

In 2018, Freemuse continued to document and observe a desire of certain national governments to influence other governments' policies and practices related to artistic freedom. These governments, especially those of China and Turkey, strived to suppress artistic creation on politically sensitive topics relating to territorial integrity and ethnic minorities. These motivations appear to

be linked to unresolved and persistent conflicts relating to struggles for self-determination of specific ethnic groups or regions. Cases of censorship documented in both China and Azerbaijan demonstrated how artworks were deliberately targeted because of the ethnic identities of their authors. In addition, in order to silence German artists critical of Turkish President Recep Tayyip Erdoğan and to ensure respect to his figure outside Turkey's territorial borders, Turkey's diplomatic officials tried to exploit outdated German laws in order to limit the artistic creation of citizens of Germany. On occasions, Freemuse found evidence of incidents in which host countries conceded to the demands of foreign governments to censor artists or artwork in order to maintain good diplomatic relations.

## CHINA: ARTWORKS DEDICATED TO TAIWAN AND TIBET UNDER ATTACK

In several cases documented by Freemuse in 2018, China attempted to exert its power and influence with other governments, with the sole intention of having specific pieces of artwork censored. This was particularly true of the Chinese authorities in cases where artists had dedicated their artworks to Taiwan as well as in cases where artists originated from Taiwan itself, a region which for decades has been in turmoil over its disputed political status. Additionally, the fear of hindered relations with China because of the promotion of artwork depicting life in Tibet, a region which also has been in disputes with Beijing, incited censorship, both directly and indirectly.

In May 2018, the Rockhampton Regional Council in Queensland, Australia, decided to paint over Taiwanese flags on a school art project for fear that it may cause "an international incident". This move was reportedly instigated at the behest of a Chinese diplomatic representative.<sup>73</sup> A month before the incident, local authorities had invited school students to paint six statues of bulls, which would be exhibited in Rockhampton during an international beef event. Students dedicated one of

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*"The Australian Government's agreement with China is that Australia does not recognise Taiwan as a separate country, (hence no flag). The addition of the name 'Tai Wan' across the flag made the matter even more sensitive. We were in a highly charged political minefield."*

ROCKHAMPTON MAYOR **MARGARET STRELOW**, *THE MORNING BULLETIN*, 13 MAY 2018

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the bull statues to the cultural diversity of the local community and decorated it with international flags; two Taiwanese-born siblings painted part of the statue with the colours of their national flag, as well as the Chinese characters which spell out Taiwan. After the Chinese Vice Consul of Brisbane made a complaint, local authorities yielded to the Chinese demand and painted over the Taiwanese flag.

In July 2018, the Taiwanese indigenous Juann Choir from the Min Ho Junior High School was blocked from performing at the United Nations office in Austria, reportedly under the pressure of the Chinese embassy.<sup>74</sup> The choir had travelled to Vienna in order to participate in the World Peace Choral Festival and several other concerts, one of which was due to take place on 27 July and was hosted by the UN. When the UN Office in Austria faced questioning about its decision to not host the choir, they made reference to the limited capacity of the facilities. However, the Taiwanese choir and other observers suspected that the Chinese authorities had instigated this move; the Taiwanese Ministry of Foreign Affairs said it was following the case closely and instructed its personnel in Austria to offer assistance to the choir.<sup>75</sup> It is worth noting that three of the main sponsors of the World Peace Choral Festival were Chinese entities; namely, CCTV, Masters International and the Confucius Institute of the University of Vienna. Famous Chinese conductor Wu Lingfen was president of the jury at the festival.

The undue influence of the Chinese authorities is not limited to their intervention on matters relating to Taiwan, but can also be felt in issues relating to Tibet. In April 2018, under a request related to *The Freedom of Information Act*, it emerged that the London-based Royal Court Theatre had in 2017

pulled the production of a play about Tibet called *Pah-La*. British newspaper *The Guardian* reported that the British Council had allegedly advised the theatre that the play, which relays personal stories of Tibetans who sought asylum in India, would coincide with “significant political meetings” in China, and could jeopardise the theatre’s ability to work there.<sup>76</sup>

## TURKEY: TARGETING GERMAN ARTISTS CRITICAL OF ERDOĞAN

In 2016, the Turkish government invoked section 103 of the German Criminal Code—which prohibits insults against foreign heads of state—to prosecute German satirist Jan Böhmermann. This legal provision was originally introduced into the German Criminal Code in the 19th century, but was rarely used; in 2017 the government moved to repeal this article, which was eliminated from the Penal Code on 1 January 2018. Legal action was initiated after Böhmermann recited a poem on his satirical talk show *Neo Magazin Royale*—broadcast by German public broadcaster ZDF—that linked Erdoğan to bestiality and child pornography.<sup>77</sup> In May 2018, the Higher Regional Court in Hamburg upheld a lower court’s ruling that only segments of the poem could be banned due to degrading content of an intimate and sexual nature, which were unfounded in evidence. The higher court rejected the Turkish President’s appeal to ban the poem entirely.<sup>78</sup>

Jan Böhmermann at the German Comedy Award in Cologne on October 15, 2013. Credit: Michael Schilling



Screenshot of the *Yeva (Eva)* official trailer. Credit: Satik Stepanyan on YouTube

## AZERBAIJAN: A FILM SHOT IN NAGORNO-KARABAKH BANNED FROM A FESTIVAL IN ISTANBUL

In a case documented by Freemuse in March 2018 in Turkey, the disputes over the status of the Nagorno-Karabakh, a contested region between neighbours Armenia and Azerbaijan, led to undue interference in a festival in Istanbul by the Azerbaijani authorities. Armenian-Iranian film *Yeva (Eva)*, praised by many other international festivals, was due to be screened on 20 March at the Filmmor International Women’s Film Festival in Istanbul. It relays the story of a woman who escaped from Yerevan in Armenia to Nagorno-Karabakh after her husband’s death. When she arrives at her destination, she is forced to deal with ghosts from the past.

The Turkish authorities requested the film, which was shot in Nagorno-Karabakh, be banned because they alleged it left viewers with the impression that this contested territory belonged to Armenians. Although local Istanbul authorities cited security concerns as the reasons for the ban, festival organisers claimed it was done under pressure from the Azerbaijani government.<sup>79</sup>

Melek Özman from Filmmor told media that the Consulate of Azerbaijan in Turkey sent an official letter to the French Institute, which was the venue where the movie was due to be shown. Özman stated that the Consulate then applied to the Azerbaijani Ministry of Foreign Affairs, and eventually to the Azerbaijani Foreign Affairs Minister himself; shortly afterwards, the French Institute received a written order from Turkish authorities which banned the screening of the film.<sup>80</sup>

# VIOLATIONS ON THE GROUNDS OF RELIGION

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*“The interrogators had translated my English lyrics [into Farsi] verse by verse and were asking questions about this and that word and told me I was a Satan worshipper and didn’t believe in God.”*

**NIKAN KHOSRAVI**, A MEMBER OF IRANIAN METAL BAND CONFESS, WHO LEFT IRAN FOR TURKEY TO AVOID BEING IMPRISONED, *CENTER FOR HUMAN RIGHTS IN IRAN*, 30 MARCH 2018

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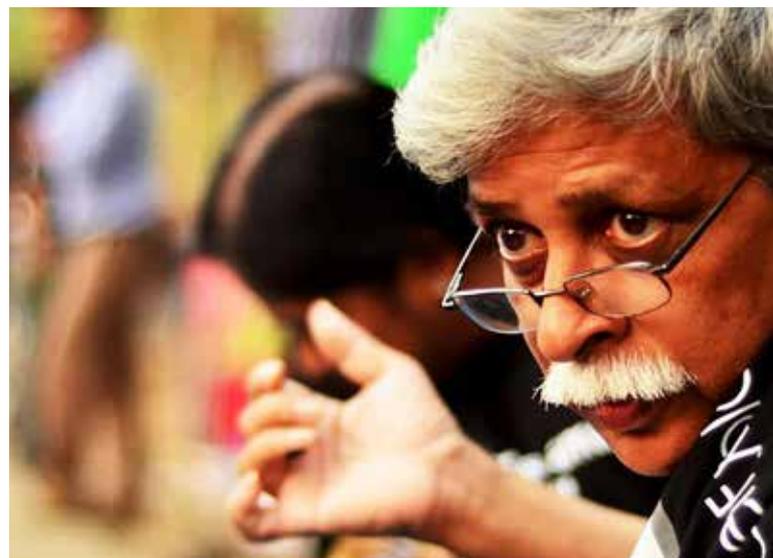
In 2018 artistic creation was suppressed on the grounds of religious beliefs in different countries in the global North and South—in secular countries which guarantee religious freedoms to followers of different faiths, and in those with an official state religion. The cases Freemuse documented show that at least 77 artists suffered from restriction of artistic expression due to the content of their artworks and public statements about religious affairs, which were found to be disrespectful of religious symbols and sentiments. Governments appeared as violators of artists’ freedom of expression in 69 per cent of all documented violations in connection with religion. Apart from censorship, authorities also exercised the legal prosecution of artists, imprisoned them, restricted their freedom of movement and ordered the destruction of their artworks. Violations were also initiated by representatives of religious groups and other non-state actors who were responsible for attacks on artists and their persecution.

## **BANGLADESH: ATTACKS ON ARTISTS FOR “DEFAMATION OF ISLAM”**

Over the last four years, hard-liners in the Bangladeshi government used a range of measures to stifle public debate and criticism. In addition to bloggers, journalists and other beacons of free expression, artists have also been affected by these measures. In a country

with a diverse religious landscape—whose national legislation, apart from Islam, which was proclaimed the official state religion in 1988, recognises other religions—attacks and threats by non-state actors against religious minorities continue to occur sporadically.<sup>81</sup> Some of these attacks in 2018 were directed against artists deemed “disrespectful of the Muslim sentiments”.

On 11 June, secular writer and publisher Shahzahan Bachchu was murdered in the Munshiganj district of Bangladesh. Bachchu, who owned the Bishaka Prakashani publishing house that specialised in poetry, was shot dead in his home village of Kakaldi.<sup>82</sup> His relatives and close associates claimed that the writer had been targeted by extremists



*Author and activist, Muhammad Zafar Iqbal, was stabbed in Bangladesh. Credit: Muhammad Zafar Iqbal on Facebook*

for quite some time and that he had been on their list of progressive personalities whose execution was planned.<sup>83</sup> Local police subsequently arrested the prime suspect Abdur Rahman, a member of the group Jamaat-ul-Mujahideen Bangladesh, in connection with Bachchu's murder, but he was killed in an alleged gunfight with police in Munshiganj on 28 June 2018.<sup>84</sup> Other suspects have still been at-large.

On 3 March 2018, author and activist Muhammad Zafar Iqbal was stabbed in the city of Sylhet in north-eastern Bangladesh during a science festival at which he was a speaker. Iqbal was targeted by student Foyzur Rahman at a madrasa Islamic school. The student claimed he had attacked the writer because he was "an enemy of Islam".<sup>85</sup> On 14 March, Iqbal was released from the Dhaka Combined Military Hospital where he was treated after the attack. Upon his release, the author invited those who disagreed with his writings to address him in order to talk about the way he allegedly insulted Islamic sentiments. Bangladeshi police arrested several persons connected with the

attack, including Foyzur's parents and his brother, following accusations that they had tried to destroy vital evidence.<sup>86</sup> In July 2018, they were charged for attempted murder; reports suggest that the attacker was linked to extremist right-wing forum Dawah Ilallah, where he might have been radicalised and suspected to have received instructions to carry out the act.<sup>87</sup>

## **MALDIVES: "ANTI-ISLAMIC" SCULPTURE DESTROYED BY COURT ORDER UNDER PREVIOUS REGIME**

Recent developments in the Maldives, whose constitution recognises Islam as the state religion,<sup>88</sup> show that some extremist groups have been endorsing violent ultra-nationalist or Islamist ideology.<sup>89</sup> In such an atmosphere, a sculpture by British artist Jason deCaires Taylor was deemed "anti-Islamic" and subsequently destroyed on 21 September 2018 under court order.



*Jason deCaires Taylor's Coralarium sculpture was destroyed in the Maldives. Image courtesy of the artist. Credit: Cat Vinton*

Although authorities initially granted permission for the sculpture, the semi-submerged artwork named *Coralarium* was demolished two months after it was installed.<sup>90</sup> This sculpture was criticised by religious leaders and scholars who perceived it as a threat to “Islamic unity and the peace and interests of the Maldivian state”. It also became a topic in the 2018 electoral campaign with opponents criticising the incumbent president at the time for not taking the action to remove it.<sup>91</sup> *Coralarium* was removed two days before the general elections were held on 23 September 2018.



*Interview with Diego Cañamero and Willy Toledo on TV show Todo por la Kausa in Madrid. Credit: TLKVallecas on YouTube*

## **SPAIN: ARTIST PROSECUTED FOR MOCKING SYMBOLS OF THE CATHOLIC CHURCH**

The influence of the Catholic Church in Spain has decreased since 1978, after the adoption of the new constitution in the aftermath of General Francisco Franco’s death, but it still has a vital social impact. Article 525 of the Spanish Penal Code contains a provision that punishes individuals found to have offended the feelings of the members of any religious group.<sup>92</sup> In 2018 it was used for filing a complaint against actor Willy Toledo, who allegedly offended Christian sentiments through a post on social media.

On 12 September 2018, this Spanish actor, theatre producer and activist was arrested in Madrid for “offending religious sentiments” over a year earlier. On 5 July 2017, Toledo had published a post on his Facebook page in which he commented on the beginning of a trial of three women who in 2014 paraded in Seville with a large model of vagina known as ‘Insubordinate Pussy’.<sup>93</sup>

The Spanish Association of Christian Lawyers filed a complaint to the public prosecutor citing a violation of Article 525 of the Spanish Penal Code.<sup>94</sup> A court in Madrid issued an arrest warrant after the artist

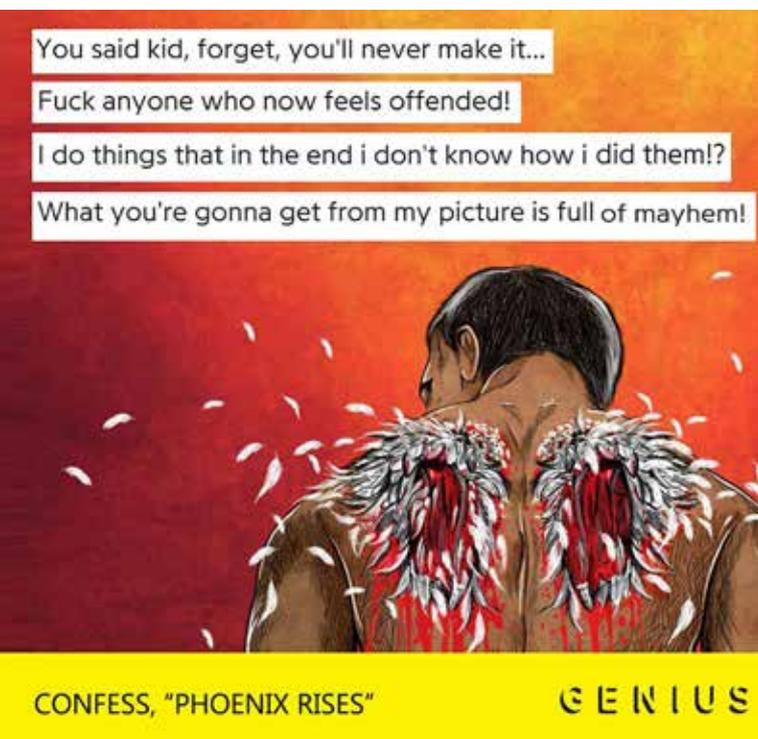
ignored two summons to show up in court. Toledo was released without bail after giving testimony to the judge; he has since been charged and is currently undergoing legal prosecution, awaiting trial. The public prosecutor recommended to archive the case, since it deems Toledo’s statements as protected under his freedom of expression; but Judge Juan Javier Pérez Pérez determined that the legal proceedings must go on.<sup>95</sup>

## **GEORGIA AND IRAN: PERSECUTION OF MUSICIANS DEEMED SATANIC**

Through the five-decade history of heavy metal music, it has often been perceived as being in conflict with religious ideologies and practices. Given this broader context, heavy metal musicians have invariably been exposed to bans, detained by law enforcement and prosecuted for insulting religious symbols and feelings and subjected to death threats by religious authorities in their countries.<sup>96</sup> These trends have originated not just in those countries where Christianity is widely practiced, but also where Islam is the main religion.

On 17 March 2017 the Iranian Revolutionary Court sentenced Nikan Khosravi and Arash Ilkhani, members of the metal band Confess, to six years in prison for “insulting the sacred” and “propaganda against the state”.<sup>97</sup> These musicians were initially arrested by the Islamic Revolutionary Guard Corps in November 2015, a day after the release of their album *In Pursuit of Dreams*. Two weeks later they were released on 100 million Iranian tomans (about 30,000 euros) bail. In 2016, they stood trial on charges of blasphemy, political and anti-religious lyrics, illegal underground activity and interviews with illegal foreign radio stations.<sup>98</sup> In the meantime, due to severe threats and harassment Khosravi was subjected to while awaiting appeal, he fled to Turkey.

allegedly due to the band’s name, which authorities believed had satanist connotations.<sup>100</sup> Although initially taken away for questioning, they were later deprived of their passports and detained. The Tolis brothers’ lawyers were informed that Georgia’s national security service labelled them satanists and suspects of terrorism.<sup>101</sup> Despite the allegations, the musicians were released the same day and the band held their concert on 12 April 2018 as planned.



Graphic created for Phoenix Rises, the first song released after Confess band members Nikan Khosravi and Arash Ilkhani were released from prison. Image includes lyrics from the song. Image courtesy of Confess. Credit: Arash Setayesh



Two members of Greek heavy metal band Rotting Christ were detained in Georgia. Credit: Rotting Christ on Instagram

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*“Without previous warning and no official reason, we found ourselves in jail, locked in a small and rather dirty cell and without being permitted any contact with the outside world or legal representation or our embassy for 12 hours. Conditions were bad and no further information was provided during this time.”*

**SAKIS TOLIS**, FRONTMAN OF ROTTING CHRIST, WAS ARRESTED IN GEORGIA. SEASON OF MIST FACEBOOK, 16 APRIL 2018

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In April 2018 two members of Greek heavy metal band Rotting Christ were detained in Georgia, a country which already has a history of interference in music festivals promoting heavy metal music.<sup>99</sup> Musicians Sakis and Themis Tolis were arrested upon arrival at the airport in capital city Tbilisi,

The aforementioned violations directed against artists and artworks on the grounds of religion were initiated by both state authorities and non-state actors, but governments in each of them hold a responsibility to properly address them and protect the freedom of expression through art. Violations

documented in the Maldives, Spain, Iran and Georgia exemplify the abuse of implementing national legislation against artists. Since such practices are contrary to international standards, authorities in these countries need to ensure that their national laws are applied in a manner that protects artistic expression, rather than to suppress artists' voices.

## DIGITAL SPACE

In the contemporary digital era, the trend of censoring artworks published in online spaces has been steadily increasing. In some cases, it is national governments that use strict media laws to regulate which content can be disseminated through online platforms; in other cases, it is social media platforms that regulate content and appear to act as censors; and on occasion, both governments and social media platforms collaborate to regulate contents, thus compounding the impact of this inhibitive measure.

According to its research, Freemuse found that censorship was exercised on the grounds of indecency in 83 per cent of the cases it monitored, but social media platforms also specifically targeted posts containing LGBTI-themed artworks, as well as political issues it believed to be controversial. Global platforms such as Facebook, Instagram, Twitter and YouTube, as well as some regional online services for professional networking removed posts they alleged contained indecent nudity, hate speech, pornographic or sexually suggestive material, or politically sensitive content. They either removed the content or post they deemed problematic according to their own regulations, or simply deleted the profile in question.

In 2018, Freemuse also registered an increasing pattern of harassment of artists in the digital space. Individuals used social networks as channels to lambast, criticise and express dissatisfaction with artists and their professional engagements across the world. Some of the most extreme incidents presented themselves as violent threats, intimidation and harassment by individuals who utilised Facebook, Twitter and other networks as a tool to direct their criticism. While men were exposed to messages containing violent language

and death threats, women were additionally subjected to rape threats and particular forms of misogynist behaviour.

## SOCIAL NETWORKS' COMMUNITY GUIDELINES BLOCKING FEMALE NUDITY IN ARTWORKS

Over the years, major social media platforms have developed sets of rules and regulations concerning the type of content that can be shared on their platforms. Most of these online platforms prohibit hate speech, nudity, and content that is alleged to incite or support violence. The majority of them implement a dual system for checking content: first, problematic content is automatically deleted through an incorporated algorithm, and second, the platform provides an online mechanism for individuals wishing to report "inappropriate posts". Problems concerning freedom of artistic expression occur when artistic creation is wrongfully blocked under these regulations.

On 24 April 2018, Facebook's Community Standards were published in order to enhance transparency.<sup>102</sup> Article 14 of the Standards prohibits depictions of adult nudity and sexual activity from display on its platform to prevent sharing of content without consent and content with minors.<sup>103</sup> In these regulations, Facebook also explained that it restricts some images of female breasts that show nipples, but tolerates images with nudity when intentions are clear, such as those showing acts of protests and women who are breastfeeding.<sup>104</sup> In spite of these provisions, in April 2018, New Zealand artist Helen Corry was banned by Facebook after she shared a link for her new music video *La Femme*.

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*"But I'm just shocked that once it has got to a human level, and a human being has looked at the content, that it has still had the same outcome, that it's deemed inappropriate."*

SINGER-SONGWRITER **HELEN CORRY**, NZ HERALD, 4 MAY 2018.

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This video, created as part of the wider context in which the #MeToo movement has gained significant ground and designed with the sole intention of empowering women, depicted a woman in golden body paint being groped by hands before shaking them off to the chorus "Time's up".<sup>105</sup> The singer was banned by Facebook because she had shared what was deemed by the social media platform to be "inappropriate" content. Corry felt compelled to speak up about the incident through media.<sup>106</sup> She explained that her video was a comment on the endemic nature of sexual harassment, and her profile was restored in May 2018.

Moreover, in May 2018, Dublin-based photographer Dragana Jurisic encountered similar issues with both Facebook and Instagram because of a photograph she posted online, which showed a naked model whose breasts were covered with a leaf added by Jurisic in order to comply with Instagram's user regulations. Initially, after noticing that her Instagram account was disabled, she later discovered that her images were removed from Facebook, while she was blocked from posting and commenting on posts on her page. Since she did not receive any prior warning to prepare her for the deletion, Jurisic contacted both social media

Caoimhe Lavelle, 2015. Credit: Courtesy of Dragana Jurisic

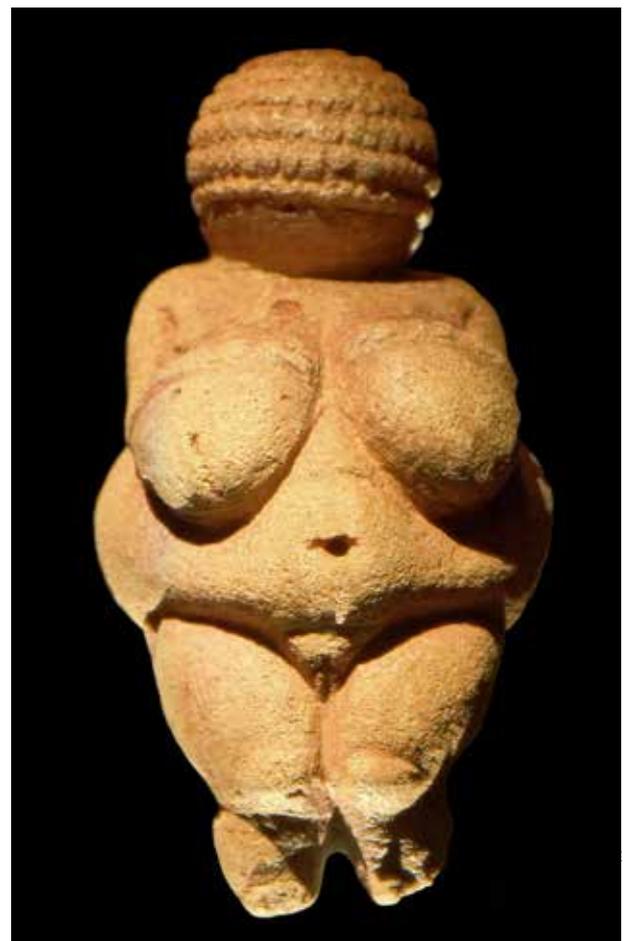


platforms, which are owned by Facebook, but received a standard response that she had breached the terms of use by posting images that displayed "repeated nudity".<sup>107</sup> The artist, who uses Instagram as a "digital archive of her work", regained access to her account on 14 May 2018 and Instagram apologised for the inconvenience.

## FACEBOOK CENSORING FINE ARTS DUE TO NUDITY

Although Facebook's Community Standards state that photographs of paintings, sculptures and other art that depict nude figures are allowed on its platform,<sup>108</sup> a number of cases from 2018 demonstrated that this policy has not been applied consistently. On 1 March, Facebook apologised for censoring the post of Italian art activist Laura Ghianda, who had posted a photograph of the famous Paleolithic sculpture *Venus of Willendorf*.<sup>109</sup> Both Ghianda and the Natural History Museum (NHM) in Vienna, which displayed the work, expressed outrage. Facebook later apologised and stated that in December 2017 it had mistakenly labelled this 30,000 year-old sculpture as "dangerously pornographic".

*Venus of Willendorf* at the Natural History Museum in Vienna. Credit: Matthias Kabel



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*“Unfortunately, promoting our unique cultural heritage on the world’s most popular social network is impossible right now.”*

THE CHIEF EXECUTIVE OF THE FLEMISH TOURIST OFFICE **PETER DE WILDE**, *THE GUARDIAN*, 23 JULY 2018.

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Despite this apology, in the following months, the Facebook algorithm continued to mistake fine arts for nudity. In July, the Flemish tourist board in the Belgian city of Antwerp complained to Facebook because the platform deleted a number of posts that featured paintings by Flemish artists, including a photograph of artist Peter Paul Rubens’ famous painting *The Descent from the Cross*, in which Jesus is naked in his loincloth. The letter addressed to Facebook founder Mark Zuckerberg was signed by most of the renowned Flemish museums, which noticed that posts, including advertisements promoting the Belgian Flanders region, containing artworks by the famous 17th century painter had been removed.<sup>110</sup>

Similarly, in August, Montreal’s Fine Arts Museum advertisement promoting its upcoming Picasso exhibition was blocked on Facebook over charges of nudity.<sup>111</sup> The promotional material included the artists’ acclaimed painting *Femmes a la toilette*, featuring two nude women, which triggered Facebook’s algorithm. The museum was forced into reviewing its promotional material and tried to recreate acceptable adverts using three different Picasso paintings. However, none of them were accepted by Facebook because they contained at least one naked female breast. Given this peculiar dilemma, museum spokeswoman Pascale Chasse contacted Facebook, whose management subsequently allowed the advertisement to “make sure museums can share their most iconic paintings”.<sup>112</sup>

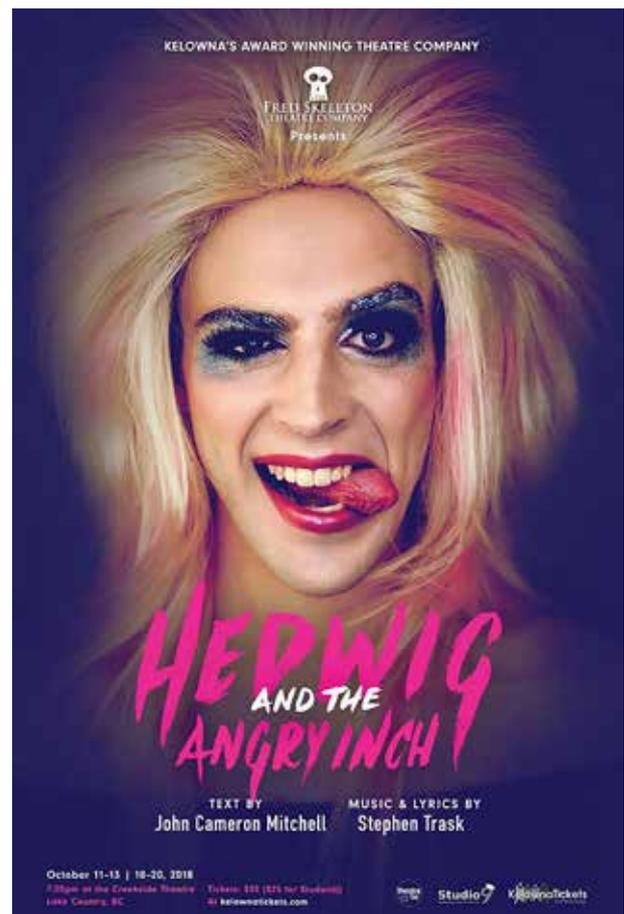
## FACEBOOK CENSORED THEATRE PLAY’S LGBTI-THEMED POSTER

Some artworks in the digital space are not automatically removed by automated algorithms, but upon reports registered by users of social

media networks. Whilst this option is a useful method for reporting disturbing and dangerous content, it is also subject to misuse by individuals who can inadvertently end up censoring artwork because of their subjective opinions relating to certain topics or artworks—a scenario that played out in the case of an LGBTI-themed theatre play in Kelowna, Canada.

In October, Facebook removed a poster promoting a theatre performance of *Hedwig and the Angry Inch* staged by the Fred Skeleton Theatre from its page. The poster, depicting the play’s lead actor Thomas Fournier sticking out his tongue and wearing heavy make-up was removed for showing “too much skin”. The play tells a story about a rock singer who changed sexes and sought stardom and fame after becoming a transgender woman. Facebook took down the advert after it had been running for two weeks. The theatre company—who had paid Facebook US\$ 400 for the advert—strongly believes that the decision by Facebook was taken at the behest of individuals who were offended and motivated by homophobic ideas.<sup>113</sup>

Poster for *Hedwig and the Angry Inch*. Credit: Fred Skeleton Theatre Company on Facebook



## ARTISTS EXPERIENCING HARASSMENT IN THE DIGITAL SPACE

Throughout 2018, Freemuse documented cases in which artists were threatened and harassed through social media networks because individuals perceived their artworks as indecent. Many of these beliefs were grounded on ideas of what constitutes public morality or correct religious beliefs, while in some cases, online threats and harassment were related to disapproval of the political ideas the artists advocated or promoted. The seriousness of some of these threats forced some artists to cancel their public shows or to seek police protection.

In April, Colombian cartoonist Julio César González (known as Matador) was flooded by threats via social media so serious that the government's National Protection Unit provided him with personal bodyguards, an armoured vehicle and a bullet-proof vest. Matador was subjected to these threats over cartoons he had been publishing in Colombian newspaper *El Tiempo* and on his social media accounts. He was threatened via these platforms by individuals aligned with Colombian ex-president Álvaro Uribe and his political party Centro Democrático. These threats were however compounded by an online post created by Ariel Ortega Martínez, an Uribe backer, who brazenly asserted his conviction that a late notorious paramilitary leader of a death squad should have been sent to silence Matador if still alive.<sup>114</sup> The cartoonist decided to stop posting on social media networks for a period, but continued publishing his artworks in *El Tiempo*.

In Kyrgyzstan, the Bishkek-based songwriter Zere Asylbek received death threats after releasing the music video for her song *Kyz (Girl)* on 13 September 2018.<sup>115</sup> The video, which she created with the intention that it would open up a debate about women's position in Kyrgyz society, sparked strong reactions in the country. The musician was strongly criticised for appearing in the video in her bra, while several women surrounded her initially wearing long black-and-white robes. Subsequently, after jumping into water, the visuals in the video showed the women switch to other pieces of clothing—from traditional dresses and headscarves, to bikinis and jeans. Following her post, she received violent death threats,



*Zere Asylbek in the music video for her song Kыз (Girl) on YouTube*

in which people threatened to cut her head off unless she apologised to the Kyrgyz people. The musician sought police protection for fear that the threats were serious. The case shows how online spaces are used to communicate threats; a reality that continues to be a challenge for artists' personal sense of security as well as the sharing of artistic expressions.

Russian rap singer Egor Kreed received online threats in advance of his concert scheduled for 9 September 2018 in Makhachkala in the Russian republic of Dagestan. Local residents threatened to seriously harm him if he performed in the city because his songs were believed to be “contrary to the canons of Islam and corrupting the youth of Dagestan”, one commenter wrote on Instagram.<sup>116</sup>

Local police said they regarded these threats as incitements to extremist activities and as invoking ethnic hatred against Kreed, who had received the threats on the basis of his ethnicity. They then promised to take necessary measures to assure the safety of concertgoers. Nevertheless, the organisers of the concert announced that due to “the unstable situation on the ground” both Kreed's and MC Doni's concerts scheduled one day apart would be cancelled, as they could not assure the safety of their audiences.

*Rapper Egor Kreed. Credit: @egorkreed on Instagram*



## 3. VULNERABLE TO VIOLATIONS

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### DISCRIMINATION AGAINST WOMEN ARTISTS

Throughout 2018, women continued to be subjected to restrictions on their artistic and cultural rights. Women artists and women-themed artwork were specifically targeted and discriminated against for varying reasons across the world. This discriminatory treatment was more prevalent in parts of the world where gender inequalities remain particularly entrenched. In more than 50 per cent of cases Freemuse registered in 2018, women's creativity was restricted at the behest of governments and their various agencies. Women artists continued to face harsh criticism and were subjected to varying forms of intimidation from conservative circles and religious clerics. Despite international standards prohibiting discrimination against women in both public and private spheres, women artists face discriminatory limitations—both in law and in practice—on their participation in public performances. Bolivia, Egypt and Sudan are on the long list of countries which exploits concepts of what constitutes indecency in varying ways to silence women artists. Cases from Tajikistan and India have revealed the gendered nature of harassment and intimidation meted specifically to women artists when they stand up in defence of human rights.

#### IRAN AND TURKEY: DISCRIMINATION AGAINST WOMEN ARTISTS

Women artists—and particularly women musicians—in Iran continue to struggle to participate in public cultural life. Since 2013, tens of women artists have been banned from participating in live music performances, despite having secured the necessary permissions required from the Ministry

of Culture and Islamic Guidance—a branch of the executive mandated to safeguard the principles of the Islamic Revolution and Iranian Islamic ethics and identity. Local ministry officials in the city of Isfahan ordered singer Salar Aghili to perform on 12 and 13 January 2018 without the female members of his band. This decision was, however, criticised by Culture Minister Ali Salehi, who stated that existing national legislation does not prevent women from performing on stage. He added that the ministry needed to put together a directive regarding music performances which would be applied throughout Iran in the same way.<sup>117</sup> However, the reality for many women musicians in Iran still does not match these assurances.

Nevertheless, several weeks later, pop singer Benjamin Bahadori was similarly informed a day before his concert in Kerman, that the Ministry of Culture and Islamic Guidance had issued an order banning his band's female members Negin Parsa and Mojgan Abolfathi from appearing on stage. In response to this order, Bahadori decided to cancel the concert and instead announced on Twitter that his band would cancel each performance in the future where women performers were banned from appearing on stage.<sup>118</sup>

In Turkey, although there are no legal regulations prohibiting women from taking part in cultural life, the patriarchal society still suppresses the voice of women artists, often in subtle ways. In March 2018, Turkish Parliament Speaker Ismail Kahraman allegedly barred female actresses from performing at the Grand National Assembly of Turkey, in which they were commemorating the Gallipoli battle. This decision was reportedly made after an emergency meeting held just an hour before the performance was due to start.

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*"I am protesting with my art. Before, I used to paint landscapes, but later I realised the pressure from men for me to behave in a certain way and the patriarchal attitudes of the society, both men and women. I love freedom and it is very important for me to be able to choose a certain theme and express my ideas as an artist freely."*

TAJIK ARTIST **MARIFAT DAVLATOVA**, VOICES ON CENTRAL ASIA, 27 SEPTEMBER 2018

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Professional artists' associations and opposition politicians condemned the decision and a month later, 100 female actresses staged a protest at the Kenter Theater in Istanbul. At the protest, actress Tilbe Saran asserted that "the ban of women applied in the parliament, which is supposed to represent the will of the people of Turkey, has been the gravest example of gender discrimination".<sup>119</sup>

## BOLIVIA, EGYPT AND SUDAN: WOMEN ARTISTS UNDER ATTACK ON THE GROUNDS OF INDECENCY

Two thirds of all cases registered by Freemuse in 2018 concerning violations of women's artistic rights were ingrained in subjective concepts of what constitutes decency. Women faced harassment over their artwork deemed inappropriate from the perspective of public moral, religious norms and social values in different societies.

Catholic Christians constitute over 70 per cent of the population in Bolivia, and women often face repression and are threatened with violence by those influenced and motivated by traditional religious values. Although the influence of Catholicism has declined in recent years in Bolivia, new generation churches such as Pentecostals are on the rise and attempt to fracture the feminist discourse and movement by promising women in Bolivia greater freedom than they currently have compared to other branches of Christianity. In February 2018, Bolivian artist Rilda Paco faced rape and death threats, added to strong public criticism, because of what was perceived as her inappropriate depiction of the Virgin of Socavon. The artist and her artwork were also met with harsh criticism by the authorities in the city of Oruro—whose patron saint is the Virgin of Socavon—claiming that her artwork was an attack on the local population and declared her *persona non grata*. Minister of Culture Wilma Alanoca called for legal action against the artist.<sup>120</sup>

The artist had painted the Virgin of Socavon as her comment on the low media coverage of a case of homicide, which occurred during the religious carnival known as Carnaval de Oruro. In Paco's view, the carnival continued uninterrupted without proper condemnation of a violent crime in which a man—whose intention was to specifically harm his wife—



Rilda Paco's painting depicting the Virgin of Socavon. Credit: Rilda Paco on Facebook

set off a homemade explosive on the street. As a result of his actions, eight people died and dozens were injured, including his wife and daughter.<sup>121</sup> In order to bring public attention to the scale of gender-based violence during the carnival, the artist posted on Facebook her painting depicting the Virgin of Socavon in a red top, red underpants and black, thigh-high stockings, with three traditional Carnival characters holding bottles of alcohol at her feet.

Over the course of 2018, Freemuse registered significant numbers of prosecution cases brought disproportionately against women artists for actions the Egyptian authorities believed to be indecent. Laila Amer was among several female musicians who in 2018 faced criminal charges under Article 178 of the Egypt Penal Code for "inciting debauchery and immorality" allegedly because of her suggestive gestures and dancing in the music video for her song *Bos Omak* (Look At Your Mother). In February 2018 she was found guilty and sentenced to two years in prison, but she was acquitted on appeal the following month.<sup>122</sup>

Leila Amer in music video for her song Bos Omak. Credit: khaled taha on Youtube



Article 152 of the Sudanese Penal Code criminalises “indecent dressing” and prescribes punishments of flogging or a fine or both. The vague nature of the provisions compounded by the harsh, punitive measures designed to enforce compliance, ensure that women feel coerced into wearing the hijab. This provision was used in a case against singer Mona Magdi Salim, who was arrested by Khartoum police on 18 October after images surfaced of her performing at a cultural event in tight trousers and a white, long-sleeved top. She was released on bail while she waited for trial proceedings to begin, but her first court hearing was postponed indefinitely.<sup>123</sup>

## TAJIKISTAN AND INDIA: HARASSING WOMEN ARTISTS FOR THEIR HUMAN RIGHTS ACTIVISM

Women artists often address social issues and defend the rights of others through their art, and in doing so, they can be subjected to particular forms of intimidation, threats and harassment. These social issues tend to be seen as controversial, particularly those exploring gender inequalities such as sexual and domestic violence. Human rights defenders across the globe operate in challenging circumstances on a daily basis. Many are exposed to varying forms of harassment and intimidation and even death threats for simply defending the rights of others. Artists who engage in human rights activism are not immune to these threats.

In April 2018, Indian actress Sri Reddy staged a nude protest outside the Telugu Film Chamber of Commerce in order to raise awareness about the endemic nature of sexual harassment of women in the local film industry. Because of her actions, the Movie Artists Association (MAA) cancelled her membership and issued a statement threatening legal action against anyone working with her.<sup>124</sup> This effectively put a stop to her artistic career and isolated her by means of intimidation. Several days later, the ban on her membership was lifted after the intervention of the National Human Rights Commission—a statutory body—but the MAA continued to hesitate in its public approach to the issue of sexual harassment. They instructed the actress to go to the police if she had any complaints.

MAA President Sivaji Raja said they welcomed back Sri Reddy, but “can’t guarantee that she will be flooded with roles”, implying that Reddy’s actions may have made her infamous among producers and directors.<sup>125</sup>

In September 2018, Marifat Davlatova, a visual artist from Dushanbe in Tajikistan, received numerous death threats, both online and in the street, because of a series of nudes she painted. She had produced this series with the intention of addressing the issue of misogyny and sexual harassment directed against women in Tajikistan. Davlatova explained that she has often been forced to listen to comments by members of the general public about her body. In response to this intrusiveness—which she felt men would not have been subjected to—she designed a series of portraits of women’s bodies in order to demonstrate that women’s bodies are “just a normal thing”.<sup>126</sup> Nevertheless, these portraits sparked a heated debate in Tajikistan and she received numerous insults and death threats. In addition, local journalist Sarvinoz Ruhulloh, who reported about Davlatova’s exhibition for Radio Free Europe, also received online abuse and death threats as well as criticism for “promoting Western culture and an immoral image of the Tajik woman and mother”.<sup>127</sup>



*Marifat Davlatova received death threats for her nude paintings.  
Credit: Marifat Davlatova*

# LGBTI EXPRESSION REMAINS VULNERABLE

*“The influence of religious hardliners has grown in Malaysia in recent years, often pitting religious fundamentalists against those campaigning for greater rights for the LGBT community.”*

POP STAR **DENISE HO**, *BBC NEWS*, 15 FEBRUARY 2018

LGBTI artists and LGBTI-themed artwork continued to be specifically targeted by governments. In 2018, Freemuse found that LGBTI communities were targeted on several grounds: artwork dealing with the topic of homosexuality was subjected to interference and artists were deliberately persecuted because of their sexual orientation or their public support to sexual minorities. In the majority of violations documented, Freemuse found a deliberate pattern of censorship, while in some countries draconian anti-LGBTI legislation meant that artists faced dubious charges over the content of their artwork. Experiences of artists in Belarus, Malaysia, Cayman Islands and Kenya clearly illustrate how forms of artistic creation which contain LGBTI themes and artists from these communities were subjected to discriminatory attitudes.

Artists who identify with the LGBTI community—as well as the artistic creations they produce—are recurrently targeted across the regions in many ways. Sometimes, state-sponsored censorship or prosecution is used as a way to silence the LGBTI community and instigate a chilling effect with the hopes that it will render them invisible. Often, individuals or groups will physically attack or threaten LGBTI artists, which makes them feel unsafe and vulnerable. Sexual minorities are often unprotected in the face of these attacks, and this substantially shrinks the artistic space necessary for free expression and creation.

## **BELARUS:** ACTIVISTS PERSECUTED BECAUSE OF ARTISTIC INSTALLATIONS

Belarusian legislation does not ban homosexuality, but government officials often send mixed messages in regards to their tolerance of same-sex relations. On 28 June 2018, three students attending Belarus Free Theatre’s Studio Fortinbras staged a peaceful protest supporting LGBTI rights by painting rainbow-colored footprints and pots of flowers outside the offices of the Ministry of Interior. The students—Olga Romashko, Hope Krapivina and Dmitri Efremov—were subsequently arrested.<sup>128</sup> It was reported that, after being kept in detention overnight, allegedly without explanation or being formally charged, they were tried in three courts and each fined 73.5 rubles (about 30 euros) for disobeying police.<sup>129</sup>



Supporters attend the sentencing of Belarus Free Theatre students at court in December 2018, Credit: Belarus Free Theatre on Instagram

In December 2018, the Belarus Free Theatre Studio Fortbinbras once again became the focus of authorities when three students dressed as police officers with rainbow epaulettes for a performance piece addressing homophobia. One of the performers was arrested on 8 December and allegedly kept in detention without food and water before he was reportedly convicted for staging an unauthorised mass event and fined 15 basic values (about 150 euros).<sup>130</sup> The other two students, who were initially in hiding, were arrested on 11 December and detained overnight in connection to the incident. They were reportedly found guilty of the same offence and also fined 15 basic values.

## MALAYSIA: CENSORING LGBTI-THEMED ARTWORKS AND ARTISTS

Homosexuality is prohibited in Malaysia under Sharia law, which varies from state to state and applies to all Muslims. The Malaysian Criminal Code does not criminalise homosexuality, but it does prohibit sodomy. The Malaysian government continues to carry out discriminatory policies specifically against the LGBTI community, sometimes while sending mixed messages: in July 2018, the Minister of Islamic Affairs, Mujahid Yusof Rawa, condemned bullying and workplace discrimination against LGBTI people, all the while he announced that the government would organise “seminars” and “camps” in which they intended to change participants’ sexual orientation.<sup>131</sup>

In September 2018, Mooreyameen Mohamad’s photography exhibition *Stripes and Strokes* was partly censored by the Malaysian government. Under Mujahid Yusof Rawa’s order, organisers of the annual George Town Festival were specifically ordered to remove two portraits of LGBTI activists from the exhibition, which featured a series of photographs of different Malaysians posing with the country’s flag.<sup>132</sup> The images in question were of transgender activist Nisha Ayub and Pang Khee Teik,



Mooreyameen Mohamad’s portrait of Pang Khee Teik was removed from his exhibition in Malaysia. Credit: Mooreyameen Mohamad

the co-founder of human rights festival Seksualiti Merdeka, an annual sexuality rights festival held in Kuala Lumpur.

In February 2018, Hong Kong pop star Denise Ho was denied a performance permit by the Malaysian authorities for her concert scheduled to take place in its capital city Kuala Lumpur because of her progressive views and public stance on LGBTI rights. This singer, who is the first major female star in Hong Kong to come out as gay, used her Facebook profile to inform fans that her April 2018 show had to be cancelled over a permit denial “because she is an active supporter of the LGBT community”.<sup>133</sup> The officials, who declined to provide any substantive information on their reasons for turning down Ho’s request, claimed that artists performing in Malaysia needed to comply with “local values”.

Graphic for the ‘Dear Self Dear World’ tour during which Denise Ho was prevented from performing in Kuala Lumpur, Credit: HOCC Denise Ho on Facebook



## CAYMAN ISLANDS: ARTISTS PROSECUTED OVER SAME-SEX SCULPTURES

Although the Cayman Islands are officially a British overseas territory, the rights guaranteed in the UK do not extend to individuals belonging to the LGBTI community on these islands. Homosexuality was only decriminalised in 2000 and happened under the pressure from the UK.<sup>134</sup> Whilst discrimination in the law has been tackled, this is not necessarily matched by reality.

In April 2018, artist Ronald Gregory Kynes (known as Foots), was prosecuted in the Cayman Islands because of four sculptures he had displayed on his property in the South Side of Cayman Brac. This case was initiated in 2017 when some neighbours filed a complaint with the police because they considered the artwork to be offensive and in contravention of obscenity laws. The artist was detained by local police on 18 July 2017 when he refused to remove from his property the publicly visible sculptures that allegedly featured nudity, homosexuality and religious iconography.<sup>135</sup>

Kynes has since complained several times about the treatment he received from both the police and the community. He also alleged his complaints of harassment were ignored by authorities. On 12 August 2017, two of the sculptures involved in the case were vandalised, and Kynes said that at least eight of his works have been damaged in similar circumstances since 2009 and that the police have done nothing about that. The artist also said he has received death threats and constant harassment from the community.<sup>136</sup>

Later in October 2017, Kynes was charged under the section 157(1) of the Penal Code for “displaying an obscene object for public exhibition and intending to corrupt morals”. During his two-day trial in April 2018, the prosecutor summoned five witnesses who testified, citing the grounds on which they were offended by the sculptures. Two months later, judge Kirsty-Ann Gunn dismissed all charges and acquitted the artist because the content could not be ruled obscene in nature; there was actually no “physical” contact between the two interacting sculptures which emulated sexual activities.<sup>137</sup>



Rafiki was censored in Kenya. Credit: Big World Cinema

## KENYA: INTERNATIONALLY RECOGNISED KENYAN FILM *RAFIKI* BANNED

Kenya is among African countries in which homosexuality is illegal. Kenyan laws prescribe up to 14 years in prison for same-sex relationships.<sup>138</sup> Given this broader context, any artwork tackling the issue of LGBTI rights or containing LGBTI themes are subject to restrictions, even when the artwork in question has received international recognition.

In April 2018 Wanuri Kahiu’s film *Rafiki* (Friend) was censored in Kenya. It tells the love story of two Kenyan girls who develop a romantic relationship regardless of the local community norms. Despite being the first Kenyan film to premiere at the Cannes Film Festival, it was banned by the Kenya Film Classification Board for showing “clear intent to promote lesbianism in Kenya which is contrary to the law.”<sup>139</sup>

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*“Unfortunately, our film has been censored in Kenya, because it deals with matters that are uncomfortable for the Kenya Film Classification Board.”*

DIRECTOR, WRITER AND CO-PRODUCER OF RAFIKI, **WANURI KAHIU**, *DAILY NATION*, 29 APRIL 2018

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*Rafiki* was made available for one week in local cinemas when a court temporarily lifted the ban in order for the movie to meet the Oscar Academy Award nomination rules which require the film be publicly exhibited for at least seven consecutive days, at a commercial cinema, in the country of origin before it can be submitted. Judge Wilfrida Okwany allowed for the conditions to be met despite the strict domestic anti-LGBTI regulations.<sup>140</sup>

## MINORITIES

Throughout 2018 freedom of expression of artists coming from minority groups continued to be suppressed. Artists from minority ethnic groups and artworks dedicated to raising awareness about the political, social and economic issues they face in societies in which they live have been targeted by both state authorities and non-state actors. In countries such as China and Turkey, these forms of discrimination continued to be particularly entrenched for people ethnically identifying with Tibetan, Uyghur and Kurdish minority groups; they continued to be deprived of fundamental rights and suffered at the hands of the state. In these countries, minorities were particularly exposed to oppressive measures, which included systematic persecution, disappearances and imprisonment.

Examples from the USA and Canada dissected below illustrate how artists who produce work relating to issues facing minorities face real threats of having their work physically attacked. Finally, in 2018, Freemuse registered an emerging trend of censorship against artistic expression based on cultural appropriation. There were several incidences in the UK and Canada where performances and shows were cancelled. Debates started to emerge about the ethics relating to the issues of minority representation and determining who has the authority to represent these groups.



Mural of Zehra Doğan. Credit: @AtRiskArtists on Twitter

## CHINA: WRONGFUL DETENTION OF UYGHUR ARTISTS

In 2018 Chinese authorities continued to suppress freedom of expression and religion of certain ethnic groups. Four Tibetan artists continued to be imprisoned for part or all of 2018, while ethnic Uyghurs were subjected to a range of unlawful violations including mass arbitrary detention in pre-trial detention centres and prisons as well as “political education” camps.<sup>141</sup> Artists from these communities were targeted specifically on the grounds of their ethnicity as well as their professional identities and this became particularly acute for those artists from the Xinjiang Uyghur Autonomous Region, who are being targeted for promoting Uyghur culture and identity.<sup>142</sup>

In February 2018, pop star Ablajan Awut Ayup disappeared on his way home to Urumchi after a recording trip to Shanghai. Although Ayup’s family has not been given any information about his whereabouts, they believe he was detained by the authorities, albeit no reasons for detention have

been given and no charges have been formally pressed. Those close to the singer believe he was targeted because of the lyrics and music video of his song *Soyumlik Muellim* (Dear Teacher).<sup>143</sup> Chinese authorities had banned the use of the Uyghur language in Xinjiang schools in June 2017,<sup>144</sup> and the song's music video depicts children in the classroom being lectured in their native language.



*Ablajan Awut Ayup. Credit: Ablajan Awut Ayup on Instagram*

In December 2018, Uyghur pop star Zahirshah Ablimit was reportedly forcibly detained in a re-education camp in the Xinjiang Region.<sup>145</sup> The artist's brother made the news public, and the information has been confirmed by two Chinese officers, albeit details remain blurry. It is alleged Ablimit was detained in connection to a trip with

his parents to Turkey. The country is among the Muslim nations blacklisted by Chinese authorities for Uyghur travel, due to a risk of "religious extremism". The musician and his parents have allegedly been kept in a camp run by the Suntagh Police Station in Atush, together with other Muslims accused of harbouring "strong religious views" and being "politically incorrect".<sup>146</sup>

Another popular Uyghur artist, 55-year old comedian Adil Mijit, also went missing in 2018, according to his son-in-law Arslan Hidayat.<sup>147</sup> Some sources report the comedian disappeared after he left hospital where he was recovering from heart surgery; it is speculated that he might be detained in one of Xinjiang's Uyghur re-education camps. The artist had travelled to Mecca in 2016—reportedly without the necessary prior approval from Chinese authorities—and Turkey in 2017.<sup>148</sup> Neither the comedian's family nor his former employer, Xinjiang Opera Troupe, are reported to have any information about the location at which he is kept and his family remain concerned about his wellbeing given that he requires ongoing medical support for his heart. As of 22 February 2019, there is still no new information on his whereabouts.<sup>149</sup>

## **TURKEY: KURDISH ARTISTS FACING PERSECUTION**

In its *State of Artistic Freedom 2018* report, Freemuse had already identified a pattern of persecution against Kurdish arts and cultural centres, which suffered closures and dismissals. Armed clashes between Turkey's military and the illegal armed group Kurdistan Workers' Party (PKK) in the southeast persisted throughout 2018 and Kurdish artists in Turkey continued to suffer repercussions as a result. They were specifically exposed to repressive measures by the Erdoğan government, which included dozens of legal prosecution cases against artists with Kurdish ethnic background under terrorism-related charges. Hundreds of people, including at least 10 artists, were detained and prosecuted in 2018 on charges of links with the PKK, following the post-coup clampdown.



Part of the 'Free Zehra Dogan' mural by Banksy. Credit: @AtRiskArtists on Twitter

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*"It is clear that the painting is against the operations that were conducted as a result of the PKK terrorist organisation's violence and force. The painting is beyond the limit of criticism of the operations carried out by the security forces in order to restore public order and it is propaganda for the PKK's barricade and trench policy."*

FROM THE COURT DECISION IN ZEHRA DOĞAN'S CASE, PEN INTERNATIONAL, 17 AUGUST 2017

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Throughout 2018, Kurdish artist and journalist Zehra Doğan continued to serve her March 2017 prison sentence of two years, nine months and 22 days over alleged "membership in an illegal organisation" and "spreading propaganda", for a painting she had made which depicted the destruction of the city of Nusaybin by Turkish armed forces. It remains unclear whether the sentence was motivated by the painting itself or by the fact that the artist had shared it on social media, as it showed military operations. Doğan stated that prison guards continuously confiscated and destroyed her artworks, claiming that painting is forbidden in prison.<sup>150</sup> On 24 February 2019, Zehra Doğan was released from prison after spending two years in detention.<sup>151</sup>

In September 2018, Kurdish musician Ferhat Tunç was sentenced to one year, 11 months and 12 days in prison on charges of making propaganda of a terrorist organisation, based on messages he had

posted on his social media. In November, a Turkish court sentenced German-Kurdish singer Hozan Cane to six years and three months in jail over her alleged membership in a terrorist organisation, also because of her social media postings. For more, see the Turkey section in Chapter 3.

## **USA AND CANADA: DESTRUCTION OF ARTWORKS DEDICATED TO MINORITY GROUPS**

Freemuse has documented censorship practices in the USA in connection with artworks portraying the issue of police brutality against African Americans. On 7 May 2018, a 16-year-old student tore down a fellow student's Black Lives Matter mural at the North Carolina Apex High School. The student believed that the mural was offensive, "pointed fingers to cops" and directed blame at white police

officers for racially motivated police brutality.<sup>152</sup> The mural, which had been approved by the school administration, featured images of white police officers on one side, black victims of police violence on the other, the shape of a gun and the message “My blackness is not a weapon”. In response to the incident, the principal posted a comment on the school’s website that “defacing school property for any reason is not tolerated” and that disciplinary action would be taken.



Black Lives Matter mural at North Carolina Apex High School before being torn down. Credit: @gracie\_e\_s on Twitter

On 10 May 2018, a mural honouring missing and murdered indigenous women from the North Okanagan community was defaced in the Canadian city of Enderby. The mural by artist Isha Jules, which had an inscription “No more stolen sisters”, was initially partially painted over in black and white and later the message “No more drunk stolen squaw sisters” was scrawled across the mural. Reports suggest that the motivation for this vandalism lies in racism, because of the special concern about missing and murdered indigenous women.<sup>153</sup>

## CANADA AND UK: CULTURAL APPROPRIATION AS A CHALLENGE FOR FREEDOM OF ARTISTIC EXPRESSION

In 2018 Freemuse registered a number of incidences in which certain groups exclusively claimed ownership over certain forms of artistic expression, particularly those which are rooted in historical real life narratives. In July, organisers of the Montreal International Jazz Festival cancelled performances of *Slav*, which was criticised for being “insensitive and disrespectful” because its predominantly white cast sang African American slave songs. After two performances, protestors who felt insulted by the insensitivity of the producers initiated a wave of criticism, and a movement calling itself the Slav Resistance Collective set itself on a mission to achieve cancellation of all *Slav* plays. The festival organisers were accused of cultural appropriation and ended up issuing an apology and cancelling 14 shows for which around 8,000 tickets had been sold.<sup>154</sup>

In the UK in August 2018, English singer Mazz Murray was barred from singing a song from the *Dreamgirls* musical at the Royal Albert Hall in London, allegedly because she is white. The ballad song *And I Am Telling You I’m Not Going*, which Murray was supposed to perform in October, was originally a song from an African American musical called *The Best of the West End*. When the show’s producers Seventh Sense approached the owners of *Dreamgirls* musical to ask for permission to use the ballad, they were told that it was not “appropriate” for a white woman to sing it, because it was an African American musical. This decision was criticised in artistic circles as an “unpleasant new kind of race-based injustice”, while anti-racism campaigners believed it was crucial to discuss the ethics of representation.<sup>155</sup>

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*“This ancient ritual requires that we borrow, for the duration of a performance, someone else’s look, voice, accent and at times even gender. But when we are no longer allowed to step into someone else’s shoes, when it is forbidden to identify with someone else, theatre is denied its very nature, it is prevented from performing its primary function and is thus rendered meaningless.”*

DIRECTOR **ROBERT LEPAGE**, POSITION ON SLĀV IN OPEN LETTER, *EX MACHINA*, 6 JULY 2018

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*Drag Sethlas performing as the Virgin Mary, Credit: Drag Sethlas on Instagram*

## 4. POSITIVE DEVELOPMENTS

Whilst the world's attention has been drawn to the numerous developments that have negatively impacted human rights, there have been some minor developments that embrace a more progressive understanding of cultural rights and associated freedoms. In 2018, governmental authorities and governments appointed regulatory bodies responsible for governing cultural spheres across various parts of the world that worked to ensure unhindered access for artists to their right to artistic freedom, and the broader freedoms of expression and association. The impetus for these decisions largely emanated from the need to provide redress to individual artists where their rights had been violated. However, they also emerged from an understanding that states were beginning to embrace concerning the financial benefits such industries provide.

Freemuse documented a handful of positive developments where the national or international judiciary ruled in favour of artists whose artwork had been subjected to censorship; a number of courts also acquitted artists who stood unfairly accused of violating national laws.

### EUROPEAN COURT OF HUMAN RIGHTS PUNISHED MALTA FOR VIOLATING ARTICLE 10 OF THE HUMAN RIGHTS CONVENTION

The European Court of Human Rights (ECHR), mandated with supervising the enforcement of the European Convention on Human Rights, including adjudicating on cases in which human rights violations are alleged to have taken place, on 15 May 2018, ruled that the theatre play *Stitching* had been unlawfully censored by Maltese authorities. The ECHR overturned the 2010 decision of Maltese courts and ordered the Maltese state to pay 10,000 euros for legal costs and an additional 10,000 euros for restitution of moral damages to Unifaun Theatre Productions Limited and three other associates.<sup>156</sup> The Maltese state was found to have been in breach of Article 10 of the European Convention on Human Rights, which guarantees freedom of expression. The play was subsequently staged at the Manoel Theatre in September 2018.<sup>157</sup>

In early 2009, Malta's Board for Film and Stage Classification, in charge of issuing rating certificates, issued a "banned and disallowed" certificate for the play, with no reasons given. After a series of inquiries by the theatre company, they were finally told that the play was banned on several grounds: over "blasphemy", the "contempt" shown for the victims of the Auschwitz Nazi camp, its portrayal of "dangerous sexual perversions" and its references to the sexual assault of children.<sup>158</sup> When stating their intention to stage the play despite the ban, they were warned by police that they would face immediate arrest. In 2010, the theatre company had taken the ban before Maltese courts, and lost, at which point the appeal before the ECHR was filed.<sup>159</sup>

### BRAZIL AND USA: JUDICIARY DEFENDING RIGHT TO ARTISTIC CREATIVITY

In February 2018, the São Paulo Court of Justice—the highest court at the state level in Brazil's federal system—ruled that the banning of the

theatre play *The Gospel According to Jesus, Queen of Heaven* was unconstitutional. Judge J. L. Mônaco da Silva ruled that the previous court order, which banned the theatre production featuring a transgender Jesus Christ, amounted to “true cultural aggression”. The judge determined that the play should be staged, despite protests by some Christian religious groups who were offended by the non-traditional portrayal of Christ.<sup>160</sup>



Renata Carvalho during *The Gospel According to Jesus, Queen of Heaven* theatre play, Credit: *Jesus Queen of Heaven* on Facebook

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*“People might not agree with the content of the show, but that’s not enough reason to knock on the doors of the court to ban its performance. Just don’t watch it!”*

JUDGE **J. L. MÔNACO DA SILVA** ON ‘THE GOSPEL ACCORDING TO JESUS, QUEEN OF HEAVEN’ SHOW, *HYPERALLERGIC*, 27 FEBRUARY 2018

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In the US, on 12 February 2018, the Federal District Court in Brooklyn awarded US\$ 6.7 million to 21 graffiti artists whose works were destroyed in 2013 at the 5Pointz complex in Long Island City, Queens.<sup>161</sup> The ruling stated that Jerry Wolkoff, owner of the 5Pointz, broke the law when in 2013 he ordered the destruction of murals painted on the company’s wall. In its determination, the court also noted that he had previously given the artists his permission for using his walls for their art work.

## SPAIN AND MALAYSIA: ACQUITTING ARTISTS PUT ON TRIAL FOR THEIR ARTWORKS

On 30 July 2018, the Provincial Court of Las Palmas dismissed an appeal filed by the Association of Christian Lawyers against Drag Sethlas (real name Borja Casillas) for offending religious feelings using elements of the Catholic religion in his artistic drag performance, by dressing as the Virgin Mary and a crucified Christ. As a response to the complaint, filed in December 2017, the court argued that the use of religious elements in the performance should not be used out of context, as it occurred whilst he was at a “transgressive”, “exaggerated” and “daring” party. It was argued that this clearly demonstrated that there was no malicious will to offend religious feelings.<sup>162</sup> It also condemned the Association of Christian Lawyers to pay the costs incurred in the appeal process.

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*“It can attract more or less attention, it can be liked or disliked, it can be uncomfortable, even [seem] excessive and annoying, but what cannot be done is decontextualising it from that specific environment and context, and thus, must not be classified, even prima facie, as criminal due to a total lack of offending intent.”*

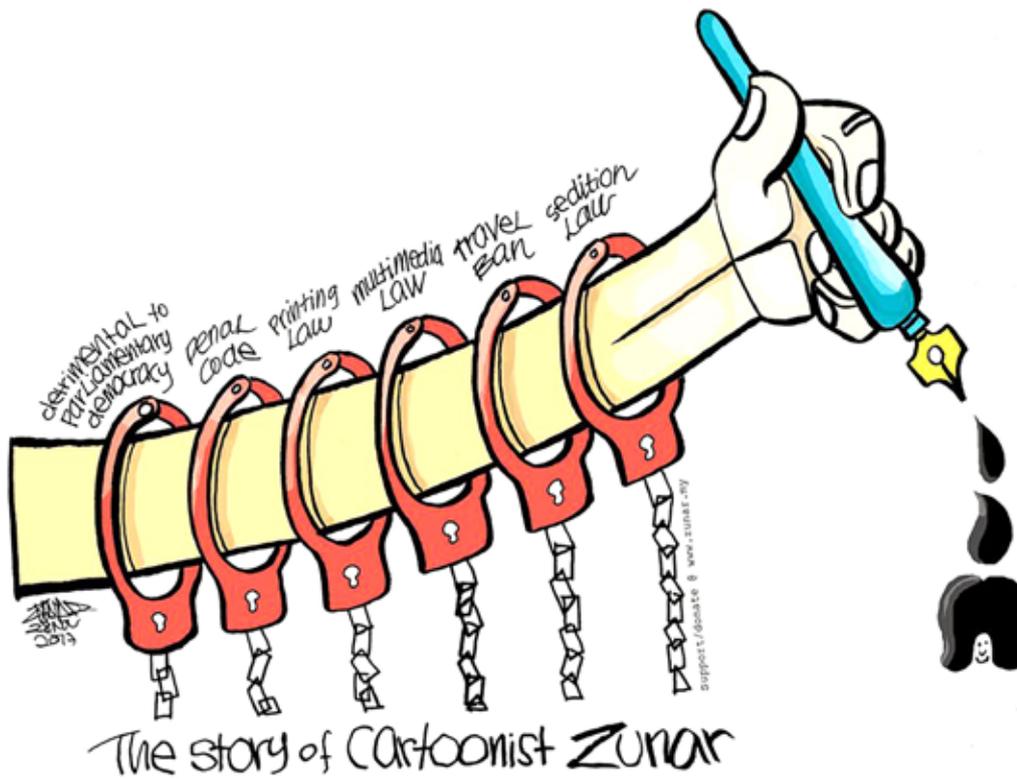
MAGISTRATE **PEDRO HERRERA** ON THE PERFORMANCE OF DRAG SETHLAS, *CANARIAS 7*, 30 JULY 2018

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On July 30 2018, shortly after a change in government, Malaysian political cartoonist Zulkifli Anwar Ulhaque (known as Zunar) was acquitted by the Kuala Lumpur Sessions Court, after the Attorney-General’s office decided it did not want to pursue the case, and dropped the nine sedition charges the artist was facing under the Sedition Act. Although Zunar has been known for his political cartoons in which he has criticised former Prime Minister Najib Razak and his wife, he was

put on trial in 2015 for a series of tweets in which he criticised the prosecution of individuals aligned with opposition leader Anwar Ibrahim.<sup>163</sup> The cartoonist welcomed the acquittal, but pointed out that he could not be completely satisfied unless the Sedition Act is abolished from the Malaysian

legal system. On 11 October 2018, Prime Minister Mahathir Mohamad's cabinet announced that it was suspending the Sedition Act, in preparation for its repeal; in January 2019, it revealed plans to follow through its promise in March.<sup>164</sup>



Political cartoonist Zunar has been arrested, detained, prosecuted, banned, threatened and had his offices raided repeatedly over the past decade. Zunar Story image courtesy of Zunar - [www.zunar.my](http://www.zunar.my)

“ Without denying that the form and content of the poster may not suit everyone—some may even feel offended or disgusted with it—it must be stated that the feelings of other people cannot prejudice the guilt and agency. Exceeding ethical, moral standards, or going beyond the bounded canons in art is not in itself and cannot be tantamount to committing a crime. ”

JUDGE **MAREK KAPALA** ON POLISH BAND BEHEMOTH'S TOUR POSTER. LEAD SINGER ADAM DARSKI (AKA NERGAŁ) WAS CHARGED WITH "INSULTING THE POLISH COAT OF ARMS" BECAUSE OF AN IMAGE USED IN THE POSTER. *POLSAT NEWS*, 16 APRIL 2018.

# 3

CHAPTER 3: COUNTRIES OF CONCERN

# CHINA:

## AUTHORITIES LIMITING THE SCOPE FOR ARTISTIC EXPRESSION AND ENJOYMENT OF ART

- Artistic expressions containing governmental criticism are censored
- The government was responsible for 91% of the violations of artistic freedom documented by Freemuse in China in 2018
- Suppression of political dissent is a prominent reason for censorship of art

Chinese authorities rarely allow art with political content that can be deemed offensive or indecent. According to Freedom House, China's authoritarian regime has become increasingly repressive in recent years with increasing control particularly over the media, online speech and civil society associations.<sup>1</sup> In some cases, the power of authorities creates a restricted environment in which artists struggle to cope with the impositions created by the state.

### PROTECTING THE NATIONAL ANTHEM

Performing or expressing oneself in ways that are deemed offensive or disrespectful to the nation can often be costly. In October, 20-year-old Chinese woman Yang Kaili was detained for "disrespecting" the national anthem on the live streaming platform Huya, and her channel with millions of followers was banned. During an online stream on 7 October, Kaili moved her arms as if conducting the anthem as it played in the video.<sup>2</sup> According to the Shanghai Police Department, her action was in violation of the country's National Anthem Law under which she was then charged. The law requires citizens to respect and safeguard the anthem, and according to provisions contained within law, the anthem "must not be sung in a form harmful to the anthem's dignity".<sup>3</sup> Kaili was detained for five days by police in Shanghai's Jing'an district and later apologised for not performing the anthem seriously and thus hurting people's feelings.

In January 2019, a bill was presented to Hong Kong's Legislative Council to introduce a fine of maximum 50,000 HK dollars (about 5,610 euros) and three years in prison for insulting the Chinese national anthem.<sup>4</sup> It also gives authorities two years from the time of the incident to prosecute alleged offenders. The proposed bill is expected to pass by vote sometime before summer 2019.<sup>5</sup>

### WINNIE THE POOH COMPARISONS

Criticising the government or national traditions can be interpreted by authorities as an offence to the state. In several instances since 2013, Chinese president Xi Jinping's physical appearance has been compared to that of fictional character Winnie the Pooh. As a result, images, films and other forms of art involving the bear are now censored to emphasise that ridicule of the country's leader will not be tolerated. In October 2018, the film *Christopher Robin* featuring Winnie the Pooh was denied release by China's film authorities.<sup>6</sup> In an episode of the show *Last Week Tonight* aired in June, host John Oliver criticised Xi Jinping's presidency and satirised his resemblance to Winnie the Pooh. The show was consequently censored in China together with all posts mentioning the name of the show and the host on the popular social media platform Weibo.<sup>7</sup> Similarly, an exhibition meant to challenge censorship and dictatorship in China called *Gongle*, by political cartoonist and artist under the alias 'Badiuca', was cancelled in October

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*"I mean, the reason why I keep being anonymous and using a pen-name is that I recognise the danger behind it. I don't know if the government is aware of my identity. I just have to be cautious and try my best to protect myself."*

**BADIUCAO**, CHINA UNDERGROUND, 11 AUGUST 2018

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following threats made by the Chinese authorities relating to the artist.<sup>8</sup> The exhibition featured Winnie the Pooh as well as caricatures of Xi Jinping and other political figures. The threats were not revealed to media, but were serious enough for the organisers to feel compelled to cancel the exhibition in order to protect the safety of their partners.

According to article 19 of the International Covenant on Civil and Political Rights (ICCPR), everyone has the right to freedom of expression, including in the form of art, and the freedom to seek, receive and impart information and ideas of all kinds regardless of frontiers.<sup>9</sup> In 1998, China signed the ICCPR, but as of December 2018 it has not been ratified. However, the Special Rapporteur in the field of cultural rights emphasised that laws prohibiting disrespect for authority, flags, symbols and defamation in order to ensure protection of honour of public officials raise several concerns, especially since public figures, including those exercising the highest political authority, are in some cases "legitimately subject to criticism and political opposition."<sup>10</sup> Artistic expressions critical of a leadership should

not be systematically suppressed by states nor other actors who find it convenient to allow only certain narratives to be promoted through art.

Badiuca, the artist mentioned in the case above, is using art to challenge the specific narrative continuously promoted by the

Chinese government: "A part of my art is using the same style but doing the opposite thing by attacking the propaganda system, by giving an individual perspective narrative against this official national owned story" he said during an interview.<sup>11</sup>

In another instance, and after several detentions over the past few years, songwriter and activist Xu Lin was in December 2018 sentenced to three years in prison for "picking quarrels and provoking trouble".<sup>12</sup> The Nansha District People's Court in Guangzhou City sentenced Lin because of his use of social media in "disseminating disruptive content" which also involved his song lyrics. Lin had previously written and released songs dedicated to and in support of Liu Xiaobo who was imprisoned for demanding an end to one-party rule and died in 2017 while serving his 11-year jail sentence.

Rather than exercising persecution and repression, the state has the responsibility to safeguard access to art and allow for all kinds of re-appropriation of symbols, yet in China this remains challenging for artists and audiences.

*'Winnie the Trophy' by Badiuca, whose first international solo exhibition, Gongle, was cancelled in Hong Kong for safety reasons. Image courtesy of the artist*



# CROATIA:

## WAR VETERANS AS CULTURAL CENSORS

- The legacy of the Serbo-Croatian conflict affects artistic creation in Croatia
- War veterans' associations called for censorship of music festivals
- Local Serbs and artists from Serbia targeted and censored

The legacy of the 1991-1995 Serbo-Croatian armed conflict continues to permeate across the political, social and cultural life in the country. Violations of freedom of artistic expression usually occur around anniversaries of events from the war and often without public condemnation. Freemuse has documented cases of censorship and death threats made against artists by non-state actors as well as interference in shaping the editorial policy of a national media outlet, all on the grounds of the past conflict. In 2018, authorities in the conservative-led country tended to support censorship requests coming from former combatants and their supporters, disproportionately targeting art created by the local Serbian minority, Serbs coming from Serbia and domestic artists addressing Croatia's responsibility for crimes committed against Serbs in the 1990s.

### A DEATH THREAT FOR CRITICISING ARMED FORCES

On 16 August 2018, satirist Domagoj Zovak received death threats after an episode of his comedy *News Bar Prime Time* aired on the TV channel N1. The episode was dedicated to the anniversary of the 1995 military Operation Storm, which enabled Croatia to regain control over territories previously claimed by Serbs, but triggered killings and an exodus of the local Serbian population. Following the episode in which Zovak criticised several representatives of the Croatian armed forces for killing Serbian civilians by shooting them from behind, an angry spectator addressed him with the following

Facebook message: "You will get one in the back of the head too, I swear." The message was sent along with a timetable for the bus line that Zovak uses to visit his family.<sup>1</sup> Through an IP address provided by Facebook, police on 20 November 2018 identified a man from Split who then admitted to sending the message.<sup>2</sup> In a separate case, the Municipal Court in Zagreb found on 28 December 2018 that *News Bar*, a satirical news site where Zovak is one of the editors, published a story about journalist Velimir Bujanec in 2015 that was untrue and deemed insulting.<sup>3</sup> *News Bar's* claim that the content was critical satire was rejected by the court. If the ruling is upheld by the appeals court, *News Bar* is subject to pay 12,000 Croatian kunas (about 1,600 euros) in damages to Bujanec. Such a verdict can seriously endanger satire in Croatia.

### ATTEMPTS TO CENSOR MUSIC FESTIVALS

In the aftermath of the 2018 anniversary of Operation Storm, local and regional Croatian war veterans associations tried to prevent several concerts of the Serbian rock band Bajaga i Instruktori from taking place in Croatia. They claimed that its lead singer sang "Chetnik songs" (Chetnik is a pejorative reference to Serbs) during the war in the Serb-occupied town of Knin. Although there is no evidence of Bajaga's pro-war performances, municipal authorities in the town of Karlovac rejected the band's participation in the annual Days of Beer festival on 3 September 2018. However, authorities in Varaždin<sup>4</sup> and Sisak<sup>5</sup> resisted the pressure from war veterans and hosted the Serbian band at their local music festivals.

Under similar circumstances, the annual Ojkanje Singing Festival organised by Serbian associations in the Croatian town of Petrinja was postponed from August to October 2018. At a press conference held on 14 August 2018, the local association of former Croatian soldiers demanded that the festival be moved to neighbouring villages, claiming that Serbian “ojkanje”—traditional, polyphonic folk singing inscribed on UNESCO’s List of Intangible Cultural Heritage in 2010<sup>6</sup> — did not represent local heritage.<sup>7</sup> Heightened tensions led to some performers from Serbia and Bosnia and Herzegovina cancelling their participation. An agreement was subsequently reached and several local artists and a choir from Serbia performed at the event in October. However, their participation could only take place under police protection as veterans continued to protest in front of the venue demanding accountability for crimes committed against Croats in the Banovina region.<sup>8</sup>

## SATIRE UNDER ATTACK

In January 2018, the broadcast of Pavo Marinković’s film *Ministry of Love* was censored on the TV channel HRT2 following protests by Croatian war veterans, victims and widows. This feature film, which relays satirical stories about widows of fallen soldiers who subsequently began new relationships, was scheduled to be televised on 4 January but was removed from the national broadcaster’s program. Protesters found the film insulting not only to widows, but to the homeland war and honour and dignity of the Croatian state. They received support from some politicians including Minister of Veterans’



Domagoj Zovak on the set of ‘News Bar’. Credit: Josip Šomodi”

Affairs Tomo Medved, who called for the film to be banned.<sup>9</sup> Following outcry from representatives of the local film industry at its cancellation, HRT2 rescheduled the film for 11 January, but as a result of additional protests the timeslot was pushed back from 21:00 to 23:30.<sup>10</sup>

The listed cases reflect the general political situation in Croatia—a country that continues to make slow progress in achieving accountability for war crimes committed against Serbs and assuring the protection of the rights of the Serbian ethnic minority,<sup>11</sup> and whose bilateral relations with Serbia are burdened with the legacy of the past conflict.<sup>12</sup> The cases also show that Croatia struggles to fulfil objectives set under the Convention on the Protection and Promotion of the Diversity of Cultural Expressions in 2018 by which it committed to promote diversity and cultural pluralism by putting into practice “tolerance and inclusion of cultural minority groups”.<sup>13</sup>

In order to prevent intolerance against artists tackling controversial issues from the past as well as those with ethnic backgrounds of the 1990s conflict adversary, the Croatian government should ensure a coherent implementation of its legislation liberating freedom of expression and participation in cultural life. Public condemnation of harmful practices, along with condemning ministers participating in them, should be an initial step. Finally, the Croatian judiciary should investigate and prosecute individuals making threats against artists to ensure that a culture of impunity for crimes committed against anyone exercising their rights to artistic freedom is not allowed to fester.

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*“Although I did not have high expectations from state institutions about my case, after police identified the person who sent death threats to me, I am hopeful that prosecutors will do their job. It is important to send a message that such behavior is not acceptable in a decent state. We can criticise, mock, even insult someone, but threats of violence and death cannot be normal”.*

**DOMAGOJ ZOVAK**, COMEDIAN AND AUTHOR OF *THE NEWS BAR PRIME TIME* TV SHOW, FREEMUSE INTERVIEW, 11 DECEMBER 2018.

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# CUBA:

## THE NEW DECREE 349 LEGALISES BLANKET BAN OF ALL ARTISTIC AND CULTURAL EXPRESSION NOT APPROVED BY THE GOVERNMENT

- 86% of violations of artistic freedom documented by Freemuse in Cuba in 2018 occurred in the form of detentions of artists
- Independent artists particularly targeted as authorities intensify crackdown on various forms of political dissent
- Multiple violations of human rights and artistic freedom against artists protesting Decree 349

On 20 April 2018, the new Cuban President Miguel Díaz-Canel Bermúdez signed Decree 349/2018, commonly known as Decree 349, which specifically legislates on “contraventions of the regulations in the matter of political culture and the carrying out of artistic services”. The Decree updates the provisions of Decree 226 from 1997 on the “personal contraventions of the regulations for the carrying out of artistic services”.<sup>1</sup>

### VAGUE DEFINITIONS OF VIOLATIONS

Provisions under Article 2.1 of Decree 349 effectively ensure censorship of any form of independent and public artistic expression not authorised by the Ministry of Culture. Article 3.1 of the Decree defines content that is considered a violation, including “anything detrimental to the development of children and adolescents” and “anything that violates the legal provisions that regulate the normal development of our society in cultural matters”.<sup>2</sup> Such broadly defined prohibitions compounds a concerning possibility that the Decree can be misused against an individual for various reasons.

Independent observers and critics of the Decree view it as a blanket ban on any expression that the government does not approve,<sup>3</sup> and human rights organisations such as Amnesty International have also issued a statement about it in which they refer to it as a “dystopian” prospect for Cuban artists.<sup>4</sup>

Punishment for those found to have violated these Articles, as determined by the Ministry of Culture’s supervisors/inspectors, range from warnings to fines and confiscation of artistic equipment. The Decree also gives authorities the ability to cancel artistic events and to cancel prerequisite permits authorising artists to perform.<sup>5</sup> These permits are also granted by the Ministry of Culture and decisions can be appealed only before the same Ministry, which means a concerning lack of independence from political and partisan influence.

### ARRESTED FOR PROTESTING DECREE 349

In the run-up to December 2018 when the Decree came into effect, a series of protests by leading independent Cuban artists became the catalyst for a movement, which came to be known as #NoAlDecreto349. The movement was spearheaded by Luis Manuel Otero Alcántara, Yanelys Nuñez Leyva, Tania Bruguera, Coco Fusco, Iris Ruiz, Amaury Pacheco, as well as a long list of other independent Cuban artists.<sup>6</sup> Most of these artists had been harassed by the State before; some of them were arbitrarily detained multiple times in relation to their involvement in the 00 Biennial of Havana, an alternative artistic event in May 2018 that was organised as a response to the government’s postponement of the official Biennial in order to prioritise funding on rebuilding after Hurricane

Irma.<sup>7</sup> In its 2018 annual report, Freemuse documented a number of arbitrary detentions and prosecutions of artists exercising their right to artistic freedom in connection to the 00 Biennial.<sup>8</sup>

The #NoAlDecreto349 movement similarly triggered a violent and disproportionate response from state authorities, which embarked on a number of repressive measures in an effort to contain peaceful protests. In 2018, Freemuse documented 19 cases of detention against Cuban artists in relation to Decree 349 protests. In November, at least seven artists—Yanelys Nuñez, Luis Manuel Otero Alcántara, Yasser Castellanos and his wife Verónica Vega, Amaury Pacheco, Javier Moreno Díaz and activist Lucinda González Gómez—had planned a public meditation session as a form of peaceful protest against Decree 349, but they were arrested and kept in detention in different Cuban police stations for a number of hours. When the artists were released, they were reportedly advised to “meditate at home”. Other artists who had planned to partake in the peaceful protest reported harassment by authorities and in some instances surveillance by security agents, all of which they believed was being used to deter them from joining the protest.<sup>9</sup> In December, Tania Bruguera, Yanelys Nuñez, Luis Manuel Otero Alcántara and a number of other artists were arbitrarily detained after attempting to stage another protest against Decree 349.<sup>10</sup>

In a separate series of events, Cuban rapper Maikel Castillo Pérez (also known as Maikel el Obsorbo), who has been outspoken against the Cuban regime, was arrested on 22 June 2018 after he filmed a police operation in Cristo park in Havana where



Tania Bruguera with the Tate Neighbours during a solidarity event against the decree 349. Photo courtesy of Tania Bruguera.

authorities were arresting someone involved with drugs. After being detained, Castillo was released and fined 1,000 Cuban pesos (about 33 euros), which he paid.<sup>11</sup> Months later on 21 September, the rapper openly criticised Decree 349 during a performance in Havana. He was transferred to Valle Grande prison where he remains to this day. The Cuban authorities asserted Maikel el Obsorbo was rearrested because the police had revoked his old case from Cristo park and would “revise” it.<sup>12</sup> However, Freemuse vehemently believes that his arbitrary arrest and detention were prompted by his criticism of Decree 349.

Reports indicate that judicial authorities would charge him with “atentado”—which translates to “attack”—on public authorities by means of violence or intimidation, which is covered in article 142.1 of the Cuban Penal Code and carries a penalty of one to three years of prison.<sup>13</sup> It remains unclear whether they actually pressed charges, as the court is denying Maikel el Obsorbo’s lawyer the right to access his file needed to report an unlawful detention or imprisonment to the court.

Freedom of artistic expression in Cuba is guaranteed by Article 19 of the International Covenant on Civil and Political Rights and by Article 15 of the International Covenant on Economic, Social and Cultural Rights.

The Cuban Constitution stipulates “artistic creativity is free as long as its content is not contrary to the Revolution”.<sup>14</sup> Yet despite political change in April 2018 when Miguel Díaz-Canel Bermúdez replaced Raúl Castro and entered public office, Cuban authorities have continued to use arbitrary detention as a means of silencing political dissent and intimidating artists and others, producing a chilling effect on freedom of expression.

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*“At this moment I do not feel comfortable travelling to participate in an international art event when the future of the arts and artists in Cuba is at risk. The Cuban government with Decree 349 is legalising censorship, saying that art must be created to suit their ethic and cultural values (which are not actually defined).”*

**OPEN LETTER BY CUBAN ARTIST TANIA BRUGUERA TO THE DIRECTOR OF KOCHI BIENNIAL ON DECREE 349, DATED 10 DECEMBER 2018.**

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# EGYPT:

## ARTISTS TARGETED IN CRACKDOWN ON FREEDOM OF EXPRESSION

- Artists tried in military courts, contravening Egypt's constitution and regional and international standards of human rights
- New state bodies tighten control of artistic freedom via prior censorship and prior performance permission
- The government was responsible for 93% of the violations of artistic freedom documented by Freemuse in Egypt in 2018

2018 has seen a continuation of the Egyptian authorities' crackdown on dissent under the pretext of fighting terrorism, and artists have not been spared: over the past year, at least a dozen artists have faced prosecution for no crime other than exercising their freedom of artistic and political expression.<sup>1</sup> This is one part of a growing tendency of the Egyptian state to silence human rights defenders and civil society. According to Human Rights Watch, new regulations have also made it more challenging for independent artists and non-governmental organisations to organise public art events.<sup>2</sup> A tightening on artistic freedom is further evidenced by the litany of new state bodies emerging that work with security agencies at the national and local level in Egypt to closely monitor artistic expressions.

### ARTISTS JAILED FOR "INSULTING" THE MILITARY

As part of the government's fearmongering campaign targeting its critics, the 2015 counterterrorism law has been applied by the military prosecution unit and the National Security Agency that oversees terrorism cases to slam terrorism-related charges on artists.<sup>3</sup> In two cases, artists have been tried in military courts after legal complaints were filed against them by pro-government lawyers: Poet Galal El-Beheiry was sentenced by an Egyptian

military court for collaborating with musician Ramy Essam on a song critical of president Abdel Fattah el-Sisi titled *Balaha*, for which he was charged with insulting the military and spreading false news.<sup>4</sup> The song featured lyrics written by El-Beheiry that criticised the current state of the Egyptian economy and levels of political corruption, and as a result, El-Beheiry was arrested five days after its release. El-Beheiry was also accused of insulting the military over his unpublished anthology of poems *The Finest Women on Earth*. In an addendum on the cover of the book, El-Beheiry criticised the current public mindset in Egypt regarding terrorism. Despite having permission to publish the book and having already printed the first edition, El-Beheiry was never able to release it due to his contract being terminated with the book's publisher, Dar Da'ad Publishing and Distribution.<sup>5</sup> His detention and imprisonment was justified with the production of both the artworks. After 150 days in detention, under which he was allegedly tortured, El-Beheiry was sentenced to three years in Tora prison in Cairo and fined 10,000 Egyptian Pounds (about 500 euros).<sup>6</sup>

In July 2018, a military court sentenced theatre director Ahmed El-Garhy, playwright Walif Atef and four actors to suspended two-month prison sentences over the play *Suleiman Khater* that was staged at the Shooting Club in Cairo.<sup>7</sup> The play was based on the real-life story of Egyptian soldier Suleiman Khater who shot and killed seven Israeli

tourists near the Egyptian-Israeli border in 1985, and was later found dead in his prison cell.<sup>8</sup> The authorities said he had killed himself and the public believed he had been executed.<sup>9</sup> The lawyer who filed a legal complaint about the play, which triggered the prosecution, charged the artists with using military uniform without permission and “insulting the Armed Forces”, which is regarded as “high treason” by President Abdel-Fattah el-Sissi.<sup>10</sup>

Prosecuting civilians in military courts contradicts Article 204 of the 2014 Constitution<sup>11</sup> and shows little regard for conventions ratified by Egypt such as the African Charter on Human and People’s Rights guaranteeing the right to a fair trial.<sup>12</sup> It is also noticed that the structure of military courts generally undermines the right to be tried before a competent, independent, and impartial court as well as the right to a public hearing.<sup>13</sup> Yet artists have been among the thousands of civilians prosecuted in military tribunals since 2014.

## STRICTER REGULATIONS

A very protracted and complicated series of laws inhibit artistic production and significantly diminish artistic freedom in Egypt, where approximately 16 laws and 588 articles govern artistic production.<sup>14</sup> Government entities have been created to monitor and censor political dissent in television and theatrical productions, films and books.<sup>15</sup> In 2018, the Central Authority for the Censorship of Works of Art, which previously operated only in the major



Poet Galal El-Behairy was sentenced to three years in prison for his writing.  
Credit: Gianluca Costantini

cities of Cairo and Alexandria, opened new branches in seven governorates across the country<sup>16</sup> —an expansion that bodes ill for freedom of artistic expression by enhancing a close monitoring previously unheard of. Stricter regulations for the “drama committee” were introduced in 2018 by the Supreme Council for Media Regulation to review and censor television dramas and soap operas before they can be shown on Egyptian TV channels.<sup>17</sup> Any criticism of the government, raunchy scenes or “controversial” ideas that contradict social norms will be removed and programs that break any rules through their content will receive a fine of 250,000 Egyptian pounds (about 12,550 euros).

New, stringent legislation introduced in 2018 has also made the organisation of festivals, concerts and other cultural events more difficult.<sup>18</sup> A decree issued by the Prime Minister in July obliges event organisers to obtain from the Ministry of Culture a licence to hold a cultural event or festival, as well as to coordinate with relevant authorities in the state.<sup>19</sup>

Furthermore, one of the conditions for applying for concert permits is that organisers must show proof of assets worth at least 500,000 Egyptian pounds (about 25,100 euros).<sup>20</sup> This requirement is making it increasingly difficult for up-and-coming artists to stage public performances and subsequently freely express themselves. The political climate continues to generate serious human rights concerns and increases the need for meaningful reforms to enable as well as protect freedoms of expression.

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*“This decree is a continuation of the state’s policy of curtailing creativity by sponsoring its own version of it. By enforcing a specific definition of ‘creativity,’ the state de-legitimises anything that falls outside of it. Security agencies are now the bodies that will decide what is considered artistic and what is not. This means that they will reject acts that use song lyrics critical of the state, for instance.”*

**LAWYER WITH THE ASSOCIATION FOR FREEDOM OF THOUGHT AND EXPRESSION (AFTE), MAHMOUD OTHMAN, MADA MASR, 21 JULY 2018**

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# GERMANY:

## ARTISTIC EXPRESSIONS THREATENED BY CONTROVERSIES RELATED TO MINORITY ISSUES

- Artistic expressions with refugee-related topics are challenged by right-wing ideologies
- 75% of violations of artistic freedom documented by Freemuse in Germany in 2018 were related to politics
- Criticism of Turkish President Recep Tayyip Erdoğan not tolerated by sizable pro-Erdoğan Turkish minority

Freedom of artistic expression as well as other political rights and civil liberties are generally known to have been well respected in Germany. However, the growing popularity of the far-right is currently beginning to test the stability of the country's democratic institutions. In addition, its historically complex relationships with Israel<sup>1</sup> and Turkey<sup>2</sup> have resulted in recent incidents where artistic freedom has been limited.

In the September 2017 federal election, the Alternative für Deutschland (AfD, Alternative for Germany) became the first far-right political party to win seats in parliament since the end of the Second World War in 1945. It became the third largest party in Germany, gaining 12.6 per cent of the party list votes.<sup>3</sup> AfD is known for using anti-immigrant rhetoric and at times promoting Islamophobic views.<sup>4</sup>

### PRO-REFUGEE ARTWORK REMOVED

One incident in which the growing influence of the far-right has presumably played a role in limiting artistic freedom was the removal of artist Olu Oguibe's obelisk *Das Fremdlinge und Flüchtlinge Monument* (Monument for Strangers and Refugees) from the city of Kassel's central pedestrian area Königsplatz. Inscribed on the monument in German, English, Arabic and Turkish was a verse from the Bible: "I was a stranger and you took me in" (Matthew 25:35). The 16-meter-high concrete

obelisk was commissioned for the 2017 art exhibition Documenta 14<sup>5</sup> and was reportedly intended to be a permanent fixture in Kassel after the art exhibition. But Kassel city councillor and AfD member Thomas Materner opposed purchasing the obelisk, which he had previously labelled "ideologically polarising, disfigured art".<sup>6</sup> This terminology he reportedly used is reminiscent of the Nazis' condemnation of "degenerate" art that did not conform to their ideology of racial superiority.<sup>7</sup>

After months of negotiations with the artist about buying the artwork and relocating it to another location in the city, in early October 2018 the mayor decided<sup>8</sup> to dismantle and remove the obelisk.<sup>9</sup> Local and international media reported on the removal of the monument as an example of how the AfD was able to influence the council through exerting their political influence, though no official source has confirmed this claim. In a surprising turnaround, two weeks after the removal of the obelisk the artist and the city issued a joint press statement in which they announced that the monument would indeed be re-erected in a new location.<sup>10</sup>

### DISINVITED FOR SUPPORTING THE BDS MOVEMENT

Testing the boundaries of free speech in Germany is the controversial issue of where legitimate criticism of Israel's politics ends and where anti-Semitic

speech starts, especially as anti-Semitism is on the rise.<sup>12</sup> For Germany—the country responsible for the death of six million European Jews between 1941 and 1945—this is an especially troubling question. In 2018, Scottish hip-hop trio Young Fathers was disinvited from the Ruhrtriennale, a state-sponsored annual music and arts festival, for the band’s unwillingness to distance itself from the pro-Palestine Boycott, Divestment and Sanctions (BDS) movement.<sup>13</sup> BDS promotes various forms of boycotts against Israel until the country complies with its “obligations under international law”.<sup>14</sup> In a letter to *The Guardian*, 75 prominent international artists and cultural figures stated that Ruhrtriennale’s move was “a particularly alarming form of censorship” and criticised what they saw as an “attempt to impose political conditions on artists supporting Palestinian human rights”.<sup>15</sup> They asserted that “boycotts that are anchored in universal human rights and aimed at achieving justice for marginalised and oppressed communities are a legitimate nonviolent tactic”.<sup>16</sup> Due to the international outcry and some performers—including Lebanese guitarist Sharif Sehnaoui—threatening to cancel their concerts, Young Fathers were again invited, but as a result of the treatment they refused to participate in the event.

## THE TROUBLE WITH PORTRAYING THE TURKISH PRESIDENT

Artists in Germany have also faced criticism for portraying Turkish President Recep Tayyip Erdoğan, and commenting on his role in dismantling democracy, persecuting political opposition and repressing Kurds. In August 2018, a statue of Erdoğan was removed by authorities from Platz der Deutschen Einheit in the city of Wiesbaden.<sup>17</sup> The art installation was part of Wiesbaden Biennale for Contemporary Art, a relatively young art and theatre festival. Authorities received calls from residents who did not understand why there was a statue of an authoritarian leader placed in their town. Some Turkish Germans took selfies with the statue while others criticised them for supporting a so-called dictator. The police had to protect the statue from angry passers-by and separate some Turkish and Kurdish Germans following a confrontation. Local authorities said that since its security could not be guaranteed, the statue had to be taken down.<sup>18</sup>



‘Monument to Strangers and Refugees’ being removed from Königsplatz in Kassel. Credit: Regina Oesterling

In November 2018, a critical drawing of President Erdoğan by Kurdish artist Ali Zulfikar was temporarily censored at an exhibition in Linz am Rhein. The Turkish consul general in the nearby city of Mainz, Sibel Müderrisoğlu, urged Linz am Rhein not to exhibit the drawing due to its “defamatory and degrading” nature. Linz am Rhein Mayor Hans Georg Faust asked the artist to temporarily refrain from exhibiting his work, citing legal concerns and concerns about possible conflicts between Erdoğan opponents and supporters. The drawing was only allowed to be shown after an assessment from the Foreign Office, lawyers and the police.<sup>19</sup>

Freedom of artistic expression should not be limited to certain narratives or political ideologies but embrace all interpretations. As pointed out by the Special Rapporteur in the field of cultural rights, all expressions—irrespective of whether their content is sacred or profane, political or apolitical, or whether it addresses social issues or not—should be recognised.<sup>20</sup> Removing creative expressions from public access is a way to restrict artistic freedom—a freedom that Germany is obligated to protect through its accession of the International Covenant on Civil and Political Rights, which guarantees the right to freedom of expression in all forms.

# HUNGARY:

## SUBTLE REPRESSION TO DROWN OUT ARTISTS' CRITICAL VOICES

- The government uses strong financial incentives to encourage self-censorship
- Literature and theatre have become the prime target for state harassment
- Staff in theatre and cultural institutions replaced with people who prove their loyalty to the authoritarian narrative asserted by the government

Political scientists, think tanks and human rights organisations are increasingly scrutinising how civil and political rights and democratic values in Europe are being undermined. New European authoritarian regimes are weakening the independence of the judicial institutions and the background conditions of freedom of expression.<sup>1</sup> Hungary is an example of this newly emerging form of authoritarianism that tends to use a soft form of repression. Such countries do not kill or jail their critical artists, instead there are cases of them buying out the media, using regulatory changes and politicising committees of public funds to pressure potentially critical voices into self-censorship.<sup>2</sup> In 2018, 476 media companies became part of the new Hungarian media holding—the Central European Press and Media Foundation—which is controlled by pro-government forces.<sup>3</sup>

### THE 'CULTURAL WAR'

After making several systemic changes and securing his third term in parliamentary elections in April 2018, Prime Minister Viktor Orbán and the media outlets owned by government-friendly billionaires continued to pay much attention to the sphere of arts and culture. As a first sign of what many label as the nascent 'cultural war,' the fiercely pro-government newspaper *Magyar Idők* published opinion pieces on cultural topics, demanding that the leaders of cultural institutions take better care of national interests and arguing that the forces of the old cultural elite have their strongholds and they are still repressing patriot artists.<sup>4</sup> The most well-known consequence of the *Magyar Idők* series is the upheaval around the musical *Billy Elliot* appearing

on the programme of the Hungarian State Opera House. In June 2018, the newspaper suggested that the theatre is endangering minors by spreading gay propaganda. As a result, the theatre cancelled 15 planned shows and announced that the focus of the next season will be Christianity.<sup>5</sup>

The populist government had already replaced left-wing or liberal-leaning professionals with their right-wing appointees in top industry positions before 2018,<sup>6</sup> so the 'cultural war' was not conducted against the opposition directly. Conservative directors of cultural institutions have found themselves under media attack for giving space to artists not entirely aligned with the governmental ideology and thereby endangering the 'homeland' currently believed to be threatened by foreign invasion.<sup>7</sup> Furthermore, the director of the Petőfi Museum of Literature was attacked in *Magyar Idők* for providing financial support to poets and novelists critical of the government.<sup>8</sup> The director of the Hungarian National Gallery was accused of promoting communism for hosting a Frida Kahlo exhibition.<sup>9</sup> The Balassi Institute's Publishing Hungary program was attacked for promoting the presence of liberal authors and not bringing enough pro-Orbán novelists to literary festivals.<sup>10</sup> Since a number of prominent conservatives lost their appointments and were replaced with cadres after the attacks, it became clear to the cultural elite that no ideological digression or minority opinion is tolerated within the system. In spite of the increase in theatre performances and attendance figures in Hungary, this development narrows the artistic expressions presented and seriously limits the selection of narratives available to audience.

## STATE-SUPPORTED CULTURAL ORGANISATIONS

Funding is another tool through which the government pressures artists into conformity. In 2011, the government's new Basic Law conferred public institution status on the previously unknown and insignificant organisation of right-wing artists, the Hungarian Academy of Arts (MMA),<sup>11</sup> and assigned it the role of protecting "our cultural values, especially to preserve, transfer and present the nation's artistic traditions"<sup>12</sup> for future generations. In recent years, MMA has received billions of euros and a number of newly renovated representative buildings. In 2018, the monthly allowance of MMA members was raised to about 1000 euros (irrespective of their other earnings or pensions).<sup>13</sup> This roughly equals the official average gross earnings in the country.<sup>14</sup> It was often emphasised that "apparent national consciousness" is a prerequisite for membership in the academy.<sup>15</sup>

For the support of young literary talents, in 2015 the state established Kárpát-medencei Tehetséggondozó Nonprofit Kft (KMTG). KMTG uses hefty state funds to support aspiring authors, but in 2018 they were not willing to provide information—for "data protection reasons"—on who received the grants, nor who decided which authors would get the grants and on what basis.<sup>16</sup> At the same time, institutions operating on the field for decades were struggling to survive.<sup>17</sup>

Authorities also use an intimidating strategy of financial uncertainty. In mid-November, the Hungarian Parliament abolished the corporate tax system known as TAO,<sup>18</sup> which was the main sources of income for many cultural institutions. As of December 2018, there was no information available about what kind of funding will replace the TAO support for 2019, nor about who will qualify under the new scheme. Independent institutions fear that the new funding system will be more political than the previous.<sup>19</sup>

There is no official censorship board in Hungary, yet certain forms of censorship are not unheard of. After rapper Tomi Fluor ridiculed the government's anti-George Soros campaign, state radio channel Petőfi Rádió decided to stop playing his songs.<sup>20</sup> In April



*The Hungarian State Opera cancelled performances of musical Billy Elliot after a media campaign claimed the story was a propaganda tool for homosexuality. Credit: Hungarian State Opera/Péter Rákossy*

2018, the Kodály Centre in Pécs cancelled the play *Yes, Prime Minister!* starring actor Róbert Alföldi, without explanation. A month later its director told media he does not feel any need to justify the decision of not letting the institution be used by a "political activist".<sup>21</sup> Earlier, in March, a public talk with Alföldi was cancelled in Zalaegerszeg, allegedly due to pressure from a parliamentary representative.<sup>22</sup>

In December, the Hungarian Institute in Paris cancelled a theatre play over anti-Orbán comments and governmental critique written by the show's director, Bea Gerzsenyi, in a private invitation letter shared with her acquaintances.<sup>23</sup> The director of the Hungarian Institute, János Havasi, claimed that he decided to cancel the show because "Bea Gerzsenyi sent a provocative invitation letter with comments that were uncalled for, disgraceful and defamatory towards Hungary".<sup>24</sup> Havasi confirmed to the press that he was informed of Ms. Gerzsenyi's message by the Foreign Ministry.<sup>25</sup>

By strongly disincentivising critical attitude to the Hungarian government's ideology and politics, Prime Minister Viktor Orbán and his populist Fidesz party is creating a silencing environment for artists. Using various tools of soft repression such as controlling media outlets and financial mechanisms to support a certain political narrative and block others, not only limits the space for artists to express themselves freely, it also poses a concerning threat to their livelihoods. Expressing political dissent is protected by Article 19 of the International Covenant on Civil and Political Rights to which Hungary is state party, and the government should actively protect and promote this right for all.

# INDIA:

## INTOLERANCE LEADING TO ARTISTS RECEIVING THREATS

- Artists receive death threats for challenging norms and taboos
- Women artists raising social issues and condemning injustice experience pushback and threats
- 69% of the violations of artistic freedom documented by Freemuse in India in 2018 were related to films and people involved in the film industry

Prime Minister Narendra Modi came to power in 2014 and under his government, right-wing Hindu nationalism has flourished and the space for freedom of expression has shrunk considerably. Journalists, activists and artists have all come under pressure and continue to face intimidation, threats and harassment for their work. Artists have received threats for criticising politicians or for raising social issues and pushing for justice. Many have been accused of insulting the country, creating public disorder or hurting religious sentiments.

In the novel *Meesha* (Moustache), national award-winning writer S. Hareesh included two female characters who at one point talk about how going to the temple means that a woman is ready to enter a sexual relationship. The writer and his family received multiple abusive and threatening messages from right-wing Hindu outfits who found the novel insulting to Hinduism and women. The novel is told through a Dalit perspective, which automatically makes it political. People from the Dalit community were traditionally considered 'untouchable' and at the bottom of the Hindu castes. In 2014, Dalits showed strong support for President Modi and his Hindu nationalist Bharatiya Janata party (BJP).<sup>1</sup> Due to the threats, Hareesh feared for his life and family and therefore decided to withdraw the novel.<sup>2</sup> Hareesh believes right-wing elements, especially in Kerala state, were outraged because men and women are often segregated at the temple and openly talking about women's sexuality is considered a taboo.<sup>3</sup> According to Indian journalist Nilanjana Roy, media companies in India such as television channels and

radio shows are run like propaganda machines and owners are instructing editors not to run anything that can be considered controversial or upsetting to powerful interests.<sup>4</sup>

## GOVERNMENTAL CONTROL OF FILM CONTENT

The Central Board of Film Certification (CBFC) in India is a governmental body under the Ministry of Information and Broadcasting. It regulates certifications according to *The Cinematograph Act*, 1952 and stipulates that films which are believed to go against public order, decency or morality will not be certified for public exhibition.<sup>5</sup> Films with content deemed inappropriate or films critical of the government are sometimes restricted, as political interests often thwart creativity. Furthermore, films already certified by the CBFC are additionally subjected to forced shutdowns by local authorities and groups. The 2018 film *Danga The Riot* deals with the communal violence in Kolkata in 1946 and tells the story of Bharatiya Jana Sangh, the founder of the BJP. It was cleared by the CBFC with four cuts, yet the entire film had to be cancelled by theatre owners in West Bengal because of threatening calls from local political leaders in Bengal, which is run by All India Trinamool Congress political party. The film was perceived by some as speaking in favour of BJP, although this has been denied by the director, who for unknown reasons was told by the theatre owners that police had told them not to run the film.<sup>6</sup> Also in 2018, four shows of a play about LGBTI identity,

titled *Shiva*, were forced to be cancelled at a theatre in Bengaluru after protests and warnings from a group of men claiming to be from a right-wing outfit that found the play offensive.<sup>7</sup>

## THREATENED FOR PORTRAYING SACRED DEITIES AND EPICS

Furthermore, depicting historical, religious or mythological characters is highly sensitive and taboo in India. As such, tolerance and sentiments can cause many controversies when films are released. In March 2018, actress Urvashi Rautela received online death threats for her role as a supermodel in the film *Hate Story 4* due to Urvashi's character in the movie, who compares herself to Draupadi—a heroine who is part of an ancient Hindu epic, known in India as the Mahabharata.<sup>8</sup>

Artworks can be used as a way to highlight societal injustice and gender inequality. However, one particular case shows an artist being met with intolerance and threats to his life when using art to point out gender discrimination in India. Visual artist Aniket Mitra wanted to minimise the stigmatisation of menstruating women who remain excluded from the annual Hindu festival Durga Puja because they are considered impure. In October, he created a graphically designed artwork depicting a sanitary pad stained with a bloodied lotus flower, surrounded by a decorative motif that usually adorns representations of the warrior goddess Durga. Although it was widely shared and supported, the artist received threats and several angry reactions on social media, with people calling him insensitive and anti-Hindu, and calling the artwork insulting. The image had been posted on Facebook but was removed from the site after a complaint was filed. Kolkata Police also received a complaint against Mitra for allegedly attacking the religious sentiments of people as prohibited by section 295A of the Indian Penal Code.<sup>10</sup> However, police did not follow up the complaint with an investigation.<sup>11</sup> In cases like these, it is essential that the state denounces threats, intimidation and different forms of harassment, ensuring safety as well as protecting the opportunities

for artists to critically deal with social, political, and human issues in society through their art.

In April, Swathi Vadlamudi drew a satirical cartoon of two BJP ministers attending a rally in support of eight men accused of brutally gang raping and murdering an eight-year-old Muslim girl near Kathua city. Because of the cartoon, which also included characters from the ancient Hindu epic poem Ramayana, Vadlamudi received several threats online while some called for her to be arrested.<sup>12</sup> The police also filed a first information report under Section 295 of the Indian Penal Code against the artist.

Social media can create opportunities for artists, but Amnesty International has stated that discrimination is migrating into the digital world, with more women self-censoring or stepping back from public conversations because of fear.<sup>13</sup> Kerala teacher and artist Durga Malathi similarly made a drawing condemning the rape and killing. Not only did she receive threats online, a group of men threw stones and damaged her home and car.<sup>14</sup> Malathi filed a complaint to the Pattambi police, who then enhanced security to her and her residence.<sup>15</sup>

There are strong and different opinions about whether concerns for such incidents should be raised in artworks. The UN Special Rapporteur in the field of cultural rights writes, "It must be recalled that, within any collective identity, there will always be differences and debates over meanings, definitions and concepts."<sup>16</sup> Artistic expressions contribute to creating such debates, which should be encouraged rather than suppressed. The cases emphasise the importance of creating an environment in which artists are not threatened or harassed when presenting controversial works. This space is currently not being provided to art or artists in India.

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*"The right-wing elements have been attempting to unite Hindus and they simply used this book to trigger the feelings of 'Hinduism'. They have a troll army who were attacking me online."*

S. HAREESH, NATIONAL HERALD, 16 SEPTEMBER 2018

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# IRAN:

## AUTHORITIES CONTINUE TO VIOLATE INTERNATIONAL LAW BY INTIMIDATING AND DETAINING ARTISTS

- Women were arrested for posting videos on social media of themselves dancing at home and forced to confess on TV
- Posting material online that is deemed “indecent” by authorities is considered a threat to national security
- The government was responsible for all 17 cases of violations of artistic expression documented by Freemuse in Iran in 2018

Artists in Iran continue to experience challenges when expressions do not follow the strict rules laid out by the government. Freedom of expression, association and assembly of peaceful dissidents including filmmakers, musicians and writers are attacked.<sup>1</sup> Books, plays, movies and songs are still subject to tight scrutiny with prior approval needed from the Ministry of Culture and Islamic Guidance before any form of cultural or artistic expression can see the light of day.<sup>2</sup>

Since the Islamic Revolution of 1979, women’s rights have been restricted and rules enacted that govern women’s dress codes.<sup>3</sup> The year 2018 saw the first rumblings of rebellion against laws, with Iranian women breaching one of the government’s most fundamental rules by pulling off their headscarves in public places and brandishing them in protest. As a result, more than 30 Iranian women have since been arrested for removing their veils in public in

defiance of the law, which stipulates that all women must be fully veiled in public at all times.<sup>4</sup> Female artists are also banned from singing solo because of a longstanding notion that a woman’s voice may trigger immoral arousal in men.<sup>5</sup>

## ARTISTS LIVING IN SELF-IMPOSED EXILE

Censorship of the arts in Iran is forcing many of the country’s musicians, poets and filmmakers to live in self-imposed exile so they can continue to publicly convey the repression, social injustice and human rights abuses happening in their home country through art. For some it means that they run the risk of never being able to return home. Mania Akbari, an Iranian filmmaker whose works touch upon contentious topics such as women and sexual identity and who now lives in London, points out that

because of her opposition to artistic censorship and the controversial themes discussed in her films, she may never be able to return to Iran. This also applies to the Brooklyn-based brothers who make street art under the pseudonym Icy and Sot. They sought political asylum in America (from their home city Tabriz) in 2012 after several arrests by the Iranian authorities for their controversial street art that pointed

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*“The theocratic government in Iran considers itself as the protector of women’s bodies and identities which in some ways has parallels with slavery. This fills us (women artists) with anger and is reflected in cinematic works, albeit in fairly conspicuous ways such as through storytelling techniques”*

FILMMAKER MANIA AKBARI, FREEMUSE INTERVIEW, 27 NOVEMBER 2018

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out social and political problems in Iran.<sup>6</sup> The brothers accepted an opportunity to have their work exhibited in New York City where they applied for asylum, which means they cannot return to Iran.<sup>7</sup> Like many other Iranian artists who live in exile, they are using their freedom to produce works that transcend the limitations of censorship.

## MAKING A SONG AND DANCE

The ongoing clampdown on freedom of political and artistic expression is further illustrated by the several Iranian women who were arrested and briefly detained for posting videos on their Instagram accounts of themselves dancing in their homes.<sup>8</sup> On 9 July, some of these women appeared on *Devious*, a program broadcast on Iranian State TV, to publicly confess and apologise for their actions. Several of them were reportedly part of the program while in detention. They said they regretted posting the content online, while several police officers and “experts” who also appeared on the show spoke about how social media platforms “enable certain abuses and crimes”.<sup>9</sup> Iranian teenager Maedeh Hojabri was among those arrested in May by the Iranian Cyber Police (known as FATA) and forced to confess on TV after posting videos on Instagram in which she was dancing at home in Iran and not wearing a veil. She was released a few days later, but authorities closed down her Instagram account. One day after Hojabri’s public confession, Tehran’s cyber-police Touraj Kazemi announced that people who post “indecent” material online would be pursued for committing crimes against national security.<sup>10</sup>

Detentions and violations of artistic freedom have also happened as a result of women and men dancing together on-screen. In September, a trailer for a theatre production of *A Midsummer Night’s Dream*, which showed women actors dancing with men, was enough for Iran’s judiciary to order the detention of both the play’s director Maryam Kazemi as well as the manager of the theatre planning to host it, Saeed Assadi.<sup>11</sup> They were both released on bail of US\$ 24,000 (about 21,200 euros) each. Under the Islamic Republic’s strict rules, gender mixing and women dancing in public are illegal acts.<sup>12</sup> In general, Iranian law vaguely defines what



Teenager Maedeh Hojabri was arrested after posting videos on social media of herself dancing at home. Credit: @NegarMortazavi on Twitter

constitutes acts that are against morality to perform in public. Article 638 deals with crimes against public prudency and morality, and is found in the Islamic Penal Code of Iran. It states that, “Anyone in public places and roads who openly commits a harām (sinful) act, in addition to the punishment provided for the act, shall be sentenced to two months’ imprisonment or up to 74 lashes; and if they commit an act that is not punishable but violates public prudency, they shall only be sentenced to ten days to two months’ imprisonment or up to 74 lashes.”<sup>13</sup> However, all possible actions that violate public prudency, for example dancing, which is not specified in the law, can be interpreted as a “sinful” act and punished.<sup>14</sup>

Iranian authorities have long censored art, music and other forms of cultural expression as well as prosecuted hundreds of Iranians for such acts, often targeting women and sexual minorities.<sup>15</sup> The clampdown on arts is a violation of international treaties ratified by Iran such as the International Covenant for Civil and Political Rights, which guarantees people’s right to free expression, privacy and freedom of religion.

# ISRAEL:

## ARTISTIC FREEDOM CAUGHT IN POLITICAL TURMOIL

- 92% of violations of artistic freedom documented by Freemuse in Israel in 2018 were related to the Israel-Palestine conflict
- The Minister of Culture proceeded with creating circumstances for stifling artists critical of government
- A national law was used against two New Zealand citizens who supported cultural boycott as a part of Boycott, Divestment and Sanctions campaign

Decades of territorial disputes and political tensions between Israeli and Arab authorities have had a strong impact on the state of artistic freedom in Israel. Throughout 2018, authorities continued to suppress artists—coming from both the Palestinian and Jewish communities—who express dissent on the political situation in the country. Artworks perceived as pro-Palestinian and anti-Israel, as well as cultural venues providing space for the promotion of such artworks were in the special focus of Israeli authorities. They also targeted Israelis and foreigners who were deemed to be aligned with the Boycott, Divestment and Sanctions (BDS) movement—a global movement using different channels, including cultural boycotts, to pressure Israel to enable Palestinians to enjoy human rights as guaranteed by international laws.

### PRO-PALESTINIAN ARTISTS AND ARTWORK UNDER ATTACK

Authors of artworks deemed pro-Palestinian faced a variety of violations from censorship to legal prosecutions. On 31 July 2018, Palestinian poet Dureen Tatour was sentenced to five months in prison for inciting terrorism and supporting Islamic Jihad, an armed group considered a terrorist organisation by Israeli authorities. The Nazareth Magistrate Court convicted her over a 2015 social media post which included a video for her poem *Qawim ya sha'abi, qawimhum* (Resist, my people, resist them) containing footage of Palestinian protesters

throwing stones.<sup>1</sup> The verdict was delivered after the poet spent nearly three years under house arrest, deprived of the possibility to publish her work. On 20 September 2018, Tatour was released from prison two months before schedule due to prison overcrowding. “I was prosecuted only because I am a Palestinian who remains committed to my homeland and talks about Palestine in my poems.” Tatour told Freemuse in an interview.<sup>2</sup>

Tatour’s poem was once again targeted by Israeli authorities in December 2018. Culture Minister Miri Regev ordered the removal of Tatour’s poem from the exhibition *Barbarians*, which opened on 30 December at the Mamuta Art and Media Centre in Jerusalem,<sup>3</sup> and demanded the Finance Minister withdraw funding from the exhibition. When curators decided to remove the poem, four artists withdrew their artworks as a sign of protest.

In May 2018, another minister exercised censorship over artistic expression. Minister of Science, Technology and Space Ofir Akunis banned an exhibition by students at the Bezalel Academy of Arts and Design from an international science conference in Jerusalem over their support of Palestinians living in Gaza. As a reaction to deadly protests in May 2018, the students had lined the walls of their school with posters listing the names of killed Palestinians alongside a map of Gaza featuring the words “I’m not your toy”, alluding to the Israeli hit song which won the Eurovision Song Contest that month.<sup>4</sup>

In some cases, artists were targeted as a result of their political activism rather than the content of their artworks. On 9 January 2018, artist Mohammed “Habshe” Yossef was arrested from his home in Bethlehem’s Aida refugee camp.<sup>5</sup> His arrest was part of a wider campaign against Palestinian grassroots resistance against the US government’s recognition of Jerusalem as Israel’s capital. Representatives of the art activist collective MTL+ claimed that their member Habshe was targeted because of his role in organising protests and community care in Palestinian neighbourhoods. After a week of detention, the military court dropped the charges of “incitement on social media” and released the artist.

On 30 August 2018, the Jerusalem Magistrate Court ordered the closing of the Barbur Art Gallery situated in a building owned by the municipality. The gallery was closed because it had hosted a lecture in February 2017 by the NGO Breaking the Silence that advocates for ending the occupation of Palestine. In this case, which was initiated by Mayor of Jerusalem Nir Barkat with the support of the culture minister, Judge Amir Dahan ordered the gallery’s closure and eviction before 1 February 2019.<sup>6</sup>

## BLOCKING THE BDS MOVEMENT

Israel’s national legislation currently provides legal basis for sanctioning people supporting the BDS movement and specifically calling for cultural boycott. Two women from New Zealand were successfully sued under the 2011 anti-boycott law, which allows civil lawsuits against those who call for a boycott against Israel. In October 2018, a Jerusalem court ordered Justine Sachs and Nadia Abu-Shanab to pay US\$ 12,000 (about 10,400 euros) in damages for allegedly persuading pop singer Lorde to cancel a Tel Aviv concert scheduled for June 2018.<sup>7</sup> In the same month, the Ministerial Committee



Palestinian poet Dareen Tatour. Credit: Danielle Alma Ravitzki

for Legislation even proposed imprisonment of up to seven years for Israelis and foreigners calling for a boycott of the country, however the proposal did not get government support.<sup>8</sup> Nevertheless, a 2017 amendment to the Entry into Israel Law allowing authorities to ban entry into Israel to BDS supporters has been used extensively.<sup>9</sup>

In November 2018, Palestinian-American writer Susan Abulhawa was prevented from attending a literature festival in the West Bank after she was denied entry to Israel at Ben Gurion airport. Israeli authorities stated that despite possessing a US passport, which allows for visa-free entry into the country, the writer had to apply for a visa, as she had previously been instructed when she was refused entry into Israel through a land crossing from Jordan in 2015.<sup>10</sup> On the contrary, the organisers of the festival claimed that the writer was deported back to the United States because of her support to the BDS movement.

In order to create a safe space for artists, regardless of their ethnic background and political affiliation, to express themselves through art, Israel should reverse its practices of violating freedom of expression, including related human rights such as freedom of movement, association and assembly as well as arbitrary detentions.<sup>11</sup> In particular, the state should refrain from using mechanisms to punish artists criticising the government and supporting the BDS movement as both are legitimate and legal activities. The Israeli government should to a greater extent cooperate with international organisations, including UN bodies,<sup>12</sup> as well as reconsider its decision to withdraw from UNESCO, which became effective on 31 December 2018.

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*“To Israeli authorities, I am a terrorist who incites violence against them simply because I hold a pen and write poems.”*

POET DAREEN TATOUR, FREEMUSE INTERVIEW, 4 JANUARY 2019

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# NIGERIA:

## WIDESPREAD USE OF INDECENCY REGULATIONS AGAINST MUSICIANS AND RADIO STATIONS

- Radio stations had sanctions imposed for airing artistic content alleged to be vulgar or indecent
- Music accounted for 93% of censored art documented by Freemuse in Nigeria in 2018
- Ambiguous rules on vulgarity are arbitrarily used to censor works of art that criticise the government

Artistic expression is strictly regulated on radio and TV stations in Nigeria by the National Broadcasting Commission (NBC)—a statutory body that controls content transmitted via broadcasting channels. Through its Broadcasting Code, NBC enforces requirements that increasingly raise concerns about ambiguous rules on vulgarity and indecency used in censoring works of art. Furthermore, the regulations undermine the legitimate right to interpret religion artistically and foster spurious complaints by extremists that more frequently lead to censorship. Because artists have a huge influence on young people, NBC Director General stated that NBC “is not trying to affect artistic liberty or license but wants artists to imbibe a patriotic spirit so that they help us to mould our country.”<sup>1</sup> The patriotic spirit, however, strictly determines which topics can be addressed in music and the below cases illustrate how songs are censored for their so-called indecent lyrics, which are believed to have a negative influence on the population.

### SONGS BANNED

In August 2018, NBC fined Jay FM 101.9 radio station 100,000 Nigerian naira (about 240 euros) for airing the banned song *This is Nigeria* by award-winning musician Folarin Falana, popularly known as Falz. NBC alleged that the song’s lyrics were vulgar. Parts of the video showing dancing girls dressed in hijab were condemned by a religious group, Muslim

Rights Concern, which claimed responsibility for pushing for the song to be censored and having filed a petition for NBC to ban it. The petition was a result of Falz’s defiance to withdraw the video and apologise to Nigerian Muslims as requested through a seven-day ultimatum in June 2018.<sup>2</sup> NBC is mandated to receive and enquire into any complaint, and it encourages members of the public who are offended by the content of a broadcast or the behaviour of a broadcast station to complain.<sup>3</sup> In November 2018, Falz initiated a lawsuit against NBC, claiming the ban on *This is Nigeria* is a breach of his right to freedom of thought, conscience and expression as guaranteed by the constitution.<sup>4</sup>

Falz, who was named 2018’s Best African Rapper or Lyricist at the All Africa Music Awards, told Freemuse during an interview that the inclusion of the dancing girls wearing hijabs was misunderstood. They were a symbol of the Boko Haram incident where young girls were abducted, and therefore not intended to insult Muslims or denigrate Islam. “The girls in hijabs in the video was what the Muslim Right Concern complained about,” Falz said. “But everybody knew, it was quite blatant that those girls were a symbol of the Chibok and Dapchi girls who were kidnapped, and me saying that the lives of these girls matter because the response of our government to those situations is extremely sluggish and unacceptable. It was appalling that a group of people would come and say, ‘I give you ultimatum to take down this video, it’s a hate video.’”<sup>5</sup>

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*"...the hypocrisy involved, the over-religiousness of our people, to an extent, is blinding and it sort of prevents us from seeing the light and the way out of all this chaos. Not to take anything away from the fact that religion also, to a great extent, keeps the calm in any society; religion gives people something to look up to. But at the end of the day, just following what any individual gives to you without really thinking about it, sometimes, could be poisonous to your mind. Many individuals realise that and they take advantage of the people. Those were the messages as regards religion that I put in the song"*

FOLARAN FALANA (AKA FALZ), FREEMUSE INTERVIEW, 11 DECEMBER 2018

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Using sanctions as a tool for censoring art is a growing trend in Nigeria and is concerning. It threatens the right of artists to freedom of expression and undermines citizens' right of access to information and diverse opinions. Nigeria is a party to the International Covenant on Civil and Political Rights (ICCPR), and the right of citizens to express their views and criticise their leaders without fear, is guaranteed by Article 19 of the ICCPR, which should be respected by the NBC and other relevant regulatory authorities.

NBC also banned the song *See Mary, See Jesus* by rapper Olamide for its "casual use" of the names Mary and Jesus, which are "regarded as sacred by the Christian faith".<sup>6</sup> Sacred names, words or symbols are protected under Section 4.3e of the Nigeria Broadcasting Code, hence complaints by religious extremist on these grounds are considered legitimate.<sup>7</sup>

## STATIONS SANCTIONED FOR "VULGAR" CONTENT

In February 2018, NBC issued 11 fines of 100,000 Nigerian naira (about 240 euros) to radio stations across Nigeria for allegedly airing music with "vulgar lyrics" between October and December 2017, thus breaching sections of the broadcasting code.<sup>8</sup> The codes breached included 3.6.1, which states "Obscene, indecent, vulgar language, lewd and profane expression, presentation or representation is NOT ALLOWED", section 3.13.2.2c, which says "A broadcaster shall exhibit responsibility, good taste and decency in the choice of lyrics, which in any case, shall not contain lewd, profane, indecent or vulgar expressions", and section 3.1.6, which states "Any programme or musical content classified as Not To Be Broadcast (NTBB) shall not be broadcast".<sup>9</sup> Similarly, in September 2018, NBC issued nine sanctions to radio stations that aired music with "vulgar" and/or "indecent" lyrics between April and June 2018. The radio stations were warned or fined 100,000 Nigerian naira.<sup>10</sup>



Falz' song 'This is Nigeria' was banned by the National Broadcasting Commission for being "laced with vulgar lyrics". Image courtesy of Falz.

# PAKISTAN:

## FREEDOM OF ARTISTIC EXPRESSION SUFFERING UNDER AN INTOLERANT CENSORSHIP BOARD

- Two women artists killed in the country in 2018
- Censorship is the most common form of violation of artistic freedom
- All censorship of films documented by Freemuse in Pakistan in 2018 were of Indian origin, making the release of Indian films particularly challenging in the country's arts industry

In 2018, Freemuse documented two cases of women artists being killed in Pakistan. Singer and actress Sumbul Khan was killed in February by three gunmen who broke into her home in Mardan in northern Pakistan and forcefully attempted to abduct her and have her perform at a private party.<sup>1</sup> Angered by Khan refusing to go with them, the men shot her dead in her home. In April, singer Samina Sindhu was also shot dead while performing at a family celebration. This shooting happened because Sindhu, who was pregnant, did not accommodate a threatening order to stand up and sing, which was made by a man in the crowd.<sup>2</sup> These killings can spread fear among women artists who may feel compelled to comply with unnecessary demands from audiences.

Human rights law provides protection to all citizens, however, in the hierarchical society of Pakistan, women's rights are often undermined. Women are granted particular forms of protections from, for example, honour killings: in 2016 the anti-honour killing law was passed in parliament, introducing harsher punishments and making it harder to pardon perpetrators who tend to experience impunity. Although such a law is intended to guide better behaviour, it has proved not to automatically result in justice as women continue to be killed by relatives who feel ashamed of them.<sup>3</sup>

### FILM CENSORSHIP

Article 19 of the Constitution of Pakistan guarantees freedom of speech and expression. Yet this right

is subject to restrictions, such as the requirement that films seeking release in Pakistan must not hurt the sentiments of others or religious feelings, which is seen as a motivator behind some of the cases of censorship listed below. Also reflected in film industry censorship is the ongoing India-Pakistan conflict, which began with border disputes in 1947 when the countries were created out of the British-ruled India. Tensions between the neighbouring countries continue to permeate across both sides of the border. Just like in many other South Asian countries, politics and culture are interdependent in Pakistan. Its Central Board of Film Censors (CBFC) is governed by the Ministry of Information & Broadcasting; films are subjected to undue political influence and interference when vetted by the censor board for public exhibition.

In 2018, a number of Indian films were banned from release by the CBFC. In October, the Supreme Court in Pakistan reinstated a 2016 ban on Indian content on terrestrial, satellite, and cable TV channels. Indian films are popular in Pakistan and before the 2016 ban, Bollywood movies contributed to 60-70 per cent of the overall film exhibition business in the country.<sup>4</sup> Back then, the ban was said to have been adopted as a way to show solidarity with the country's armed forces that were attacked in the highly disputed Kashmir area.<sup>5</sup> An official of Pakistan Media Regulatory Authority (PEMRA)—a federal institution—said that Chief Justice Saqib Nisar had this time issued the mentioned order and justified it with India's dam construction shrinking

the water flow into Pakistan.<sup>6</sup> The cultural industry is thus used by political parties to sanction decisions and actions made in India. This shows that the political aims of censorship has major consequences for artistic freedom as well as for the outreach of art to audience.

In December, Indian director Nandita Das reported her disappointment when her film *Manto*, about a Pakistani writer born in India, was not cleared for release in Pakistan. CBFC members found the film in violation of the censorship code because it was found to have an anti-partition narrative and explicit scenes, the latter of which are against acceptable norms in Pakistani society, Das claimed.<sup>7</sup> The partition by the British is a very sensitive issue. It caused severe bloodsheds and thousands of casualties, and it continues to be a debate in both countries.

In Pakistan there are strict norms and ideas as to what constitutes acceptable material for public consumption and the issues that can be addressed

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*“In any case, the whole process of censorship is so subjective and arbitrary that one can only hope to reason it out. Unfortunately, this time around, I won’t get the opportunity to present my case to the Pakistani Censor Board.”*

*“Without a trace of doubt, censorship anywhere, and in all forms, is dangerous as it silences voices that need to be heard. (...). The silver lining is that the internet subverts archaic censorship for better and worse. Yet it is only through freedom of expression that we grow as people, as a society.”*

**DIRECTOR NANDITA DAS, SCROLL.IN, 14 DECEMBER 2018**

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in films. Artists touching upon certain topics experience pushback due to many of them being considered taboo or inappropriate. In March, the board banned the Bollywood horror film *Pari* for going against Islamic values by promoting black magic.<sup>8</sup> The Indian film *Padman* was also banned, as it dealt with menstruation—a taboo seen by the censor board as a “threat to Islamic culture”.<sup>9</sup> Indian film *Veere Di Wedding* was banned in Pakistan due to “vulgar dialogues and obscene scenes”.<sup>10</sup> The content of the Indian action thriller *Aiyaary* was disapproved and consequently allegedly refused release as a result of it being patriotic.<sup>11</sup> This is only a selection of Indian movies that have been banned in Pakistan throughout the year.

Based on the high number of Indian films being censored in the country, restrictions are seemingly used as a tool to create a form of sanction on India by targeting Indian art and artists. The state must condemn and combat restrictions and respect human rights, and create conditions that allow all people to access, participate in and contribute to cultural life, without discrimination, as emphasised by the UN Special Rapporteur in the field of cultural rights.<sup>12</sup>



Nandita Das, director of *Manto*. Photo: Nandita Das Facebook

# POLAND:

## ARTISTIC CREATION CHALLENGED BY GOVERNMENT POLICIES AND RELIGIOUS NORMS

- Prawo i Sprawiedliwość (PiS) officials initiate the majority of the incidents where artistic freedom is limited
- Artworks critical towards religion are protested and sometimes censored
- 60% of violations of artistic freedom documented by Freemuse in Poland in 2018 were committed by the government

In 2018, Poland's right populist authorities continued to censor artists and artworks deemed disrespectful of state symbols and religious sentiments. Members of the ruling Law and Justice Party (Prawo i Sprawiedliwość, PiS) consistently filed complaints against creators of artworks they found to be offensive to the state and Catholic Church. Meanwhile, the public national broadcaster Polish Television (Telewizja Polska, TVP), run by a staunch PiS supporter Jacek Kurski, exercised censorship on similar grounds.

### PROSECUTED FOR “INSULTING” AND RE-INTERPRETING THE POLISH COAT OF ARMS

In January 2018, metal band Behemoth's lead singer Adam Darski (known as Nergal) was charged with “insulting the Polish coat of arms”, because of an image used on the band's merchandise for its 2016 tour. In the case initiated by PiS politician Marek Dudziński, the prosecution claimed that the image deliberately distorted the national symbol by associating it with anti-Christian ideas.<sup>1</sup> On 16 April 2018, Gdańsk District Court Judge Marek Kapata dismissed the charges, ruling that the image was a form of art and it did not contain the most important component on the coat of arms—a crown. However, on 20 September 2018 the Court of Appeal quashed the verdict and ordered the case be retried with a more comprehensive analysis of Behemoth's lyrics

and the concert tour promoted with controversial posters.<sup>2</sup>

In November 2018, the Olsztyn-Południe District Prosecutor's Office initiated an investigation into two paintings displayed in the exhibition *Poles of Europe* at Dobro Gallery. Several PiS politicians filed a complaint claiming the paintings, which contained phallic motifs stylised around Poland's coat of arms and a crucified Jesus Christ, represented “obscene-pornographic provocation”.<sup>3</sup> Prior to filing a complaint, PiS MPs Iwona Arent and Jerzy Matecki and several city councillors spent two months trying to shut down the exhibition. The prosecution will investigate if the exhibition insulted state symbols and Christians' religious feelings. Since PiS politicians directed criticism at Mariusz Sieniewicz, the Director of the Municipal Cultural Centre in which the Dobro Gallery is placed, the case is also to determine if he had failed his responsibility to prevent offensive content from being on display.

### CENSORED FOR SHOWING THE CHURCH IN A BAD LIGHT

The Wojciech Smarzowski-directed film *Kler* (Clergy), which relays a story about corrupt priests consuming alcohol and abusing children, drew heavy criticism from representatives of the Catholic Church and PiS officials who considered stopping it from being screened in cinemas.<sup>4</sup> Janusz Kotowski,

the mayor of Ostrołęka who has a theological education, banned the film in the city's only cinema, reportedly without consultation with PiS.<sup>5</sup> Councillor Wojciech Kwiatkowski in the city of Etk protested the screening of the film in the local cultural centre, arguing that Pope John Paul II was an honourable citizen of Etk, which makes *Kler* unfit for the city. In Zakopane, Andrzej Skupień, president of the company which owns the city's cinema building, similarly wanted to ban the film. Skupień called for a board meeting with the intention of mustering vital support, but 80 percent of its members did not show up, thwarting his attempted censorship.<sup>6</sup>

On 23 September 2018, a section of director Smarzowski's acceptance speech at the Festival of Polish Feature Films was censored on TVP. The delayed broadcasting of the ceremony deliberately excluded a part in which the director of *Kler*, which won the jury's special award and audience award, sarcastically said he hoped that the award would be delivered to him by TVP president Jacek Kurski, whose role is supported by PiS. Despite TVP's edits, the entirety of the awards ceremony was posted on social media and subsequently went viral. In response to the edits, Kurski commented that editing Smarzowski's joke during his acceptance speech was due to "eagerness and stupidity", but that it was not an act of censorship. He said the person responsible for the edit will face severe consequences.<sup>7</sup> Film critic Michał Oleszczyk resigned from TVP Kultura's *Cinematographer's Evening* in protest to the censorship.<sup>8</sup>

## CRITICISED FOR SINGING ABOUT ISSUES FACING WOMEN

In June 2018, Girls on Fire's song *Sita kobiet* (Strength of Women) was formerly selected for participation at the National Festival of Polish Song in Opole, which is organised and sponsored by TVP. The song was subjected to intense criticism for allegedly "promoting homosexual relationships, communism, hatred towards Christianity and abortion".<sup>9</sup> In an open letter addressed to the TVP

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*"Polish authorities do not need cinematography which provokes, asks difficult questions, and ignites reflection in order to create a better world. They expect simple, sacred and propaganda film. But artists cannot be pressured. They have to do their job."*

FILM DIRECTOR WOJCIECH SMARZOWSKI, FREEMUSE INTERVIEW, 20 DECEMBER 2018

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president, PiS representative Anna Sobecka opposed the group's performance and criticised the song for being "an unofficial hymn of the black protests gathering supporters of killing unborn children".<sup>10</sup> The so-called 'black protests' refers to a series of demonstrations against the government's attempts to introduce tougher restrictions on abortion, where many protesters wore black clothing. Subsequently, the TVP Legal Office reviewed the selection process of the songs participating in the festival, and whilst it found that no rules and regulations had been violated, TVP fired Artistic Council of the Festival member Piotr Pałka for alleged negligence in predicting whether the song would cause public controversy.<sup>11</sup> Girls on Fire participated in the festival and won an award for best debut act, but it was not reported by TVP.<sup>12</sup>

Since 2015, when PiS came to power, human rights organisations have been continuously registering violations of freedom of expression in Poland.<sup>13</sup> The impact of this trend on artistic freedom has been considerable and has severely limited artistic creation. Since there are strong ties between the Catholic Church and Polish authorities, these limitations frequently appear in connection with religion. In order to restrain such practices, national and local officials should refrain from targeting artists for their artistic interpretation and depiction of religious motifs in their artworks. Before limiting artistic freedom, decision makers should consider the right of artists to dissent, to use political and religious symbols as a counter-discourse to dominant powers, as stated by the Special Rapporteur in the field of cultural rights.<sup>14</sup>

# RUSSIA:

## ARTISTIC EXPRESSIONS ON POLITICS AND MORALITY ARE SEVERELY RESTRICTED

- Russian authorities cancelled 18 concerts between late October and early December 2018
- Artists face challenges when criticising or taking a political stance opposing the government, including the annexation of Crimea
- The government was responsible for 79% of the violations of artistic freedom documented by Freemuse in Russia in 2018

In 2018, Russia continued to unjustly curtail freedom of artistic expression by formalising control and censorship of the arts industry. Criticism of those in power constituted the main motivation behind several restrictions on freedom of expression. A complex political environment in Russia leaves little room for freedom of artistic expression, which often results in artists self-censoring to avoid losing access to government funds or facilities. The authorities have made it clear that any artist receiving state funding is expected to implicitly pledge loyalty to the Kremlin.<sup>1</sup> In February 2018, politician Ivan Sukharev sent a suggestion to Minister of Culture Vladimir Medinsky recommending that actors critical of Russia should be prohibited from being in films with state funding.<sup>2</sup> Later, based on this, the state media agency Ria Novosti published a list of four Russian actors who have criticised Russia or the Russian people.<sup>3</sup>

### CHOOSING STATE PRIVILEGES OR ARTISTIC FREEDOM

The topic of state funding and the required loyalty to the government became especially relevant in Russia after the arrest of the prominent Russian theatre director Kirill Serebrennikov, who was charged in August 2017 with embezzling 68m rubles (about 850,000 euros) in state funds allocated for art and cultural events. He was initially placed under house arrest until October 2017, yet the order has repeatedly been extended. Serebrennikov has

denied any wrongdoing, and observers of the case allege it is politically motivated.<sup>4</sup> Serebrennikov's trial began on 7 November 2018 and is setting up a new turn in the cultural sphere. Like other artists, the director has challenged social norms and raised political questions through his work while receiving money from governmental funds.<sup>5</sup> However, the case shows how the requirements from the Russian government are now forcing artists and cultural workers to choose between state privileges and artistic freedom. In this regard, several individuals such as Russian film director Nikita Mikhalkov have urged the cultural elite to work without taking government money.<sup>6</sup>

However, not receiving state funding does not guarantee artistic freedom, as artists critical of the government are still silenced, persecuted and censored. The drama company Teatr.Doc has a reputation for raising sensitive political topics through art, but its actors have consistently been targeted and harassed by authorities. In July 2018, following a theatre performance *Adults on the Outside*, nine members of Teatr.Doc were detained by officers of the Department for Countering Extremism (Russian Ministry of Internal Affairs). The officers said the theatre members appeared as though they were using drugs. The group was detained and intimidated for two hours before being released without charge.<sup>7</sup> In an interview with Freemuse, Teatr.Doc actress Maria Chuprinskaya said she suspected the detention was politically

motivated and related to their support of the imprisoned Ukrainian filmmaker Oleg Sentsov. The group's detention, according to her, was to intimidate the theatre company to stop their civic engagement. It also confirmed Maria Chuprinskaya and other artists' suspicion that they are under constant surveillance by the police.<sup>8</sup>

Conflicts in and around Ukraine, including the 2014 annexation of Crimea, are still political debates. After the crisis in Ukraine began, public figures had to be careful in expressing their opinion about Ukraine, especially the annexation of Crimea.<sup>9</sup> Ukrainian filmmaker Oleg Sentsov, who was arrested in May 2014 after taking part in a protest in Crimea against Russia's annexation of the region, was sentenced on questionable terrorism charges<sup>10</sup> in August 2015 by a Russian military court and is currently serving a 20-year prison term. On 14 May 2018, Oleg Sentsov went on an open-ended hunger strike to demand the release of 64 Ukrainians held in Russia and Crimea on political grounds.<sup>11</sup> To avoid force-feeding, Oleg Sentsov ended his protest on 6 October 2018 after 144 days.<sup>12</sup>

## CRACKING DOWN ON CONCERTS

Over the course of 2018, Russian rapper Husky and electronic duo IC3PEAK came under consistent and heavy pressure from officials for their art, which authorities deemed to be immoral or extreme. Both Husky and IC3PEAK were briefly detained and 10 of their concerts were cancelled with interference from the police. In late October, Husky's concert was cancelled by authorities in Tolyatti, a city located in western Russia, after prosecutors claimed that some of his lyrics encouraged cannibalism and insulted the feelings of religious believers. These accusations resulted in five of Husky's other concerts being cancelled at the behest of the prosecutor's office. On 21 November, Husky was arrested and sentenced to jail for hooliganism in the southern town of Krasnodar. The sentence was later overturned after intervention from the presidential administration officials due to public backlash.<sup>13</sup> On 17 November, YouTube blocked Husky's video *Judas* to Russian audiences, stating it was done on request from Russian governmental agencies.<sup>14</sup>

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*"We could just cancel the tour, but if we did – censorship would win and (the) next one might never happen. So we'll go on touring. Wish us luck."*

IC3PEAK'S NICK AND NASTYA, SAID IN A TWEET ON 29 NOVEMBER 2018

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IC3PEAK's first concert in Perm near the Ural Mountains was cancelled in November when the police strongly advised organisers not to hold the event due to the suicidal—and thus immoral—lyrics of the duo's songs.<sup>15</sup> Another three concerts were cancelled by the authorities in Russia<sup>16</sup> and one in Belarus.<sup>17</sup> On 1 December, the duo was briefly detained in Novosibirsk on suspicion of drug possession. This, according to their manager, happened after an anonymous call to authorities. The IC3PEAK members were released a few hours later after the police did not find anything illegal.<sup>18</sup>

Freemuse documented a total of 18 cancelled concerts between late October and early December 2018. The public has played an important role in calling on Russian authorities to cancel concerts. In early September, a group of individuals sent a complaint to local authorities in the western Russian city of Nizhny Novgorod, urging them to cancel concerts of all artists who used obscene language in their songs because it was inappropriate for minors. As a result, an investigation was launched by the authorities, which led to five concerts being cancelled.<sup>19</sup> Also in December, a group called Teach Good 2.0 posted a set of instructions on "How to cancel a concert of an immoral band" to Russian social media platform Vkontakte (VK).<sup>20</sup> The guidelines specifically mention Husky, IC3PEAK and five other artists, believed by Teach Good 2.0 to be immoral.

As a party to the International Covenant on Civil and Political Rights and the European Court of Human Rights, Russia is obliged to fulfil the rights set out in the treaties, including the right to freedom of expression. In order to ensure protection of these rights, Russia should refrain from politically motivated persecutions of artists and immediately release artists currently imprisoned on such charges. Furthermore, Russian authorities should dedicate the resources necessary to investigate concert cancellations and prevent groundless censorships in the future.

# SAUDI ARABIA:

## DESPITE CHANGES IN CULTURAL LANDSCAPE, ARTISTS CONTINUE TO FACE ADVERSITY

- Activists and artists remain behind bars in 2018 for expressing political dissent
- Anti-terrorism law prohibits spreading atheist thought and penalises creators of satire
- Saudi artists face severe backlash for artworks believed by authorities to lead to disunity, sedition or division as prohibited by law

Saudi Arabia's first movie theatre opened its doors to the public in 2018 following a 35-year ban on cinemas.<sup>1</sup> It was also the year that Saudi women were allowed to drive,<sup>2</sup> described by analysts as part of "sweeping reforms" carried out by Crown Prince Mohammed bin Salman and the Saudi government in a bid to modernise approaches in the highly conservative country.<sup>3</sup> In April 2018, a progressive step was taken when Nihad Fathy became the first female singer in the country to perform to a mixed audience.<sup>4</sup> An increasing investment in cultural institutions and venues is also evident near Riyadh where a vast, multibillion-dollar 'entertainment city' is being built.<sup>5</sup> The crown prince also announced the creation of the MiSK Art Institute at the end of 2017, an artist-led organisation operating under the auspices of the state-funded, non-profit MiSK Foundation.<sup>6</sup> Art Jameel, a non-profit organisation working to support artists and creative communities mainly across the Middle East and North Africa, has announced plans for a 17,000 square-metre arts complex in Jeddah to open in the spring of 2019, which will incorporate art galleries, design studios and comedy clubs and bring together Saudi artists.<sup>7</sup>

### DISSIDENTS JAILED

Despite the outward appearance of change in Saudi Arabia's cultural landscape, Freemuse has documented several incidences of artists who have

been silenced and continue to be held in prisons for peacefully expressing dissent. In 2015 the General Court in Abha sentenced Palestinian poet, artist and curator Ashraf Fayadh to death by beheading on the charge of "apostasy".<sup>8</sup> Fayadh is alleged to have promoted blasphemy and spread atheist thought among young people through his poetry, which is criminalised under Article 1 of the 2014 Law of Terrorism Crimes and its Financing.<sup>9</sup> Fayadh was denied access to a lawyer throughout his detention and trial, during which his banned poetry collection *Instructions Within* was used as evidence against him.<sup>10</sup> In 2016 the poet had his death sentence overturned and was sentenced to eight years in prison and 800 lashes.<sup>11</sup>

### CRIMINALISING SATIRE ON SOCIAL MEDIA

In accordance with the country's counter-terrorism law, Saudi Arabia's public prosecution announced in September the criminalisation of online satire, including "producing and distributing content that ridicules, mocks, provokes and disrupts public order, religious values and public morals through social media".<sup>12</sup> Such cybercrimes can be punishable by a maximum of five years in prison and a fine of three million riyals (about 700,000 euros). Yemeni writer Marwan Al-Muraisy has lived in Saudi Arabia since 2013 and wrote a book titled *Laban El Asfour* (Milk of the Bird)—a compilation of 140 humorous tweets

posted by Arabic-speaking internet users.<sup>13</sup> He had also been reporting for the privately-owned Saudi website Sabq and other outlets including the non-profit organisation Science and Development Network that focuses on news about science and technology for global development. Al-Muraisy was arrested at his home in Riyadh in June 2018 by Saudi National Security agents. The grounds of his arrest remain unclear. He is currently imprisoned and held incommunicado at an unknown location.<sup>14</sup> His family has also been denied any further information about the charges against him as well as his whereabouts, and his arrest has been condemned by associations and human rights organisations.

Saudi comedian Fahad AlButairi's whereabouts have similarly been unknown since his arrest in 2018. The charges against him are unclear, but AlButairi's YouTube music video for *No Woman, No Drive*—a parody of a popular Bob Marley song with lyrics supporting the ban on women driving—is a suggested reason for his arrest in Saudi Arabia where political protests are not allowed.<sup>15</sup> AlButairi is married to activist Loujain Al-Hathloul, who was arrested for driving in the United Arab Emirates in March 2018, just two months before the ban was lifted in Saudi Arabia. She was sent back to Saudi Arabia and detained for some days before being released and re-arrested weeks later together with other women's rights activists who had fought for



Writer Marwan Al-Muraisy was arrested in 2018 and his whereabouts are unknown. Credit: English PEN on Twitter

the right to drive.<sup>16</sup> Al-Hathloul is still incarcerated while her husband's whereabouts remain unknown.

Saudi Arabia is a current member of the United Nations Human Rights Council and as such the country should lead by example and make sure that its national laws are in line with international human rights standards. However, since authorities are granted the power to "prevent whatever leads to disunity, sedition and division" according to Article 12 of the Kingdom's Basic Law of Governance,<sup>17</sup> freedom of artistic expression remains subject to several restrictions and limitations, ensuring that artists are unable to fully assert their right to artistic expression or freedom of expression. Several laws have enshrined further limitations on free speech in 2018, raising concerns amongst multiple NGOs worldwide, including Freemuse, who continue to urge Saudi Arabia to recognise the right to freedom of expression and opinion and release imprisoned writers, comedians and activists.<sup>18</sup>

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*"Mass media and all other vehicles of expression shall employ civil and polite language, contribute towards the education of the nation and strengthen unity. It is prohibited to commit acts leading to disorder and division, affecting the security of the state and its public relations, or undermining human dignity and rights."*

**BASIC LAW OF GOVERNANCE, CHAPTER FIVE: RIGHTS AND DUTIES, ARTICLE 39**

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# SERBIA:

## ARTISTS' POLITICAL DISSENT UNDER ATTACK

- Political patronage has prevailed in state-owned cultural institutions, resulting in penalties for those criticising the ruling party
- Cultural cooperation between Kosovo and Serbia is challenged due to the legacy of the 1998-1999 conflict
- 80% of the violations of artistic freedom documented by Freemuse in Serbia in 2018 were related to politics

After reviewing cases of violations of artistic freedom in Serbia in 2018, evidence shows that one of the biggest challenges for artists was government-exercised censorship. Censorship, which usually appears in a subtle form justified by some technical and procedural reason, has been either initiated or exercised by members of the ruling Serbian Progressive Party (Srpska napredna stranka, SNS) which, since it came to power in 2012, controls most of the country's political, social and cultural institutions. The legacy of the 1998-1999 conflict in Kosovo as well as Serbia's denial of Kosovo's self-declared independence and disputes over ongoing EU-facilitated dialogue for the normalisation of relations between Belgrade and Pristina has complicated cultural cooperation between the two societies.

### CENSORING POLITICAL CRITICS

Most of the artists subjected to censorship appeared to be blatant critics of the ruling party. In November 2018, *The Caricatures of Our Lives* exhibition by cartoonists Dušan Petričić and Predrag Koraksić Corax was removed from a library in Lazarevac one day after it was put on display. That same day—9 November, the International Day against Fascism and Anti-Semitism—Danas newspaper had published one of Corax's caricatures depicting Adolf Hitler and Joseph Goebbels bottle-feeding two SNS members, which was criticised by the Ministry of Culture as "extremely inappropriate".<sup>1</sup> Library

director Jasmina Ivanković denied allegations that the exhibition's removal was done under pressure from local SNS authorities. Instead, she blamed the organiser Novi Optimizam (New Optimism) for misusing the opening event for political purposes, although only one opposition politician was present in the audience.

In November, the management of a theatre festival in Aleksinac cancelled the play *Utopljena duša* (Drown Soul), allegedly for "potential conflict of interest". The leading role in the play was performed by Sergej Trifunović, whose father, Toma Trifunović, was the festival's artistic director. Toma Trifunović resigned from his position claiming that the order for his son's ban came because Sergej "publicly criticised SNS members".<sup>2</sup> Sergej Trifunović has been supporting SNS opposition circles for years, and on 26 January 2019 he was appointed to president of the political party Free Citizens' Movement (Pokret slobodnih građana).<sup>3</sup>

Several artists lost their jobs in state-owned theatres in 2018. The artists had their contracts terminated in accordance with a new systematisation of jobs, which under the Labour Law allows employers to cut the staff by eliminating positions no longer found necessary. Artists whose contracts were terminated claimed the new systematisation was deliberately designed to target critics of the current regime. In May 2018, actor Saša Stojković was dismissed from the theatre in Vranje, officially upon adoption of the new systematisation. Nevertheless, Stojković, who

since 2012 has been exposed to a smear campaign by local SNS members because of his work as a journalist, claimed that he was targeted over reports on corruption he published in local newspapers.<sup>4</sup> In March 2018, the contract of Bojana Ivanov Đorđević, a playwright in the Vršac theatre, was also terminated due to the new systematisation, which left the theatre without a playwright. Ivanov Đorđević claimed she was dismissed because she was not a member of the ruling party, unlike the majority of the theatre members, including the director.<sup>5</sup>

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*"I do not have any other explanation but that the decision to shut down the cultural center in Preshevo was deliberate. Fortunately, as usually in such situations, the cancellation resulted in a bigger interest in the exhibition, so a huge number of people showed up at the opening which was held outside, in front of the cultural center. In this way, the organisers sent a very strong message."*

**LUKA KNEŽEVIĆ STRIKA**, VISUAL ARTIST FROM BELGRADE AND PANELIST AT THE PREFOTO FESTIVAL OPENING EVENT, *FREEMUSE* INTERVIEW, 18 DECEMBER 2018.

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## CROSSING THE BORDER

Serbia's ongoing cultural cooperation with Kosovo has also caused considerable controversy. The "Mirëdita, dobar dan!" Festival in Belgrade, which aims to establish cultural ties among post-war generations, was held amid tension in 2018. Due to wounds from the past, right-wing groups protested the promotion of Albanian culture in the Serbian capital.<sup>6</sup> On 30 May 2018, Serbian police confiscated three photographs by the Kosovar artist Eliza Hoxha, due to be exhibited at the festival, when she was crossing the border at Merdare. The photographs contained symbols of the Kosovo Liberation Army, which is considered a terrorist organisation by the Serbian government because it fought for Kosovo independence in the late 1990s. Serbia's Minister of Interior stated that by confiscating them, he prevented "the promotion of a terrorist organisation, in the name of culture".<sup>7</sup>

On 19 June 2018, Kosovar writer and publicist Shkëlzen Maliqi was prevented from participating in the Belgrade promotion of the book *20 Years Përtej/Preko/Beyond*. Serbian police officers kept him at the border, allegedly for additional verification.<sup>8</sup> When Maliqi realised the "verification" might last hours and delay his arrival to the Belgrade event, he returned to Pristina. Three other artists travelled with him and crossed the border without problems; after they became aware that Maliqi was compelled to return home, they also cancelled their travel plans. The event was then cancelled by organisers in protest of the unwarranted restrictions on the freedom of movement for Kosovan artists.

The opening of the PreFoto Festival at cultural centre Abudlla Krasniqi in Preshevo, a town near the Kosovo border, was cancelled in November 2018 after fire safety inspectors shut down the cultural centre, claiming the venue was not fit for use because it lacked a proper fire prevention plan.<sup>9</sup> The festival's organiser Valon Arifi told *Freemuse* that the cultural centre had been used under the same condition for years, but was closed down only when the PreFoto international exhibition was installed. He believes the festival was possibly problematic for the Serbian authorities because it brought together artists from Kosovo and Serbia, and more importantly because it was partially financed by the Kosovo government.<sup>10</sup>

The 2018 European Commission's Annual Report on Serbia highlighted slow progress with regards to freedom of expression.<sup>11</sup> In order to create circumstances in which artists are free to express their political views without fear of sanctions, Serbia's government and cultural institutions under its jurisdiction should refrain from targeting artists on the grounds of dissent. In order to ease cultural cooperation with Kosovo, it should enable movement of artists and artworks across the border and respect the rights of artists including those who produce artwork with financial support of the Kosovo government.

# SPAIN:

## REPERCUSSIONS AGAINST ARTISTS EXPRESSING POLITICAL DISSENT

- Restrictions are placed on art and artists expressing support for Catalan independence
- Artists accused of satirising national symbols faced criminal charges
- Authorities using vague terrorism-related charges to silence artists for their artworks

Freedom of expression in Spain in 2018 was subjected to various limitations including censorship, detention and imprisonment. The deepening political crisis related to the Catalan independence referendum held in 2017—which was subsequently banned by the Constitutional Court—continued to be a highly controversial national topic. In an effort to curb this independence movement, Spanish authorities placed several restrictions on the rights of artists to creative freedom. In 2018, the crackdown on independence was intensified and people, including artists, faced adversity from authorities because of the support they extended to the independence movement.

### CENSORSHIP OF CATALAN-INDEPENDENCE SUPPORT

On 21 February 2018, an artwork expressing support for Catalan independence was removed from the Arco contemporary art fair in Madrid hours before the exhibition's scheduled opening. Spanish artist and provocateur Santiago Sierra's artwork *Political Prisoners in Contemporary Spain* consisted of 24 pixelated photographs featuring prominent leaders of Catalan pro-independence groups and activists who are currently imprisoned and facing charges because of their support for independence.<sup>1</sup> Eduardo López-Puertas, the president of Institución Ferial de Madrid, which is controlled by the regional and local governments of Madrid and works to

administrate and manage the fairs and congresses in the city, made a personal request for the artwork to be removed to avoid controversy. The move was subsequently criticised by the mayor of Madrid, Manuela Carmena, who highlighted that the decision was made without approval from any governmental authorities. Adding to her disapproval, she asserted that freedom and expression must be fundamental to the fair.<sup>2</sup>

In her report to the Human Rights Council, the Special Rapporteur in the field of cultural rights categorically states that in general, only giving dominating political affiliation as the right and only defensible one cannot justify suppression of dissent or censorship of views expressed through art, speech or by other means.<sup>3</sup> The expression of political dissent, including in the form of art, is further protected under article 19 of the International Covenant on Civil and Political Rights (ICCPR), which was ratified by Spain in 1977.

The issue of Catalan independence rose to prominence again in March 2018 when pop band Txarango produced the song *Agafant l'horitzó* (Catching the Horizon) in support of the Catalan independence referendum. The song was on a playlist to be used at an annual spring festival organised by educational centre CIDE Cooperativa d'Ensenyament in Palma, but it was removed so the centre could distance itself from any contentious political issue after it received complaints from students' relatives.<sup>4</sup>

## PROSECUTED FOR SATIRE AND COMMENTS ON RELIGION

Satirical comedy also irked state authorities, particularly when it involved public symbols such as the flag. Comedian Dani Mateo pretended to blow his nose on the Spanish flag as part of his performance on a satirical news show *El Intermedio* that aired on national TV on 31 October 2018. Following complaints, the sketch was withdrawn from the channel's website and the labour union Alternativa Sindical de Policía filed a complaint against Mateo for "offending Spain, its symbols, and thereby, the entire democratic society".<sup>5</sup> Mateo was summoned to a Madrid court where a judge had to determine whether Mateo's actions constituted an illegal act, namely a hate crime or an offence under Article 543 of Spain's Criminal Code, which prohibits "verbal or written offences or outrages, or those by action, against Spain, its autonomous communities or the symbols or emblems thereof".<sup>6</sup> The probe was dropped by the judge who, after Mateo clarified, found no evidence of him committing a crime.<sup>7</sup>

Actor Willy Toledo also faced legal issues in 2018 for posting a comment on Facebook about the criminal prosecution of three women charged with insulting the Virgin Mary. On 13 September, he was arrested and detained by police after ignoring a court summons over his 2017 Facebook post: "I shit on God, and I have enough shit left over to shit on the dogma of the sanctity and virginity of the Virgin Mary. This country is unbearably shameful. I'm disgusted."<sup>8</sup> The Spanish Association of Christian Lawyers filed a complaint with the public prosecutor claiming Toledo offended religious sentiments as prohibited under Article 525 of Spain's Criminal Code.<sup>9</sup> Toledo spent a night in prison and was released after appearing before the judge the next morning. It is currently unclear whether the matter will proceed to trial.<sup>10</sup>

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*"As a citizen of this country, I'm worried because we are taking a clown to court for doing his job; and that worries me due to the image it creates of my country and my flag."*

SPANISH COMEDIAN DANI MATEO, *EL PAIS*, 26 NOVEMBER 2018

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*The Political Prisoners at Contemporary Spain exhibition at ARCO Art Fair in 2018. Photographs by Helga de Alvear Gallery. Courtesy of Estudio Santiago Sierra.*

## COUNTER-TERRORISM LAWS NARROW FREE SPEECH

In February 2018, rapper Josep Miquel Arenas Beltrán, popularly known as Valtonyc, was sentenced to three and a half years in prison for writing lyrics that allegedly praise terror groups and insult the monarchy.<sup>11</sup> Instead of turning himself over to Spanish authorities in May, Valtonyc fled to Belgium. The Spanish National Court subsequently issued national, European and international arrest warrants against him, but in September a Belgian court ruled against his extradition and discarded the charges against him, as the song can be interpreted differently than it was in Spain.<sup>12</sup> "I am very happy as finally we have found justice," Valtonyc said of the decision. "We have been looking for it for a long time, and in Spain we did not get it."<sup>13</sup>

Several convictions of artists were reviewed by judges in 2018 and as a result, some artists have had their sentences reduced: Rapper Pablo Rivadulla, also known as Pablo Hasel, who was found guilty of breaching Article 578 of the Spanish Criminal Code by "glorifying terrorism" in his songs and messages on Twitter, had his three-and-a-half-year prison sentence reduced to nine months and one day. According to Spanish law, with no previous criminal record and a sentence shorter than a year, Hasel might not have to go to prison but instead pay a fine.<sup>14</sup> Twelve members of rap group La Insurgencia had their two-year prison sentences reduced to six months, following their 2017 convictions for exalting a terrorist group in a rap song.<sup>15</sup>

While these reduced sentences bring some relief to the artist community in Spain, Freemuse believes the original verdicts are concerning and highly likely to push artists towards self-censorship. Serious challenges for artists remain in the country in terms of accommodating international standards on human rights and the ICCPR, which underpin the importance of all people's right to freedom of speech and artistic expression.

# TANZANIA:

## NEW REGULATIONS UNDERMINE CREATIVITY AND IMPOSE FINANCIAL RESTRICTIONS ON ARTISTS

- The Electronic and Postal Communications (Online Content) Regulations 2018 is set to restrict artistic freedom on the ground of indecency, with heavy penalties and/or prison sentences
- From 2018, all music professionals are required by the Tanzanian Arts Council to pay hefty registration fees to perform domestically and obtain special permits to perform outside the country
- All the violations of artistic freedom documented by Freemuse in Tanzania in 2018 were committed by the government

Online and media freedom is deteriorating in Tanzania, where authorities actively restrict the rights to freedom of expression by initiating new regulations.<sup>1</sup> In 2018, such new regulations were introduced in the country, which compounded the challenges artists face and exacerbated self-censorship.

The Tanzania Communications Regulatory Authority (TCRA), a government body, has been responsible for regulating online communications and the broadcasting sectors since 2003 with the function of issuing, renewing or cancelling licences as well as establishing standards for services and monitoring performances.<sup>1</sup> In March 2018, the TCRA imposed further restrictions for online content by adopting the Electronic and Postal Communications (Online Content) Regulations 2018, which targets not only artists but also bloggers, online forums, social media as well as online radio and television. The newly introduced regulations contain broad and vague terms on indecency that severely restrict artistic content, and carry heavy penalties of a minimum jail term of 12 months and/or minimum fines of five million Tanzanian shillings (about 1,900 euros) if violated.<sup>2</sup> Online material is prohibited from containing content deemed obscene, which is defined as “content which gives rise to a feeling of disgust by reason of its lewd portrayal and is essentially offensive to one’s prevailing notion of

decenty and modesty, with a possibility of having a negative influence and corrupting the mind of those easily influenced”.<sup>3</sup>

In its legal analysis of the Electronic and Postal Communications (Online Content) Regulations 2018, ARTICLE 19 decries the prohibition of content in overly broad terms, the imposition of confusing registration requirements and the sweeping powers of content removal granted to the TCRA without safeguards against abuse.<sup>5</sup> The regulations indicate repression of legitimate freedom of expression in Tanzania, making them incompatible with international human rights laws.

### BANNED FROM PERFORMING AFTER SINGING “SEXUALLY SUGGESTIVE” SONG

In November 2018, hip hop artists Rayvanny and Diamond Platnumz as well as their record label Wasafi Records were each fined 9 million Tanzanian shillings (about 3,400 euros) for releasing the song *Mwanza*.<sup>6</sup> The song was deemed inappropriate for public consumption and banned, as it contained the Swahili word for “horny” and was sexually suggestive. Diamond Platnumz played the song at a later concert and was subsequently banned from performing in

Tanzania as a result of not abiding by the provision.<sup>7</sup> The Tanzanian Arts Council, commonly known by its Swahili acronym Baraza la Sanaa la Taifa (BASATA), claimed the song contravened Tanzanian laws that protect the morals of the country.<sup>8</sup>

The right to freedom of expression is contained within the Constitution that guarantees that “every person has a freedom of opinion and expression of his ideas”.<sup>9</sup> The same right is also protected under Article 9 of the African Charter on Human and People’s Rights to which Tanzania is a state party. Artists in Tanzania have the right to use their talents and creativity to seek, receive or impart information or ideas of any kind, regardless of frontiers and through any media of their choice. This right, supposedly guaranteed by several provisions, is currently not respected by authorities in Tanzania.

## BANNED INDEFINITELY FROM ARTS INDUSTRY FOR “DISGRACING THE NATION”

Popular actress Wema Sepetu was arraigned in Court in November 2018 over online sharing of “sexually explicit” content. The charges were based on a video allegedly leaked on Instagram that showed her and a man, who she referred to as her future husband, kissing in bed.<sup>10</sup> The actress was fined 10 million Tanzanian shillings (about 3,800 euros). In an additional blow, the Film Classification Board indefinitely banned Sepetu from taking part in any film-related activities.<sup>11</sup> Sepetu held a press conference during which she apologised for the video. A representative from the film board, Joyce Fissoo, said that Sepetu had “disgraced the nation by making viewers imitate to behaviours, habits and culture, which are inappropriate”.<sup>12</sup>

## COMPULSORY PERFORMANCE LICENCES

On 9 February 2018, BASATA gazetted new regulations under the *National Art Council Act Chapter 204*, requiring all musicians, DJs and music promoters operating in Tanzania to pay hefty fees to BASATA to acquire a licence. Also, advertising companies that work with artists are obligated to pay a fee.<sup>13</sup> The mentioned stakeholders must pay between 50,000 and 5 million Tanzanian shillings (about 19 euros to 1,900 euros) from 1 July 2018.<sup>14</sup>

Diamond Platnumz was stopped by BASATA at the Julius Nyerere International Airport in July 2018 while attempting to travel out of Tanzania for a show in Mayotte Island. According to BASATA, the action was an enforcement of another new regulation requiring all artists travelling to perform abroad to obtain special permits from BASATA as well as report to the commission when back in Tanzania.<sup>15</sup>

Together, the new incentives seen in Tanzania in 2018 obligate artists to increase their spending while at the same time reducing the opportunities for artists to express themselves independently from restrictive and normative standards created by authorities. The regulation requiring registration for performing abroad should be cancelled, as it limits freedom of movement and unnecessarily generate barriers to the sharing of cultural expression. The registration fee for performing within the country should similarly be abolished or kept to a minimum so it does not become an unnecessary barrier to artistic freedom. The Tanzanian government should revise the regulations and bring them in line with international standards of human rights and freedom of expression.

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*“Indecent content’ means any content which is offensive, morally improper and against current standards of accepted behavior, such as nudity and sex”.*

THE ELECTRONIC AND POSTAL COMMUNICATIONS, (ONLINE CONTENT) REGULATIONS 2018, P 4.

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# TURKEY:

## STATE OF EMERGENCY SERIOUSLY UNDERMINES ARTISTIC FREEDOM

- Over 30 artists and cultural workers were arrested and remanded in pre-trial custody in 2018, with nine of them sentenced to terms of imprisonment
- Most of the artists were prosecuted for insulting president Erdoğan or on terrorism charges such as being a member of the Kurdistan Workers' Party (PKK)
- The government was responsible for 96% of the violations of artistic freedom documented by Freemuse in Turkey in 2018

The state of emergency enacted in July 2016 after an attempted coup—and routinely extended until July 2018—facilitated a rapid deterioration of the human rights situation in Turkey. Many of the decrees implemented during this period bypassed parliamentary scrutiny and contained provisions that overturned domestic protections. At the same time, they seriously undermined human rights safeguards and contradicted Turkey's international human rights obligations.

An unprecedented crackdown on public officials, journalists, academics and others including artists, continued throughout the year. All forms of dissent were quashed and found to pose a threat to national security. As documented by Freemuse in 2018, over 30 artists and cultural workers were arrested and remanded in pre-trial custody for their suspected political association or political views, with at least nine of them later sentenced to imprisonment. At least five of them were accused of being followers of the US-based cleric Fethullah Gülen who was accused by the Turkish government of masterminding the 2016 coup attempt. The so-called Gülen movement is referred to as the Fethullahist Terrorist Organisation (FETÖ) by the Turkish authorities. People have been charged with FETÖ membership and prosecuted, but investigations are often initiated on the basis of scant evidence, such as a comment made on TV, a tweet or the display of US one-dollar bills in a music video. Other people

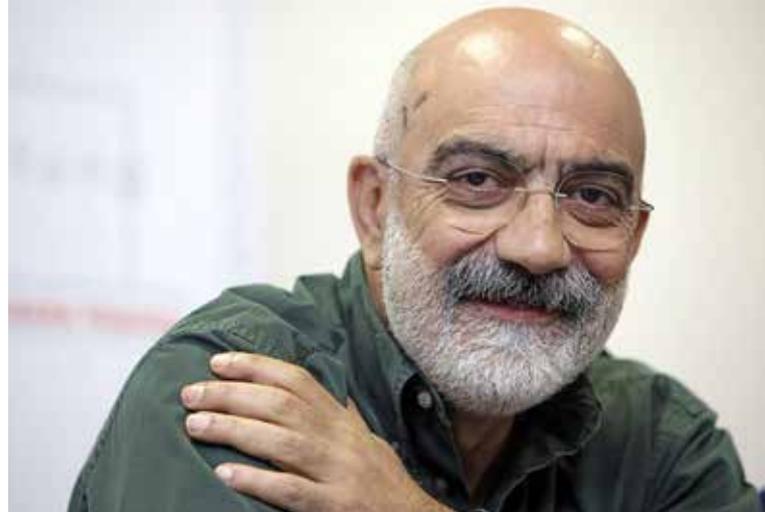
detained in Turkey after the attempted coup were allegedly tortured and mistreated in police custody<sup>1</sup>

### ARTISTS JAILED FOR ALLEGED LINKS TO GÜLEN MOVEMENT

Prominent Turkish novelist, essayist, and journalist Ahmet Altan is among those accused of being linked to the Gülen movement and was convicted for attempting to overthrow the constitutional order. He was arrested in 2016 along with his journalist brother Mehmet Altan for sending “subliminal messages” on a TV show they took part in on 14 July, one day before the coup attempt. In February 2018, Ahmet Altan was sentenced to life in prison.<sup>2</sup> In the same month, a court in Istanbul sentenced him to an additional five years and 11 months in prison on charges of producing propaganda for the Kurdistan Workers' Party (PKK) and insulting President Recep Tayyip Erdoğan.<sup>3</sup> The conviction was based on an article published on the Haberdar news website, where Altan, as the court found, attempted to portray violent acts of the PKK as innocent. The court also ruled that in the same article Ahmet Altan had insulted president Erdoğan.<sup>4</sup>

In September 2018, filmmaker Ali Avci was convicted of being a member of the Gülen movement and jailed for six years and three months over a scene in his feature film *Uyanış* (Awakening) where President

Erdoğan is held at gunpoint. The court said Avcı had carried out “public perception management in line with the core goals of the terrorist organisation”.<sup>5</sup> Turkish pop singer Mabel Matiz was subjected to an investigation by the Istanbul Public Prosecutor’s Office over alleged ties to FETÖ. His music video included images of US one-dollar bills, which according to security sources<sup>6</sup> have been used as code of support among members of the Gülen movement.<sup>7</sup>



Ahmet Altan is serving a life sentence in jail. Photo: Ahmet Altan Facebook

## TARGETING THE KURDISH MINORITY

Turkey’s discriminatory treatment of its Kurdish minority deteriorated further following the July 2016 coup attempt. Hundreds of people, among them 10 artists, were prosecuted and detained in 2018 on charges of links to the PKK, labelled a terrorist organisation in Turkey and in other countries.

In September 2018, musician and 2010 Freemuse Award winner Ferhat Tunç was sentenced in Turkey to one year, 11 months and 12 days in prison on charges of making propaganda for the terrorist organisation. The conviction was based on Tunç’s social media posts in support of Kurdish forces fighting Islamic State. Ferhat Tunç additionally faces two trials for allegedly “publicly inciting hatred and hostility” and “insulting the President” on social media in 2016 and 2017.<sup>8</sup>

In November 2018, a Turkish court sentenced German-Kurdish singer Hozan Cane to six years and three months in jail for being a member of a terrorist

organisation. Prosecutors had accused the singer of “inciting public hatred and enmity” by disseminating propaganda via social media on behalf of the PKK. The post in question showed Cane posing with alleged Kurdish rebels. According to the singer, the image was from her movie *74th Genocide Sinjar*.<sup>9</sup>

The continued persecution and prosecution of artists without fair trials and compelling evidence of criminal activity is in violation of international human rights laws including the UN International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of which were ratified by Turkey in September 2003. Turkey must protect freedom of expression and respect its commitments under the human rights treaties. Anti-terror and security laws should be applied with restraint and only when necessary, as defined by Article 10 paragraph 2 of the European Convention on Human Rights.<sup>10</sup> To avoid further violations of freedom of expression, Turkey should also repeal Article 299 of the Penal Code, which criminalises insulting the President of the Republic.

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*“The chief judge, the one with eyes hidden beneath swollen eyelids, reads the decision: ‘Life without parole.’ We will spend the rest of our lives alone in a cell that is three metres long and three metres wide. We will be taken out to see the sunlight for one hour a day. We will never be pardoned and we will die in a prison cell. That is the decision. I hold out my hands. They handcuff me. I will never see the world again. I will never see a sky unframed by the walls of a courtyard. I am going to Hades. I walk into the darkness like a god who wrote his own destiny. My protagonist and I disappear into the darkness together.”*

**WRITER AHMET ALTAN’S**, 2018 ESSAY ON HIS SENTENCING AND IMPRISONMENT.

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# UGANDA:

## ARTISTS SILENCED FOR OPPOSITIONAL VIEWS THROUGH PROSECUTION AND CANCELLATION OF SHOWS

- Charges of “offensive communication” are used disproportionately to silence artists, especially musicians, for criticising authorities
- The government exercises tight control over content and challenges musicians releasing songs
- Serious concerns about a proposed new law requiring musicians to submit lyrics before producing songs

In January 2018, President Yoweri Museveni’s administration enacted a new law removing the upper presidential age limit, clearing the way for the 74-year-old president to run for a sixth term in 2021. The controversial law was widely opposed, with politicians brawling in parliament over the bill.<sup>1</sup> As this constitutional debate continued to generate controversies in the country, criticism of the government was further reflected in artistic expressions, resulting in arrests and intimidation of artists for daring to criticise the president and voice their political opinions on national issues.

### “OFFENSIVE COMMUNICATION” CHARGES

Musician Nsubuga Moses, popularly known as Viboyo, was arrested in October 2018 for allegedly using obscene words to abuse President Museveni, Speaker of Parliament Rebecca Kadaga and other government officials. The musician allegedly called the president “buttocks” in one of his songs and was detained at Jinja Road Police Station on charges of “offensive communication”.<sup>2</sup> Viboyo was released after several hours in custody.<sup>3</sup> Authorities claimed the song contravenes the *Computer Misuse Act, 2011*, which can lead to a maximum sentence of one-year imprisonment if the artist is found guilty. To Viboyo, this reflects the wider trend in Uganda where one is discouraged from speaking out against government officials: “There is no freedom of expression in

Uganda. As long as you say anything bad that the regime does, trust me, your freedom is gone. It’s compromised,” Viboyo told Freemuse in a December 2018 interview.<sup>4</sup>

In March 2018, musician David Mugema and his producer Jonathan Muwanguzi were presented in court for trial on the same charges of “offensive communication”. They were accused of singing, producing and electronically communicating the song *Mzee Wumula* on social media. Authorities claimed the song attacked and disturbed the peace of the president.<sup>5</sup> The pair was arrested in December 2017, remanded in prison for two weeks and subsequently charged in court. But the March 2018 trial date was adjourned when prosecutors could not summon any witnesses, claiming there was no police file for the case.<sup>6</sup> The following month, prosecutors decided to withdraw the case against Mugema and Muwanguzi, but failed to communicate the reasons why. The court subsequently dismissed the case, discharged the musicians and ordered the return of their confiscated equipment without any conditions.<sup>7</sup>

According to the International Covenant on Civil and Political Rights, which Uganda acceded in 1995, everyone shall have the right to freedom of expression including in the form of art or through any other media.<sup>8</sup> Limitations to freedom of expression must be prescribed by law, pursue a legitimate aim and be necessary and proportionate.

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*“They are watching everything I do and on social media - all my social life. So basically I am not a free man. I am not a free man yet.”*

**MUSICIAN NSUBUGA MOSES (AKA VIBOYO)**, *FREEMUSE* INTERVIEW, 18 DECEMBER 2018

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## NEW REGULATIONS RESTRICTING ARTISTIC FREEDOM OF EXPRESSION

In October 2018, Ugandan police urged high profile music star Robert Kyagulanyi (popularly

known as Bobi Wine) to cancel his planned music concert at Namboole National stadium. Organisers had sought police protection for the show, as demanded by the stadium, but in a reply letter the police claimed that stadium management was not aware of the planned concert. Police then asked the musician to cancel the concert.<sup>13</sup> Bobi Wine claims the police and the management of the stadium actively discouraged his efforts to hold the concert.<sup>14</sup> He is also an opposition politician and had many of his shows cancelled in 2018. His lyrics contain criticism of the government, which, combined with his increasing popularity in the country, is suggested to be the main reason why authorities in the beginning of 2019 proposed new regulations forcing artists to have their song lyrics and film scripts examined before being made public.<sup>15</sup> The regulations raise serious concerns for artistic freedom, and have been criticised for demonstrating an increasing intolerance towards expressing political dissent in the Ugandan music and entertainment industry.

Human rights organisation ARTICLE 19, in its legal analysis of charges of “offensive communication” under sections 25 and 21 of the Computer Misuse Act of 2011, noted that the provisions relied upon are unnecessary and disproportionate.<sup>9</sup> “Arrest and intimidation of artists for exercising their right to freedom of expression is an act of undue censorship and is unconstitutional”, ARTICLE 19 said.<sup>10</sup>

Ugandan authorities have also systematically censored dissenting musicians. In June 2018, radio stations in Uganda were forced by security officials to stop playing a song created by musician Lucky Otim (also known as Bosmic Otim). The song *Mac Onywalo Buru* (Fire Produces Ash) targets and mocks ministers and members of parliament and should not be played on ground that its message is “misleading”.<sup>11</sup> “Any radio station found playing this song will be closed since the song is misleading the masses,” said Kitgum District Internal Security Officer Lawrence Asiimwe about the move.<sup>12</sup>

*Viboyo was arrested for allegedly using obscene words to insult President Museveni and others. Image courtesy of Viboyo.*



# UKRAINE:

## FREEDOM OF ARTISTIC EXPRESSION IN TIMES OF CONFLICT

- Tensions between Russia and Ukraine formed the basis of all violations of artistic freedom documented by Freemuse in Ukraine in 2018
- Three Ukrainian regional councils banned all Russian-language books, films and songs
- 146 Russian and international artists currently blacklisted in Ukraine for their political views

The crisis in Ukraine first emerged in November 2013 when protests against the Ukrainian President Viktor Yanukovich erupted in the streets of its capital city Kyiv following his decision to reject a deal for economic integration with the European Union and instead get financial help from Russia. Police violence connected to this series of protests against peaceful demonstrators escalated the political crisis and resulted in Yanukovich fleeing the country in February 2014 and later being deprived the title of President of Ukraine by the Supreme Council. One month later, Russian troops took control over the historically disputed peninsula of Crimea<sup>1</sup> and later formally annexed the peninsula following a debated local referendum in the Donetsk and Luhansk regions of Ukraine in May 2014 where residents voted to join Russia. The disputes between the countries has resulted in continuing violence in eastern Ukraine between pro-Russian separatists and the Ukrainian military, with the estimated number of civilian casualties exceeding 10,000 as a result of the conflict.<sup>2</sup> Although Russia denies its involvement, Ukraine has continuously reported the intensive movement of troops and equipment from Russia into the separatist-controlled parts of eastern Ukraine.

The tensions between Russia and Ukraine continue to have a direct impact on freedom of expression generally as well as artists' freedom of political and artistic expression. Over the years, Ukraine has imposed a number of restrictions on Russian art

and artists, which has also affected all Ukrainian artists alleged to have pro-Russian sentiments. Ukraine imposed an entry ban on any artist who has performed in Crimea since its annexation by Russia. In July 2018, Russian film and theatre actor Anton Makarsky tried to enter Ukraine but the State Border Service of Ukraine banned him from entering the country for three years because he had previously visited Crimea in 2015 to film a TV series.<sup>3</sup>

### 146 ARTISTS ON THE MINISTRY OF CULTURE'S BLACKLIST

The conflict has also affected artistic expression by amending Ukrainian national legislation to target Russians and Ukrainians who allegedly support Russia. For instance, since 2015 the Ukrainian Cultural Ministry has maintained a blacklist of artists<sup>4</sup> who "speak out in support of violating the territorial integrity and sovereignty of Ukraine".<sup>5</sup> This means expressing support for Russia's annexation of Crimea or pro-Russian separatists in eastern Ukraine and thus "threatening national security". As of November 2018, more than 145 Russian and international artists were on the list.<sup>6</sup> Among them is Russian filmmaker Nikita Mikhalkov, Georgian-Russian painter, sculptor and architect Zurab Tsereteli, French-Russian actor Gérard Depardieu, and Serbian filmmaker Emir Kusturica.<sup>7</sup> Films featuring blacklisted Russian artists are

also banned. In January 2018, Ukrainian authorities banned the release of the Russian film *Matilda*, which depicts the romance between ballerina Matilda Kshesinskaya and Tsar Nicholas II. The film was banned because one of the musicians on the artistic creative team is on the official blacklist.<sup>8</sup>

## BLANKET BAN ON RUSSIAN-LANGUAGE CULTURE

In 2018, the Ukrainian regional councils of Ternopil, Zhytomyr and Lviv banned all Russian-language cultural products such as books, films and songs. Local lawmakers have stated that the ban will be in effect until the end of the Russian “occupation” of Ukraine. In support of this decision, a member of Zhytomyr regional council noted that Ukraine should only promote Ukrainian cultural products and Ukrainian language, as the future of the country is believed to depend on this.<sup>9</sup> The ban has been condemned by Western diplomats and human rights activists for breaching international law as well as Ukraine’s Constitution, which guarantees development, use and protection of Russian and other languages of national minorities in Ukraine.<sup>10</sup> Banning Russian-language cultural products contradicts Article 2 and Article 19 of the International Covenant on Civil and Political Rights. The articles guarantee freedom of expression including in the form of arts, and obligate state parties to undertake to respect and ensure all individuals within their territory and subject to their jurisdiction this right without distinction of any kind, such as opinions, national origin or language.<sup>11</sup>

Ukrainians who have performed in Russia stand accused of being disloyal to their own country. In May 2018, Ukrainian singer Vitaly Kozlovsky had a concert cancelled by club Itaka in Odessa after activists of the All-Ukrainian Lustration organisation sent an



One of Vitaly Kozlovsky’s concerts was cancelled in Odessa due to a past performance in Moscow. Credit: Vitaly Kozlovsky on Facebook

appeal to the police to cancel the concert due to his performance in Moscow, which they asserted proved his loyalty to the Kremlin. This was the third Ukrainian city in which Kozlovsky had a concert cancelled in the course of one month.<sup>12</sup>

An analysis of the cases registered by Freemuse in 2018 shows that the conflict in and around Ukraine remains the main rationale for censoring artists and artworks. Artists’ political views are used for justifying the attempts of censorship as well as travel bans. The Ukrainian government should respect and protect the human right to freedom of artistic expression, and enact and implement national laws in line with international standards. Ukraine should promote cultural collaborations and ensure that national and local policies support freedom of artistic expression. In addition, the local governments of Ternopil, Zhytomyr and Lviv should repeal their decisions to ban all Russian-language cultural products.

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*“This is a ban on broadcasts of Russian movies, performances of Russian actors, etc. in the region, since we should have a Ukrainian product, and we don’t have to promote the Russian language, because we have our language and we should have our power.”*

MEMBERS OF ZHYTOMYR REGIONAL COUNCIL, UNIAN, 26 OCTOBER 2018

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# USA:

## ART CAUGHT UP IN INTOLERANT VIEWPOINTS

- Art with political content is rejected by institutions for fear of appearing partisan
- Artworks including LGBTI topics are targets of censorship
- 70% of the violations of artistic freedom documented by Freemuse in the USA in 2018 involved censorship

On 31 December 2018, the decision by the USA to withdraw from the United Nations Educational, Scientific and Cultural Organization (UNESCO) took effect and was justified by “concerns with mounting arrears at UNESCO, the need for fundamental reform in the organisation, and continuing anti-Israel bias at UNESCO”.<sup>1</sup> The move was highly political, as the USA stopped paying dues when Palestine was voted in as a member state in 2011. This might have negative consequences for its future commitment to promote diversity of cultural expression and improve the status of artists in the country. “UNESCO is there, and the whole of the UN is there, to try to bring the world together. If a major player decides to leave, that weakens both the country and UNESCO,” said Peter Stone, UNESCO Chair for Cultural Property Protection and Peace.<sup>2</sup> Also, immigration regulations in the USA involving travel bans imposed on eight predominantly Muslim countries limit cultural mobility by prohibiting foreign artists from those countries to share their work to audiences globally without exception.<sup>3</sup> Although the fundamental right to freedom of expression is protected by the First Amendment in the USA, art perceived as particularly controversial and provocative has continued to be under threat in 2018. Art institutions avoid their brand being attached to certain content, which tend to outweigh curatorial criteria. As a result, artists see their artistic freedom and expressions limited to certain topics and are thus required to tread carefully to avoid censorship.

## POLITICAL ARTWORK REJECTED

From September to the end of December 2018, fiber artist Salley Mavor was to have her solo exhibition of satirical art, *Liberty and Justice: A Cautionary Tale in the Land of the Free*, displayed at Highfield Hall and Gardens on Cape Cod, Massachusetts. It consisted of hand-stitched and decorated figures satirising President Donald Trump and his administration. Ten days before the exhibit was due to open, the venue gave Mavor an ultimatum: either remove the political aspects of her work or pull out of the exhibition.<sup>4</sup> In an interview with Freemuse, Mavor said she felt she was being told to strip her art of its backbone, leaving behind limp characters of no consequence. She therefore decided to withdraw the artwork. “Rejection is a normal part of an artist’s life, but this felt different than anything I had experienced before. My work was not being judged for its artistic merit. It was deemed unacceptable because of its content and I was asked to remove that content,” she said.<sup>5</sup>

Peter Franklin, who has since resigned as executive director of Highfield Hall and Gardens, said in a statement that the venue supports freedom of artistic expression, but Mavor’s show was cancelled because there was no policy on exhibiting work with political content. According to Franklin, going forward with Mavor’s singular point of view would have made the venue appear partisan and not supportive of all views within the community.<sup>6</sup> He said the venue “made a mistake” and that the

policy gap will be addressed in consultation with the local community.<sup>7</sup> According to the former UN special rapporteur in the field of cultural rights, the fear of creating debate or that some communities may protest against art should not be sufficient to lead to the conclusion that some artworks should not be displayed or performed, since a certain level of contest and dispute is often inherent to contemporary art.<sup>8</sup>



Still from the stop motion film *Liberty and Justice: A Cautionary Tale in the Land of the Free* by Salley Mavor and Rob Goldsborough

## LBGTI-THEMED ARTWORKS CENSORED

A phenomenon under the Trump administration is that artistic expressions related to the LGBTI community are challenged in battles initiated to exclude recognition of genders other than men and women. As an example, it was reported in October that USA officials are encouraging the elimination of the word 'gender' from UN human rights documents and replacing it with words like 'women' that are based on biological facts.<sup>9</sup> The recognition of non-binary genders is thus under threat, as well as art including LGBTI topics.

In March 2018, Saul Singleton's short film *Since the First Day We Met*, which ends with a kiss between two boys, was rejected by the Golden Lion Awards High School Film Festival. A spokesperson for the festival said it adheres to a strict PG-comparable system, which makes it unable to accept any films with clearly illustrated LGBTI themes.<sup>10</sup> Being rejected due to the theme that was based on his own experiences as a gay teen made Singleton feel discriminated against, and effectively violated his artistic freedom.

In October 2018, artist Pacifico Silano accused the mayor of Bal Harbour village in Miami, Florida of censoring his public LGBTI-themed exhibition that involved cropped photographs showing

glimpses of men, and of deleting the word 'queer' in the curatorial text.<sup>11</sup> Instead of leaving blank boards in place of the photographs that would be taken down, the artist decided to withdraw the entire project in protest. In an interview with Freemuse, Silano said he believes his work was censored as a result of homophobic attitudes.<sup>12</sup> "I had really hoped that we were beyond that narrow way of thinking, but sadly I was wrong," he said. In the USA there is a pushback on work that engages with progressive, more tolerant politics as well as artworks challenging the history of who is represented in the country, Silano explained. On a global level, artists should be able to transgress taboos or subjects that are frowned upon by audience or society without being censored or stigmatised. It is therefore crucial that the state denounces such violations of expressions about sexuality in order to enhance artistic diversity and tolerance in the country.

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*"I feel that our working together was fine as long as my work stayed within a set of safe parameters. But when my art made a statement about the current political landscape, I was silenced."*

SALLEY MAJOR, FREEMUSE INTERVIEW, 20 NOVEMBER 2018

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# UZBEKISTAN:

## ARTISTIC FREEDOM REMAINS SEVERELY CONTROLLED

- Government bodies were responsible for 90% of the violations of artistic freedom documented by Freemuse in Uzbekistan in 2018
- 70% of the documented violations involved songs and musicians
- It is one of the few countries that requires musicians to obtain a mandatory performing licence

In 2016, Uzbekistan underwent a transfer of power for the first time in 27 years, following the death of President Islam Karimov. Newly elected President Shavkat Mirziyoyev set a course for opening the country up to the world and improving its human rights record, which has been described as “abysmal” by Human Rights Watch in its 2018 country report.<sup>1</sup>

Under the Karimov government, freedom of artistic expression was severely restricted and all artists—especially musicians—were under considerable pressure from the government and were often banned from performing. Entire music genres were banned for being untraditional: rap<sup>2</sup> and rock’n’roll<sup>3</sup> were de facto prohibited in Uzbekistan after state television launched a moral campaign against these two forms of music. The documentary film *Melody and Calamity*, which aired on Uzbek TV’s Second Channel, claimed that rock music “originated from African hunting rituals”. Rap was invented by “inmates in prisons”, concluding “that’s why rap singers wear wide and long trousers”.<sup>4</sup> Similarly, Uzbekistan’s Culture and Sports Ministry has announced a ban on “meaningless” songs that fail to “praise the motherland”.<sup>5</sup> Some pop musicians including Dilfuza Rakhimova, Otabek Mutalhozhaev and Dilshod Rakhmonov, along with groups Ummon and Mango were among those affected by the ban; they lost their performing licences and were condemned as being “meaningless from musical and lyrical standpoints”.<sup>6</sup>

## THE NEW ERA OF SOME IMPROVEMENTS AND SEVERE RESTRICTIONS

The Mirziyoyev administration has made some progress in improving the country’s human rights record. In 2017 it publicly condemned and banned forced labour in fields during the annual cotton-picking season.<sup>7</sup> Refusal to comply was, in the past, grounds for punishment including loss of a job or social benefits.<sup>8</sup> It also impacted artists with valid performing licences, for example, singer Jasur Umirov, who lost his performing licence when he refused to take part in the 2013 cotton harvest.<sup>9</sup>

Uzbek authorities also removed a large number of citizens from the security services’ blacklist, which included political dissidents, state officials and artists. Uzbek writer Nurulloh Muhammad Raufkhon was blacklisted after he published a book critical of the government, but he was dropped from the list in 2017.<sup>10</sup> Similarly, singer and composer Abdulaziz Karim was able to return to Uzbekistan in 2018, after three years living in Turkey because of the ban imposed on his songs by the Uzbek authorities between 2015 and 2018.<sup>11</sup>

Despite inching towards institutional change and democracy, Uzbek authorities still retain a stranglehold over freedom of expression and artistic freedom. Its authoritarian presence is evident in people’s everyday lives—dictating what its citizens wear,<sup>12</sup> the information and news people consume and what they watch. This control extends to the

arts sector. Whilst marginal progress has meant an opening up of certain sectors of the arts and culture industries, freedom of artistic expression remains largely constrained, while state control over the creative industries is becoming even more codified.

## UZBEKKONTSERT – A KEY INSTITUTION FOR CONTROLLING ARTS

Uzbekistan remains one of the few countries in the world that requires musicians to obtain a mandatory performing licence. The licence is valid for one year and must be renewed at the end of each term in order for the artist to legally continue performing.<sup>13</sup> Pop music is widespread in Uzbekistan where, according to the UNFPA, 56% of the population is aged 24 or less.<sup>14</sup> However, pop music's popularity invites undue interference by the government, which uses performing licences as an instrument of control and censorship over artists.

Uzbekkontsert is a statutory body created by President Mirziyoyev and affiliated with the Ministry of Culture,<sup>15</sup> mandated to oversee the music industry and responsible for issuing performing licences. It is renowned for refusing to renew licences and revoking them without providing sufficient reasons. In June 2018, singer Ulugbek Rakhmatullayev's performance licence was revoked by Uzbekkontsert because of his refusal to perform in certain regions<sup>16</sup> in charity concerts.<sup>17</sup> Later, in November, Sanjar Javberdiev (aka San Jay) was asked to shave off his beard in order to obtain the licence.<sup>18</sup>

In February 2018, Uzbekkontsert issued a directive establishing a set of rules for the music industry, demanding adherence to national culture and traditions, and promotion of work celebrating patriotism and humanity. Singers can no longer show a tattoo, show off expensive items or stage their music video shoots in a bedroom.<sup>19</sup> In addition, music video footage must reflect the song's lyrics.<sup>20</sup>

The directive has already had an impact on artistic expression in the country. In August 2018, Uzbekkontsert examined 18 videos, six of which were then banned from being broadcast on TV and uploaded on social media. The artists Bakhriddin

Zukhriddinov, Samajon Ruzmetov, Manzura Yuldasheva, Alisher Zakirov and Otabek Mutalkhujaev were advised to reshoot their music videos because the visuals did not match the lyrics of their songs, and thus did not meet the requirements.<sup>21</sup>

In November 2018, singer Shahlo Akhmedova lost her performing licence for showing intimacy in the music video to her song *Summer Rains* after it was posted on YouTube without permission from Uzbekkontsert, which is mandatory to obtain since 2017.<sup>22</sup> Uzbekkontsert labelled the video, which depicts an intimate relationship between a man and a woman, as indecent and incompatible with the national mentality, national values and Eastern morality.<sup>23</sup>

## BLACKLISTING 238 FILMS

Apart from controlling musicians, Uzbekistan is also known for censoring films deemed to be indecent and which the state believes "have a negative impact on the human psyche".<sup>24</sup> In October 2018, the Inspectorate for Control of Communications, Information and Telecommunications Technologies banned 103 movies, in addition to an existing 225 films banned in one blacklist the previous year.<sup>25</sup>

The cases registered by Freemuse in 2018 show that the government, despite having taken steps to improve democratic quality and institutional change, fails to protect artistic freedom guaranteed by international human rights law. As a party to the International Covenant on Civil and Political Rights (ICCPR), Uzbekistan is obliged to fulfil the rights set out in these treaties. In order to fulfil its international human rights obligations on freedom of expression, the state should encourage freedom of artistic expression and ensure that restrictions apply only with restraint and only when necessary, as defined by Article 19 of the ICCPR.

# RECOMMENDATIONS

Challenges to artistic freedom are multifaceted, and require multiple actors to work together constructively at the international, regional and national levels. Freemuse is therefore addressing the following recommendations to governments, appropriate statutory bodies, civil society organisations and the United Nations and its relevant bodies to enforce the acknowledgement of the universality and indivisibility of human rights, specifically the right to artistic freedom.

**Freemuse urges states, the UN and non-state actors to discuss these recommendations with the intention of implementation, particularly in a context where restrictive legislation implemented by states and pervasive traditions enforced by non-state actors violate human rights.**

## TO ALL STATES

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### LEGISLATIVE AND POLICY MEASURES

1. All artists should be treated equally under the law. States should abolish and amend legislation, executive orders, and by-laws that prohibit and restrict artists from taking part in all dimensions of artistic life and the performance of their respective art forms.
2. Freemuse supports and endorses the recommendations by the UN Special Rapporteur in the field of cultural rights that, "Artists and all those engaged in artistic expression should only be subject to general laws that apply to all people. These laws should be formulated with sufficient precision and in accordance with international human rights standards. They shall be made easily accessible to the public, and implemented with transparency, consistency and in a non-discriminatory manner."
3. The full array of states' obligations to respect, protect and fulfil the right of every person to freedom of artistic expression and creativity should be taken as the core driver of all developments of law, policy and measures related to freedom of artistic expression and creativity.
4. Freemuse recalls the recommendations of the UN Special Rapporteur in the field of cultural rights that governments, law enforcement officials and administrators of justice, including judges, should take into consideration the nature of artistic creativity, as well as the right of artists to dissent, to use political, religious and economic symbols as a counter-discourse to dominant powers, and to express their own belief and world vision.
5. Governments need to encourage a plural and diverse political environment by strengthening the mandates of relevant cultural institutions and entities to maintain their independence as well as ensure transparency in decision making, ensuring that these bodies are overseen by independent cultural institutions and entities to check upon the potential misuse of power, particularly in cases where artists' political opinion diverges with that of the institution.
6. Governments should abolish censorship boards and their prior censorship mandate. Freemuse supports the call of the UN Special Rapporteur in the field of cultural rights that states should abolish prior-censorship bodies or systems where they exist and use subsequent imposition of liability only when necessary under Articles 19 (3) and 20 of the International Covenant on Civil and Political Rights, and such liability should be imposed exclusively by a court of law. Prior censorship should be a highly exceptional

measure, undertaken only to prevent the imminent threat of grave irreparable harm to human life or property. Avenues for an appeal before an independent body should be guaranteed.

- 7.** Governments should abolish legislation that is used to monetarily fine artists and artistic platforms for their creative expressions. It should also refrain from withdrawing national funding from cultural institutions.
- 8.** Governments should not endorse opinions held by religious bodies—traditional and informal authorities—which inhibit women’s rights to artistic freedom, and encourage tolerance particularly towards women’s right to freedom of artistic expression and creativity.
- 9.** All artists in indefinite detention should be immediately released or charges should be brought against them.
- 10.** Governments should provide positive discriminatory methods, especially financial support, to enable all women to take part in cultural life, including arts education, training, system support and professional development with a view to address underrepresentation of women in the arts and culture industry.
  - a.** Develop programmes to create awareness and put in place effective measures to prevent women artists from any form of sexual harassment and all others forms of predatory behaviour in the workplace.
  - b.** Develop programmes of action in connection with the enforcement of the provisions outlined in the UN Sustainable Development Goal 5.
- 11.** Freemuse affirms the recommendation made by the UN Special Rapporteur in the field of cultural rights that states should “Fully support artistic creativity and the establishment of cultural institutions accessible to all. Public agencies should function as a financial backup for programmes that do not attract corporate sponsors, based on the understanding that they cannot interfere with contents.”
- 12.** Governments should abolish legislation that criminalises and penalises individuals who use social media to publish their artwork, such as the law in Saudi Arabia that criminalises online satire with a maximum of five years in prison and a fine of three million Saudi riyals.
- 13.** Develop measures and programmes of action to defend and protect artists who choose to defend human rights.
- 14.** Develop programmes to increase dialogue, tolerance and appreciation of gender, ethnic, religious and cultural diversity. These programmes should be carried out in connection with clear policy measures to mitigate any fear associated with speaking openly and promote free and open environments where artists can express their views in all art forms.
- 15.** Governments should abolish legislation that enables the prosecution and persecution of artists who allegedly offend the heads of state and the nation with their artworks.
- 16.** Governments should abolish legislation that criminalises or prosecutes LGBTI artists or artworks containing LGBTI themes.
- 17.** States should abolish national anti-terrorism legislation that is not in line with international standards on human rights and the 2013 report by the UN Special Rapporteur in the field of cultural rights.
- 18.** Governments should abolish legislation that prosecutes artists based on their religious identity and should work towards creating a plural environment which enables all artists.
- 19.** Governments at all levels are under legal obligation—through UN treaties and national constitutions—to understand how freedom of artistic expression is impeded legally and socially. After understanding this, states should develop programmes of actions to fulfil their responsibility, taking into consideration their national political, traditional and religious contexts with a view to fully realise the right to artistic freedom and creativity.

## PROTECTION FROM NON-STATE ACTORS

1. States should abide by their obligation to protect artists participating in artistic activities or dissemination of artistic expression and creation from violence by third parties and non-state actors. States should ensure artists taking part in artistic freedom have access to effective administration of justice, including prompt and thorough investigation and prosecution of alleged violations of artistic freedom in accordance with international standards.
2. States should take steps to ensure that directories of governmental and non-governmental services are widely available and accessible to artists that have been subjected to violence, harassment, intimidation and persecution and this information is widely distributed to police stations and courts, as well as to hospitals and other health care facilities.
3. Governments should smartly regulate and put in place accountability mechanisms to govern syndicates and professional artist organisations so that they neither restrict artistic freedom nor punish artists arbitrarily. Governments should ensure that these organisations are strongly encouraged to adopt human rights principles to guide their internal policies on how they govern artist members. Check and balance mechanisms should be put in place so that artists can submit complaints and receive reparations in a fair, impartial and effective manner based on principles of equality and non-discrimination.
4. Individuals should be protected through due legal process and if necessary provided protection during a police investigation. Governments should therefore work alongside national judiciaries to ensure that individuals who send artists death threats are transparently and comprehensively investigated and punished where necessary. The judiciary should conduct these investigations and rulings without the ideological influence of the ruling party.

## RATIFICATION AND IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS

1. States should ratify and implement the following international human rights instruments so that they can strengthen their promotion and protection of rights to artistic expression and creativity:
  - a. Ratify and fully implement the International Covenant on Civil and Political Rights and its Optional Protocol, without reservations.
  - b. Ratify and fully implement the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, without reservations.
  - c. Ratify and fully implement the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.
  - d. States should fully implement the 1980 UNESCO Recommendation Concerning the Status of the Artist.
  - e. Ratify and fully implement the UN Convention on the Elimination of all Forms of Discrimination against Women and its Optional Protocol, without reservations.

## TO CIVIL SOCIETY ORGANISATIONS

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### Freemuse calls on civil society organisations to:

1. Allocate resources to effectively monitor and document more systematically violations of the right to freedom of artistic expression and creativity, taking into consideration discrimination and bias against women and women artists.

2. Engage with relevant regional forums, national bodies and internationally recognised institutions on matters relating to artistic freedom of expression to address emerging patterns of violations directed at artists.
3. Support artists at risk in a non-discriminatory manner under humanitarian principles regarding temporary or permanent relocation to a different country through residency, where necessary.
4. Collaborate with government authorities when they see fit by providing their expertise and knowledge on the consequences of violating and restricting freedom of artistic expression to prevent third parties, such as censorship bodies and broadcasting companies, fining artistic and creative individuals and spaces for their expressions.
5. Work alongside artists and government officials to assist artists that have been fined by government authorities for their creative and artistic expressions.
6. Women's rights activist and feminist organisations should actively engage in policy dialogues with national governments at different levels, focusing on offering concrete and actionable solutions to women's engagement, access and equality in the arts.
7. Actively work with social media companies to refrain from censoring artists on the ground of indecency and ensure that all restrictions of artistic expression are in line with international human rights standards.
8. Work together with states and the UN to develop appropriate assistance programmes for women artists and frame these assistance programmes with participation from those artists affected.
9. Develop a handbook for artists detailing their rights and responsibilities when posting content online and how to respond and report intimidation, violent language and threats posted in response to their work to social media providers and where necessary to the police.
10. Work with social media companies to improve mechanisms of reporting for individuals that experience violations on their freedom of artistic expression on social media sites.
11. Work with social media companies, such as Facebook, Twitter and Instagram, to ascertain and publish the number of complaints submitted to the platform based on religious, gender, racial or sexual orientation threats.
12. Work with social media companies to develop public awareness and education campaigns about the risks associated with posting artwork and political opinions to mitigate such risks; such as how to report death threats.
13. Assist states in aligning their national legislation with relevant international legislation that upholds LGBTI rights and freedoms.
14. Work alongside the UN independent expert on sexual orientation and gender identity to pressure governments into changing legislation so that LGBTI artists can express themselves artistically without the fear of prosecution and persecution.
15. Work with relevant cultural centres and institutions to document, analyse and ascertain the patterns, nuances and impact of religious-based violations specifically experienced by artists.

## TO THE UN AND REGIONAL ORGANISATIONS

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1. UN and regional intergovernmental agencies should actively—and in collaboration with appropriate civil society organisations where relevant—document how access to artistic freedom and creativity is curtailed. This monitoring should help provide activists

with research about how artists' rights are undermined in order to identify patterns of violations. This evidence should be used to help identify concrete interventions at the grassroots level.

2. UNHCR should develop programmes to support artists at risk including residency programmes, paying specific attention to artists that require temporary or permanent relocation to another country.
3. UN and regional intergovernmental agencies should assist governments to enact and amend legislations so that they are in accordance with international human rights standards; and assist governments to develop action plans with participation from relevant civil society organisations and other stakeholders to actively promote and protect freedom of artistic expression and to set up mechanisms to monitor implementation.
4. UN and regional intergovernmental agencies should assist governments to help them develop curricula for primary and secondary school children that promote concepts of freedom of expression, gender equality and non-discriminatory practices, and to train teachers on how to integrate non-discriminatory approaches to education.
5. UN and regional intergovernmental agencies should make available systematic platforms for civil society to meaningfully participate, contribute and engage in all policy dialogue relating to artistic freedom.
6. UN and regional intergovernmental agencies should assist in placing appropriate pressure on governments to amend legislations that are used to monetarily fine artists for their creative and artistic expressions.
7. UN and regional governmental agencies should be available to work with local partners when funding has been arbitrarily withdrawn from cultural institutions.
8. UN and regional governmental agencies should assist governments to enact and also amend legislations that violate and restrict women's right to artistic freedom of expression, predominantly legislation that restricts artistic freedom on the grounds of indecency.
9. UN and regional intergovernmental agencies should support governments to commit to challenging negative gender stereotypes about women through public awareness campaigns.
10. The Special Rapporteur on violence against women, its causes and consequences should commission a study that uses case studies to analyse social transformation from cultural, religious and societal practices that discriminate and create gender bias against girls and women to ones that respect equality and non-discrimination and encourage girls and women to take part in all dimensions of cultural life.
11. The UN should work with governments to generate an internationally recognised standard of community guidelines for social media companies which they can implement across geographical and physical boundaries.
12. The UN should work with artists in consultation and relevant government agencies to ensure that the accusation of pornography is not used arbitrarily to prosecute an artist over their creative expression of nudity.
13. UN and regional intergovernmental agencies should assist governments to enact and amend legislations that prosecute artists because of their engagement in public activities critical of official state policies.

# ENDNOTES:

## CHAPTER 2

### ►► TRENDS

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# A NOTE ON DOCUMENTATION

Freemuse's State of Artistic Freedom report is a research product created as a result of annual monitoring, documentation and examination of cases of violations of artistic freedom and other legal and policy developments worldwide.

Every effort has been made to verify the accuracy of the information contained in this report, and all information was believed to be correct as of February 2019.

When artists have faced multiple violations stemming from the same incident, we document the most serious violation. If an artist is detained, prosecuted and then consequently imprisoned for the same incident, the violation is only recorded as imprisoned. If an artist is abducted in one incident and threatened in a separate, unrelated incident, then those are registered as two separate cases.

"Attacked" refers to artists, artworks or events being physically attacked; each attack is registered as a single violation.

"Imprisoned" refers to artists who were sentenced to prison for their artistic work during the calendar year, as well as artists who were imprisoned in years previous, but remained behind bars during the whole or part of the year.

"Detained" refers to artists who were held in custody by state authorities when charges were not pressed against them. When an artist is charged, the case will be registered as "prosecuted".

"Censored" refers to incidents of censorship including concerts being stopped; films, books and music being censored and banned; and works of art being removed from exhibitions.

Blacklists are registered as one act of censorship for comparative purposes, regardless of the number of artworks affected. However, if the list is updated with new censored artworks, it will be registered as a new violation.



“ I was in a state of shock. It took a day or two to really sink in. I had spent eight months working on this project with the opening less than two weeks away. It felt like my existence as an artist and a person was being deemed offensive. ”

PHOTOGRAPHER **PACIFICO SILANO**, *FREEMUSE* INTERVIEW, 23 NOVEMBER 2018. SILANO HAD 15 IMAGES (INCLUDING THE IMAGES BELOW AND OPPOSITE) CENSORED AND EDITED OUT WHILE PLANNING AN EXHIBITION IN FLORIDA, USA.



Freemuse is an independent international organisation advocating for and **defending freedom of artistic expression.**

We **monitor and document** violations of artistic freedom, expose laws and policies that enable and sustain these violations, and leverage **evidence-based advocacy** for systemic structural changes at international, regional and national levels.

Working with partners, artists and activists in the global south and north, we **campaign for and support** individual artists, focusing on women artists and other vulnerable groups of artists. We facilitate and grow locally-owned **national coalitions** in their campaigns and capacity building to monitor and defend artistic freedom.

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