An abstract artwork featuring a large, textured golden circle as the central focus. The circle is set against a dark, almost black background that is speckled with small, vibrant splashes of red, blue, and white. The overall composition is dynamic and expressive, with a strong contrast between the bright gold and the deep shadows.

THE STATE OF ARTISTIC FREEDOM 2020

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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Editor: Dr Srirak Plipat

Freemuse thanks those who spoke to us for this report, especially the artists who took risks to take part in this research. We also thank everyone who stands up for the human right to artistic freedom.

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 March 2020. Nevertheless, Freemuse cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

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THE STATE OF ARTISTIC FREEDOM 2020



FREEMUSE

“ Today, perhaps all of us wonder whether a trigger pulled, a steering wheel turned, or a pin tugged by the fingers of some violent extremist will strike down our future prematurely. But the actions of violent extremists cannot totally obliterate our world. Only governments can do that—and this is the greater tragedy of today. Left on their current course, it will be governments who will break humanity. Terrorists may attack us, but the intellectual authors of those crimes will then often sit back and watch as governments peel away at human rights protections; watch, as our societies gradually unravel, with many setting course toward authoritarianism and oppression—staging for us, not a century of achievement and pride, but a century that is small, bitter and deprived, for the vast majority of humans. ”

UN HIGH COMMISSIONER FOR HUMAN RIGHTS **ZEID RA'AD AL HUSSEIN**, 2017.¹

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SUMMARY

The *State of Artistic Freedom 2020* report is a research publication produced annually by Freemuse through the analytical examination of relevant developments and documented violations to the right to freedom of artistic expression. It is essential that these violations are continuously exposed in order to reflect contemporary challenges and ensure that states are held accountable for their inadequacy to protect and promote the right to artistic freedom.

The *State of Artistic Freedom 2020* report is based on 711 incidents where this right was violated or in other ways restricted through national laws in 93 countries. Freemuse utilises statistical data, as well as qualitative interviews with artists to provide personal stories and insights about the limitations placed on artistic freedom.

Freemuse has documented **censorship** as the most common violation of artistic freedom. Artworks and artists are unduly censored at a global scale due to their creative content, which is opposed by governments, political and religious groups, social media platforms or by private individuals. Artists around the world continue to face severe infringements on their human right to free expression through detentions, threats, prosecutions and imprisonments. The main motive for these violations was found to be **political**, which reflects an increasing malcontent for artistic expression addressing political issues and a widespread deterioration of core democratic principles.

Compelling patterns and trends evident in Freemuse's ongoing monitoring and documentation are presented in this report. These trends resemble the most prevailing restrictions on artistic freedom during 2019 and are analysed through emblematic case examples. They similarly provide a broader insight into the political landscapes that demonstrate serious disregard to international human rights law.

The report shows how governments continue to exercise censorship to avoid hurting religious

feelings. There are examples of both artists and their works being targeted for content which presents issues related to religion. In addition, appropriation of religion for political gain is rife in various parts of the world where laws that criminalise blasphemy and insults to religion are used to impede the right to freedom of artistic expression. Such laws also are also in contradiction with international standards of human rights.

The deepening of a discourse based on uninhibited nationalist, as well as populist, sentiments continue to pose a concerning challenge for artists where political leaders introduce new measures to limit political dissent. Growing nationalism has led to increasing intolerance, particularly towards alternative narratives and vulnerable groups such as LGBTI, women and migrants. Antiterrorism legislation continues to be used to undermine fundamental freedoms in the name of strengthening national security. Vague definitions of what constitutes terrorism allow for governments to investigate artists on charges of "glorifying" terrorist organisations, as seen in Turkey and Spain.

Freemuse has identified LGBTI persons and their artistic expressions as an area facing continuous pushback both when portrayed in artworks and when it comes to the artists' own sexuality. Artworks are challenged with censorship in countries which outlaw alleged "promotion of homosexual propaganda". With these laws, protection of traditional family values and children is used as the rationale for prohibiting LGBTI-themed artworks. Suppression of LGBTI expression has particularly been pushed at a governmental level with the growth of nationalism, including religious nationalism and far-right groups, as seen in Brazil, Russia, India and Hungary. At the same time, artists who are outspoken about LGBTI rights experience threats of violence and harassment from people arguing that they are insulting religious sentiments.

Recorded violations of artistic freedom have illustrated how both past and ongoing conflicts

negatively impact on the right to freedom of artistic expression. Armed conflicts and territorial disputes restrict the ability for artists to visit certain territories and thus limit their opportunities to perform and share their art. Further, evolving issues related to the legacy of the conflicts in art have in some cases led to censorship part of a wider clampdown on expression supportive of political oppositions.

An increasing number of artworks and creative expressions shared on social media platforms are censored. Serious concerns have been raised by human rights organisations regarding national laws that have been introduced to combat online hate speech. With a lack of definition of what constitutes hate speech, laws have made social media companies such as Facebook responsible for removing such content within a limited timeframe. Such laws have proven insufficient and difficult for companies to meet. Cases also show how Facebook's own Community Standards—which outline content prohibition—are often not correctly upheld and artworks are taken down. In addition, the anonymity that online platforms can provide pave the way for artists receiving threats and intimidating messages. This represents another major challenge for artists to express themselves freely without discrimination.

States have introduced new laws and policies to their national legislations or illegitimately used already existing legal provisions as measures to stifle dissent. Although freedom of artistic expression is often guaranteed and protected through national constitutions, authorities have found ways to use

other provisions to silence artists. This can be seen through the prohibition of the use of state symbols or the imposition of bans on cultural exchange among countries in conflict. Recorded cases of violations of freedom of artistic expression show how governments and other authorities impede on artistic content in ways that critically fail to respect human rights. Artists are censored, attacked, harassed, detained, imprisoned, persecuted and killed for their artistic expressions. Such incidents set limiting examples for other artists and may result in widespread fear and exercise of self-censorship.

Freemuse lists 13 countries of particular concern: Brazil, China, Egypt, France, Indonesia, India, Iran, Lebanon, Nigeria, Russia, Turkey, the United States of America and Zimbabwe. These countries have been considered for the worrying violations and developments documented in each of the countries and analysed with regards to their human rights responsibilities. In addition, other countries are presented throughout the report which exemplify how governments fail to respect freedom of artistic expression at a global scale.

In this report, Freemuse offers several recommendations aimed to combat impunity and create an enabling environment for artists to exercise their right to freedom of expression. The recommendations highlight the need for stakeholders at different levels to sufficiently address illegitimate legislation and policy measures that are inconsistent with international human rights standards.

“ Private norms, which vary according to each company’s business model and vague assertions of community interests, have created unstable, unpredictable and unsafe environments for users and intensified government scrutiny. National laws are inappropriate for companies that seek common norms for their geographically and culturally diverse user base. But human rights standards, if implemented transparently and consistently with meaningful user and civil society input, provide a framework for holding both States and companies accountable to users across national borders. ”

REPORT OF THE SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION, ANNUAL REPORT TO THE HUMAN RIGHTS COUNCIL, THIRTY-EIGHTH SESSION 18 JUNE–6 JULY 2018, A/HRC/38/35, P. 42



1

CHAPTER 1: THE VISUAL STORY

VIOLATIONS OF ARTISTIC FREEDOM IN 2019: THE BIG PICTURE

FREEMUSE REGISTERED **711 ACTS OF VIOLATIONS OF ARTISTIC FREEDOM IN 2019** IN 93 COUNTRIES. THEY SHOW WIDESPREAD ATTACKS ON FREEDOM OF ARTISTIC EXPRESSION AT A GLOBAL SCALE AS PRACTICES OF SILENCING ARTISTS' VOICES CONTINUE.

KILLED:

9 ARTISTS KILLED IN 8 COUNTRIES
(2 IN UGANDA AND 1 IN EACH OF CHILE, COLOMBIA, EL SALVADOR, IRAQ, MALI, RUSSIA AND USA)

El Salvador: César Canales, frontman of the thrash metal band Apes of God, was killed during the band's live performance in the municipality of Armenia. The suspect to the crime claimed that the attack was related to a discussion before the concert.

Iraq: Poet Alaa Mashzoub, who was known for his writings about political and religious taboos, was shot dead as he was bicycling back to his family home in Karbala.

IMPRISONED:

71 ARTISTS IMPRISONED IN 16 COUNTRIES

Turkey: Deniz Avcı was sentenced to two years and two months in prison for insulting President Erdoğan. He did this by sharing caricatures of the president on social media which were created by famous artists Sefer Selvi and Musa Kart.

Egypt: Khaled Lotfy, founder of Egyptian publishing house Tanmia, was sentenced to five years in prison for distributing the Arabic version of *The Angel*. The book, written by Israeli writer Uri Bar-Joseph, portrays the son-in-law of ex-President Nasser as a spy.

DETAINED:

85 ARTISTS DETAINED IN 27 COUNTRIES

Cuba: Artist Luis Manuel Otero Alcántara was arrested by Cuban police on the evening of the opening of the XIII Havana Biennial, following a performance outside of his home involving a footrace with American flags. This visual artist, vocal against Decree 349 which institutionalised censorship of independent art in Cuba, was arrested more than a dozen times in 2019.

PROSECUTED:

23 ARTISTS PROSECUTED IN 13 COUNTRIES

Egypt: Author Alaa Al Aswany, who lives in the USA, has been sued by military prosecutors for insulting the president, armed forces and judiciary through his novel *The Republic, As If* and columns he had written for *Deutsche Welle Arabic*.

China: Authorities pressed charges of espionage against Chinese-Australian novelist Yang Hengjun, author of the novel *Fatal Weakness* which deals with espionage between China and the USA and has been published on the Internet in China.

57 ARTISTS PERSECUTED IN 20 COUNTRIES

44 ARTISTS THREATENED/HARASSED IN 22 COUNTRIES

28 ARTWORKS AND VENUES DESTROYED/DAMAGED IN 15 COUNTRIES

22 ARTISTS RECEIVED TRAVEL BANS IN 11 COUNTRIES

10 ARTISTS ABDUCTED, 9 IN CHINA AND 1 IN ZIMBABWE

6 ARTISTS AND AUDIENCE MEMBERS ATTACKED IN 4 COUNTRIES

4 ARTISTS SANCTIONED/FINED IN 2 COUNTRIES

352 ACTS OF CENSORSHIP IN 73 COUNTRIES

ART FORMS SILENCED IN 2019

FREEMUSE RESEARCH DETERMINES THAT ARTISTS AND ARTISTIC FREEDOM DEFENDERS ARE SILENCED FOR EXPRESSING POLITICAL VIEWS, QUESTIONING RELIGIOUS AND SOCIAL NORMS AND IN OTHER WAYS PUBLICLY PRESENTING OPINIONS WHICH OPPOSE DOMINANT NARRATIVES. **THEY ARE INCREASINGLY TARGETED BY NATIONALIST POPULIST GOVERNMENTS DETERMINED TO SUPPRESS DISSENT.**

32% MUSIC 225 DOCUMENTED CASES IN 59 COUNTRIES

Music remains the most frequently targeted art form with 6 musicians killed, 5 attacked, 2 abducted, and more than 31 detained, facing legal prosecution and sentenced to prison terms.

26% VISUAL ART 185 DOCUMENTED CASES IN 51 COUNTRIES

Visual art has increasingly become a target especially in the context of artworks tackling political issues or deemed inappropriate from the perspective of public morals and religion.

15% FILM 107 DOCUMENTED CASES IN 31 COUNTRIES

Censorship exercised against film remains on a similar scale as in previous years, with almost 50% of films targeted because of the political content they feature.

12% THEATRE 88 DOCUMENTED CASES IN 27 COUNTRIES

Theatre is under the radar of judicial authorities with 11 artists sentenced to prison terms, including 7 members of *Peacock Generation* in Myanmar who were subject to legal prosecutions before different local courts for insulting the military and online defamation.

11% LITERATURE 77 DOCUMENTED CASES IN 27 COUNTRIES

Apart from books being banned for their political content, the trend of removing books from schools and libraries for including stories about sexual orientation and gender identity has increased.

MULTIPLE FORMS OF ART 22 DOCUMENTED CASES IN 5 COUNTRIES

DANCE 7 DOCUMENTED CASES IN 6 COUNTRIES

In 6 out of 7 registered cases, dancers were targeted on the grounds of alleged indecency, sometimes connected with religion and sexual orientation.

ARTISTS IMPRISONED IN 2019

71

ARTISTS ARE KNOWN TO BE
IMPRISONED IN 2019 IN
16 COUNTRIES

14
SPAIN

13
IRAN

9
TURKEY

8
MYANMAR

6
EGYPT

5
CHINA

4
RUSSIA

2 **artists** were imprisoned in each of Algeria, Malawi and the United Kingdom

1 **artist** was imprisoned in each of Brazil, France, Guinea, Indonesia, Nigeria and Saudi Arabia

GROUNDS FOR IMPRISONMENT:

Criticising government policies
and practices 42%
Counterterrorism 21%
Religion 11%
Indecency 8%
Conflict 4%

IMPRISONED ARTISTS THROUGH ART FORMS:

Music 46%
Literature 20%
Theatre 15%
Film 11%
Visual art 6%
Dance 1%

IMPRISONMENT BY REGION:

Europe 42%
Middle East & North Africa 31%
Asia & Pacific 20%
Africa 6%
North & South America 1%

Myanmar: Seven members of Peacock Generation, a thangyat troupe (traditional theatrical group), were sentenced to prison terms varying from six months to one year on charges of insulting the military and online defamation related to a performance and the streaming of which on Facebook.

Iran: Two members of Iranian band Confess—Nikan “Siyakor” Khosravi and Arash “Chemical” Ilkhani— were sentenced to a combined 14.5 years in prison for their heavy metal music.

Malawi: Singer Anderson “Mesho” Alfred Chipwaila and his producer Stephano Emmanuel were sentenced to two years and one year in prison respectively for releasing the song Mizikiti Ichoke which tackled the issues of Muslim and Adventist religions with sarcasm.

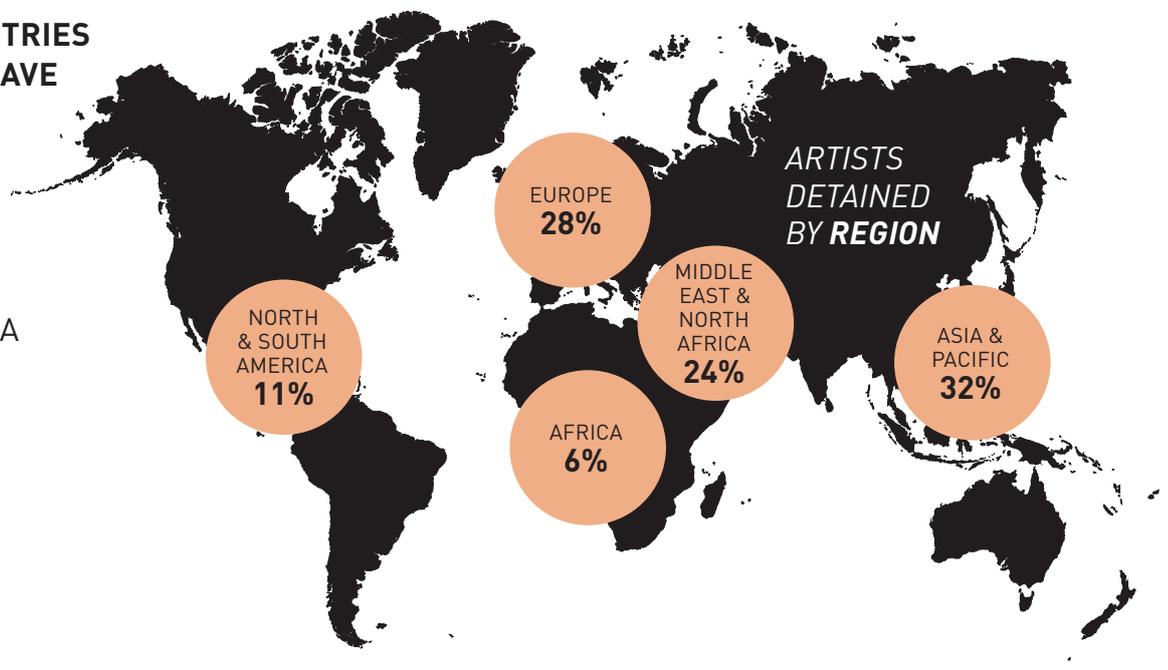
ARTISTS *DETAINED* IN 2019

85 ARTISTS
KNOWN TO BE
DETAINED IN
27 COUNTRIES

56% OF ARTISTS WERE DETAINED FOR **POLITICAL** REASONS

TOP 10 COUNTRIES KNOWN TO HAVE DETAINED ARTISTS IN 2019:

TURKEY
MALAYSIA
SAUDI ARABIA
CHINA
RUSSIA
BELARUS
INDIA
EGYPT
VENEZUELA
CUBA



THE RATIONALE FOR DETAINING ARTISTS IN 2019:

POLITICS
56%

MINORITIES
11%

COUNTER-
TERRORISM
9%

RELIGION
7%

LGBTI
5%

INDECENCY
4%

Russia: Veronika Nikulshina of the Pussy Riot protest group was detained together with directors Alexey Yershov and Maxim Karnaukhov en route to attend the Golden Mask National Theatre Award. The trio was nominated for an award in the experimental theatre category for their participation in the play *Poe.Tri*. Nikulshina was arrested a further two more times in 2019.

Poland: Polish activist Elżbieta Podlesna was arrested on suspicion of offending religious sentiments after posters featuring an image of the Virgin Mary with her halo painted in the colours of the rainbow flag appeared in the city of Płock.

ARTISTS *PROSECUTED* IN 2019

23 ARTISTS
KNOWN TO BE
PROSECUTED
IN 13
COUNTRIES

39% OF PROSECUTED ARTISTS ARE RELATED TO **MUSIC**

THE RATIONALE
FOR PROSECUTING
ARTISTS IN 2019:

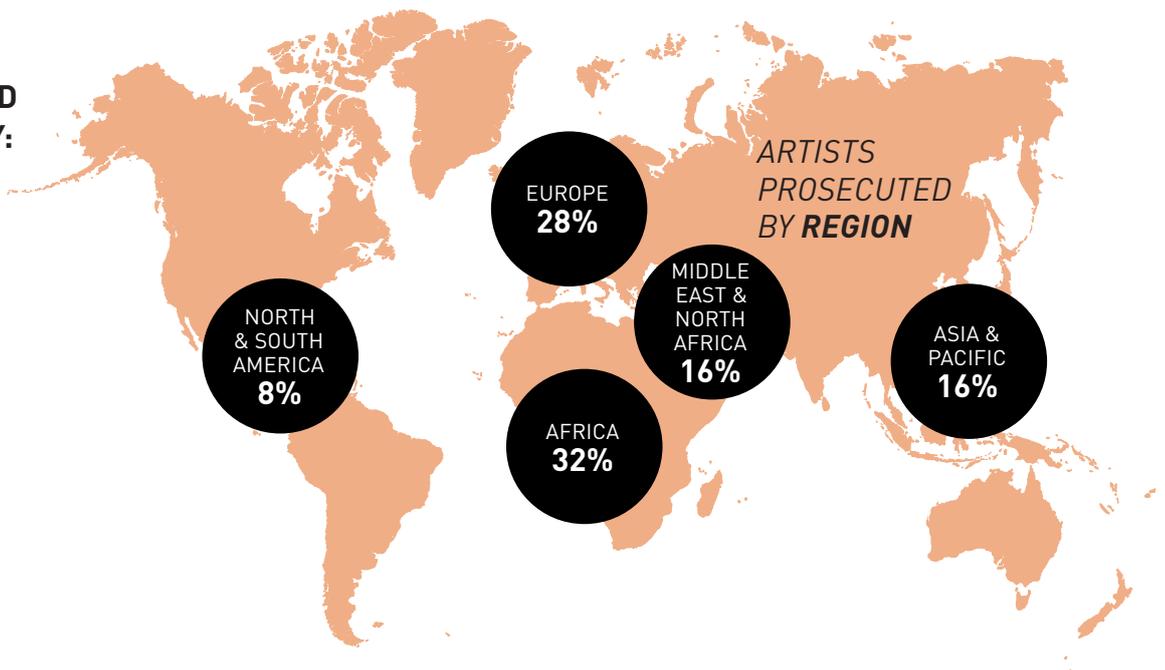
POLITICS
44%

INDECENCY
22%

RELIGION
15%

ARTISTS PROSECUTED BY COUNTRY:

ZIMBABWE (4)
TURKEY (3)
CANADA (2)
CHINA (2)
EGYPT (2)
LEBANON (2)
RUSSIA (2)



Russia: Musician Viacheslav Eliseev (aka Vyacha) was accused of public calls for terrorist activities in the form of the assassination of the President of the Russian Federation because of the song he wrote, *To Kill the President*.

Uganda: Writer Stella Nyanzi faced court charges of cyberbullying and offensive communication after she published a poem on Facebook referring to the reproductive system of Ugandan President Yoweri Museveni's mother.

RELIGION

AFTER POLITICS AND INDECENCY, RELIGION COMES AS THE THIRD MOST FREQUENT RATIONALE FOR SILENCING ARTISTS IN DIFFERENT CORNERS OF THE GLOBE. REPRESENTATIVES OF DIFFERENT CHURCHES AND RELIGIOUS GROUPS OFTEN FILE COMPLAINTS OR PUBLICLY REQUEST BANS AGAINST ARTISTS ALLEGING THAT THEIR WORK **OFFENDS RELIGIOUS SENTIMENTS**.

74%
OF ATTACKS ON
ARTISTS ON RELIGIOUS
GROUNDS WERE IN
THE **GLOBAL SOUTH**

62%
OF VIOLATORS WERE
GOVERNMENTS

42%
OF CASES HAPPENED
IN **IRAN, LEBANON,
INDIA (COMBINED)**

ARTISTS WERE **OPPRESSED**:

- 1 ARTIST WAS KILLED IN IRAQ
- 10 ARTISTS WERE IMPRISONED IN EGYPT, IRAN, MALAWI, SAUDI ARABIA 7 DETAINED IN BANGLADESH, CHINA, INDIA AND POLAND
- 4 ARTISTS WERE PROSECUTED IN ZIMBABWE
- 11 ARTISTS WERE PERSECUTED IN IRAN, INDIA, LEBANON, RUSSIA AND USA
- 10 ARTISTS WERE THREATENED/HARASSED IN GERMANY, INDIA, INDONESIA, LEBANON, PAKISTAN, PALESTINE, RUSSIA AND USA
- 2 ARTISTS WERE ABDUCTED IN CHINA
- 3 ARTISTS WERE GIVEN TRAVEL BANS IN IRAN, USA AND LEBANON
- 3 ARTISTS WERE ATTACKED IN SAUDI ARABIA

**ATTACKS UNDER
RELIGIOUS
RATIONALES BY
REGION:**



**ARTISTS
RESTRICTED IN THE
NAME OF RELIGION:**

33
MUSICIANS

11
WRITERS

8
VISUAL
ARTISTS

8
FILMMAKERS

5
ARTISTS OF
THE STAGE

1
DANCER

Pakistan: After two unidentified armed men threatened guitarist Imran Akhoond on the street, he stopped performing live concerts due to fear for his life. "What you are doing is Haraam and against the spirit of Islam," he was told.

Israel: A sculpture depicting Ronald McDonald as Jesus created by Finnish artist Jani Leinonen was removed from the Haifa Museum of Art after Christian protesters threatened to firebomb the building.

COUNTERTERRORISM

ARTISTS IN AT LEAST 8 COUNTRIES WERE ATTACKED, DETAINED, INVESTIGATED, PROSECUTED AND IMPRISONED AS A RESULT OF MISUSES OF ANTITERROR MEASURES. THIS IS AN ALARMING TREND WHICH INDICATES THAT SOME GOVERNMENTS, IN THEIR EFFORTS TO ASSURE NATIONAL SECURITY, TEND TO **UNLAWFULLY DEROGATE HUMAN RIGHTS OF THEIR CITIZENS.**

COUNTRIES WHERE CASES RELATED TO COUNTERTERRORISM WERE REGISTERED:

BANGLADESH
COLOMBIA
EGYPT
RUSSIA
SPAIN
TURKEY
USA
YEMEN

69%

OF ARTISTS AFFECTED BY MISUSES OF COUNTERTERRORISM MEASURES WERE MUSICIANS.

OF THE MISUSE OF COUNTERTERRORISM MEASURES:

52%

OF THE CASES WERE AGAINST ARTISTS WITH MINORITY BACKGROUNDS

36%

OF THE CASES WERE AGAINST ARTISTS OPPOSING GOVERNMENT POLICIES

42%

OF THE CASES WERE REGISTERED IN TURKEY
(4 imprisoned, 10 detained, 2 prosecuted, 2 persecuted, 1 travel ban, 1 censored)

31%

OF THE ALL CASES WERE REGISTERED IN SPAIN
(14 imprisoned, 1 censored)

FORMS OF VIOLATIONS:

IMPRISONMENT
19

DETENTION
13

PROSECUTION
4

PERSECUTION
3

Turkey: Actress Nazlı Masatçı was sentenced to one year and 6 months in prison on charges of “alienating the public from military service” for acting in a theatre adaptation of Russian author Nikolai Gogol’s short story *The Overcoat* in 2010.

Russia: Consumer-protection agency Roskomnadzor blocked the music service Last.fm because it was streaming the Chechen artist Timur Mutsurayev’s song *Paradise under the shadow of sabers* which was declared as an “extremist song” by the Tyumen Leninsky District Court in 2015.

MINORITIES

IN 2019, THE TREND OF TARGETING ARTISTS WITH MINORITY BACKGROUNDS AND ARTWORKS TACKLING MINORITY ISSUES CONTINUED TO PERMEATE PRIMARILY ACROSS COUNTRIES IN THE **GLOBAL NORTH**.



ARTISTS WITH MINORITY BACKGROUNDS UNDER ATTACK:

49% MUSIC

(10 detained in Turkey, 3 persecuted in Iran, Turkey, Montenegro, 1 killed in USA, 1 imprisoned in China, 1 Prosecuted in Turkey)

26% VISUAL ART

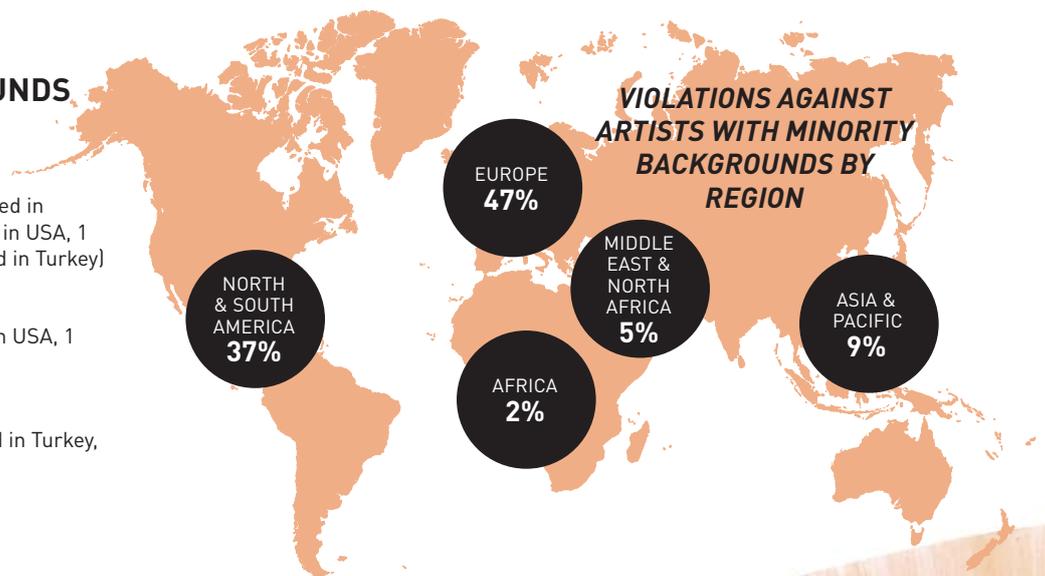
(1 killed in Colombia, 1 detained in USA, 1 imprisoned in Turkey)

16% THEATRE

(1 detained in China, 1 persecuted in Turkey, 1 abducted in China)

5% FILM

5% LITERATURE



Turkey: In house raids, Turkish soldiers arrested 8 Kurdish singers in total on allegations of spreading terrorist propaganda in the Viranşehir district of Urfa province by singing in Kurdish at weddings.

Romania: The municipality of Timisoara in western Romania banned a form of ethno-pop music known as *manele*—most commonly performed by Roma and other disadvantaged communities—from being aired in public on a pretext that it promotes bad habits, consumerism, crime and the objectification of women.

Bosnia and Herzegovina: The Mayor of the Čapljina Municipality predominately populated by Croats denied permission for the local Muslim community to hold the Bayram concert in the playground of the elementary school in Domanović.

LGBTI

LGBTI ARTISTS AND ARTWORK ARE ATTACKED IN COUNTRIES THAT BOTH CRIMINALISE AND DO NOT CRIMINALISE HOMOSEXUALITY



50% OF VIOLATIONS ARE COMMITTED BY THE GOVERNMENT

48% OF VIOLATIONS TOOK PLACE IN USA, RUSSIA, UNITED KINGDOM (COMBINED)

RATIONALE FOR SILENCING LGBTI EXPRESSIONS **30% RELIGION** **30% POLITICS**

- 1 IMPRISONED** - China
- 4 PERSECUTED** - USA, United Kingdom, Russia
- 6 DETAINED** - Venezuela, Poland, Sri Lanka
- 3 THREATENED/HARASSED** - Indonesia, USA, Lebanon, Kosovo
- 36 CENSORED** - USA, Brazil, United Kingdom, China, Russia, Indonesia, Samoa, Sweden, United Arab Emirates, Egypt

ATTACKS AGAINST LGBTI ARTISTS AND ARTWORKS WERE REGISTERED IN:

46% NORTH & SOUTH AMERICA **19% MIDDLE EAST & NORTH AFRICA**
28% EUROPE **2% AFRICA**
19% ASIA & PACIFIC

ART FORMS WHICH WERE VIOLATED:

31% THEATRE **26% FILM** **17% LITERATURE** **15% VISUAL ARTS** **6% MUSIC** **4% MULTIPLE ART FORMS** **2% DANCE**

Sri Lanka: After a group of monks complained, novelist Shakthika Sathkumara was arrested for insulting Buddhism in his short story which contained indirect references to homosexuality among the Buddhist clergy.

Venezuela: The Venezuelan police arrested four artists involved in the production of an LGBTI-themed theatre play *Two Cops in Trouble*, accusing them of usurping a public function when pretending to present a theatrical piece while wearing the police uniform.

Brazil: The headquarters of the Porta dos Fundos, the Brazilian comedy troupe which produced the film *The First Temptation of Christ* which features the story of Jesus Christ in a gay relationship, was attacked by Molotov cocktail bombs.

Lebanon: A complaint by the Maronite Catholic Eparchy of Jbeil resulted in the cancellation of the indie rock band Mashrou' Leila's concert at the Byblos International Festival. Church leaders claimed that the songs of this band (whose lead singer is openly gay) were blasphemous.

USA: Alabama Public Television refused to air the 22nd season premiere episode of the TV series *Arthur*, an animated television show for children, because it featured a wedding between two male characters.

WOMEN

WOMEN ARTISTS AND ARTWORKS DEPICTING WOMEN OR TACKLING FEMINISM-RELATED ISSUES REMAIN UNDER CONSTANT ATTACK. THEY ARE SUBJECT TO **CENSORSHIP, HARASSMENT, THREATS AND SOMETIMES LEGAL PROSECUTION**. WOMEN ARTISTS ALSO FACE DISCRIMINATORY TREATMENT, ESPECIALLY IN COUNTRIES WHICH IMPOSE LEGAL OBSTACLES ON THEIR PARTICIPATION IN CULTURAL SECTOR.

3 WOMEN ARTISTS WERE IMPRISONED: EGYPT 2, IRAN 1

74%

OF VIOLATIONS AGAINST WOMEN ARTISTS AND ARTWORKS RELATED TO WOMEN WERE **ACTS OF CENSORSHIPS**

57%

OF CASES AFFECTING **VISUAL ARTISTS AND ARTWORKS** 20 VISUAL ARTISTS, 8 MUSICIANS, 3 FILM ARTISTS, 2 RELATED TO THEATRE, 1 WRITER, 1 DANCER.

MAIN VIOLATORS:

GOVERNMENT AUTHORITIES **57%**

PRIVATE ENTITIES **23%**

40%

OF VIOLATIONS OF WOMEN'S ARTISTIC FREEDOM ARE IN THE MIDDLE EAST & NORTH AFRICA

EUROPE **20%**, NORTH & SOUTH AMERICA **17%**, ASIA & PACIFIC **14%**. SOCIAL MEDIA **6%** AFRICA **3%**

MAIN RATIONALES USED TO SILENCE WOMEN ARTISTS:

INDECENCY **55%** RELIGION **25%**

Iran: Singer Negar Moazzam was charged for singing solo as part of a sightseeing tour in the historical village of Abyaneh.

Palestine: The Dean of the School of Arts at An-Najah National University stopped the *Enheduanna* play performed by actress Ashtar Muallem, invoking customs and tradition. There was unrest in audience and backstage because "the actress' costume was not appropriate for the stage."

Kyrgyzstan: The Ministry of Culture ordered the removal of several exhibits found "provocative" from the exhibition *Feminnale* placed at the National Museum of Fine Arts in Bishkek. Among removed artworks were Julie Savery's nude performance and a female torso-shaped punching bag wearing lingerie by Zoya Falkova.

DIGITAL

COMMUNITY STANDARDS INTRODUCED BY DIFFERENT SOCIAL MEDIA PLATFORMS REMAIN THE MAIN SOURCE OF CENSORSHIP IN THE DIGITAL SPACE. THEIR CRITERIA FOR REMOVING CONTENT ARE AT TIMES ARBITRARY AND INCONSISTENT WITH INTERNATIONAL HUMAN RIGHTS STANDARDS. AFTER THE CONTENT IS REMOVED, THE ADEQUATE APPEALS PROCESS IS LACKING.

57%

OF CASES WHICH OCCURRED IN THE DIGITAL SPACE, BLOCKING ARTISTS AND ARTWORKS WERE BY AND FROM SOCIAL MEDIA PLATFORMS AND INTERNET PORTALS (INCLUDING FACEBOOK, INSTAGRAM, TWITTER, YOUTUBE, GOOGLE, TWITCH)

23% EUROPE
19% ASIA & PACIFIC
10% MIDDLE EAST & NORTH AFRICA
8% NORTH & SOUTH AMERICA
4% AFRICA

BECAUSE OF THE ARTISTIC ACTIVITY ONLINE, ARTISTS WERE:
58% CENSORED
19% THREATENED/HARASSED
13% IMPRISONED
6% DETAINED
2% PERSECUTED
2% PROSECUTED

MAIN RATIONALES FOR VIOLATIONS WERE:

INDECENCY **37%**
POLITICS **22%**

ARTISTS FACING LEGAL PROSECUTION because of posts on social media

Indonesia: Rock musician Ahmad Dhani Prasetyo was sentenced twice in 2019 because of his social media posts with political content—to two and a half years in total.

Myanmar: Film director and a founder of the Myanmar Human Rights, Human Dignity International Film Festival, Min Htin Ko Ko Gyi was sentenced to one year in prison because of Facebook posts critical of the military and the 2008 Constitution.

Turkey: Cartoonist Cihan Demirci was charged with “insulting the president” through several cartoons and satirical articles he had shared years ago on Facebook.

Facebook as censor

Facebook prohibited the Geneva Museum of Art and History from promoting exhibition Caesar and the Rhone with images of two statues—a half-naked *Venus of Arles* and a nude, kneeling man.

Facebook banned the Theatre Royal Plymouth from using a picture to advertise one of their shows because it had three pictures of people showing “too much flesh”; one of a male torso, one of breasts covered by a bra and one of a bottom.

MUSIC

IS THE **MOST** FREQUENTLY
ATTACKED ARTISTIC FORM

225 MUSICIANS AND THEIR WORKS ARE
AFFECTED BY ILLEGITIMATE RESTRICTIONS
OF ARTISTIC FREEDOM

6 MUSICIANS WERE KILLED:
2 IN UGANDA, AND ONE IN EACH
OF EL SALVADOR, MALI,
RUSSIA AND USA

MALI:

POET AND GRIOT NIAPPA WAS KILLED
BY TWO JIHADISTS AT HIS HOME IN THE
MOPTI REGION. SINCE THE ARRIVAL OF
JIHADISTS IN THIS AREA, GRIOT ACTIVITIES
WERE BANNED, FORCING THEM INTO
UNEMPLOYMENT OR EXILE.

UGANDA:

JERRY OKIRWOTH, A PART-TIME DJ
AND STUDENT, WAS KILLED BY A MOB AT A
DANCE CLUB IN NEBBI DISTRICT, NORTHERN
UGANDA BECAUSE HE WAS NOT PLAYING
THEIR FAVOURITE SONGS.

OTHER FORMS OF SUPPRESSION OF EXPRESSION OF MUSICIANS

33 MUSICIANS WERE IMPRISONED IN 11 COUNTRIES
31 MUSICIANS WERE DETAINED IN 15 COUNTRIES
14 MUSICIANS WERE PERSECUTED IN 14 COUNTRIES
13 MUSICIANS WERE THREATENED/HARASSED IN 10 COUNTRIES
10 MUSICIANS RECEIVED TRAVEL BANS IN 7 COUNTRIES
9 MUSICIANS WERE PROSECUTED IN 7 COUNTRIES
5 MUSICIANS AND AUDIENCE MEMBERS WERE ATTACKED IN 3
COUNTRIES
2 MUSICIANS WERE ABDUCTED IN CHINA
AT LEAST 70 MUSICIANS, 250 SONGS AND 11 MUSIC EVENTS
WERE AFFECTED BY CENSORSHIP IN 59 COUNTRIES.

TOP 6 COUNTRIES THAT
ILLEGITIMATELY RESTRICT
ARTISTIC FREEDOM OF
MUSICIANS ACCOUNT FOR
44% OF TOTAL REGISTERED
VIOLATIONS:

TURKEY
UNITED STATES OF AMERICA
IRAN
CHINA
SPAIN
RUSSIA

**RATIONALE
FOR VIOLATIONS ARE:**

POLITICS **26%**
INDECENCY **16%**

RELIGION **12%**
ASSOCIATION WITH TERRORISM **11%**

MINORITIES **9%**
CONFLICT **6%**

MUSIC IS BANNED:

China: Several Czech classic music orchestras were barred from performing in China in retribution for the Prague Mayor Zdenek Hrib's support of Taiwan.

Germany: The Berlin Senate Department for Home Affairs and Sport banned Palestinian rappers Shadi Al-Bourini and Shadi Al-Najjar from performing at a Palestinian rally in front of Berlin's Brandenburg Gate, reportedly on the request of the Israeli and US ambassadors to Germany.

Uganda: After Afrobeats musician Joseph Mayanja aka Jose Chameleone joined the opposition Democratic Party and announced that he would run for Kampala Lord Mayor at the 2021 elections, the police cancelled several of his concerts scheduled to take place in Masaka region.

Lebanon: General Security department banned the members of the Brazilian metal band Sepultura from entering Lebanon, accusing them of being "devil worshippers".

FILM

SILENCED FOR EXPRESSING POLITICAL DISSENT

105 REGISTERED ACTS OF ARTISTIC
FREEDOM VIOLATIONS AGAINST
FILMMAKERS AND THEIR WORKS

62% OF CASES WHERE VIOLATORS
WERE GOVERNMENT
AUTHORITIES

TOP 3 COUNTRIES WHICH VIOLATED
ARTISTIC FREEDOM OF FILMMAKERS:

1. CHINA 2. USA 3. RUSSIA

HOW FILMMAKERS AND THEIR WORKS WERE VIOLATED:

CENSORED 73
PERSECUTED 10
IMPRISONED 8
THREATENED/HARASSED 7
PROSECUTED 4
DETAINED 2

CENSORSHIP OF FILMMAKERS AND FILMS IN REGIONS:

ASIA & PACIFIC 33%
*(top 3 countries: China, India,
Malaysia)*
EUROPE 23%
MIDDLE EAST & NORTH
AFRICA 23%
NORTH & SOUTH AMERICA
16%
SOCIAL MEDIA 3%

MAIN RATIONALES FOR VIOLATIONS WERE:

POLITICS 38%
INDECENCY 13%
RELIGION 12%
LGBTI 11%
CONFLICT 9%

FILMMAKERS IN COURT ROOMS:

Iran: Because his films were deemed to highlight a "dark picture" of Iranian society and could create despair, filmmaker Mohammad Rasoulouf was sentenced to one year in prison for "spreading propaganda" against the Islamic Republic, followed by a two-year ban on leaving the country and joining any political or social organisation.

Egypt: Actors Amr Waked and Khaled Abu El were accused of "high treason" in Egypt because of their criticism of human rights violations by the Egyptian government expressed at a meeting with US members of Congress in Washington.

FILM IS BANNED:

Germany: Chinese filmmaker Zhang Yimou's film *One Second* was dropped from the Berlin International Film Festival officially due to "technical difficulties." However, it is believed that Chinese authorities requested the film's removal because it deals with the 1966-76 Cultural Revolution which remains a sensitive topic in China.

India: The screening of Bollywood movie *Article 15* (reflecting on India's caste system and discrimination through the real story of the 2014 brutal gang-rape and murder of two girls in Uttar Pradesh's Badaun district) was stopped in a cinema house in Roorkee, after protests from right-wing organisations.

Malaysia: The Film Censorship Board of Malaysia did not grant permission for the release of the Chiyaan Vikram's action-thriller *Kadaram Kondan* because the government was not satisfied with the way Malaysian police and society were portrayed in the film.

THEATRE

REPERCUSSIONS FOR DISSENT EXPRESSED ON STAGE

88 REGISTERED
CASES IN **28**
COUNTRIES

1/3 OF ALL TRAVEL BANS
WERE GIVEN TO ARTISTS
OF THE STAGE

LEBANON:

AMERICAN-PALESTINIAN COMIC MO AMER WAS PREVENTED FROM ENTERING LEBANON WHERE HE WAS TO PERFORM HIS COMEDY SHOW. HE WAS DEPORTED FROM THE AIRPORT IN BEIRUT BECAUSE HE HAD AN ISRAELI STAMP IN HIS PASSPORT WHICH HE GOT IN 2016 WHEN VISITING HIS MOTHER'S FAMILY IN THE WEST BANK.

RATIONALES FOR SILENCING ARTISTS RELATED TO THEATRE ARE:

47% POLITICS / 12% LGBTI /
8% INDECENCY / 7% DIGITAL
/ 6% MINORITIES

41% EUROPE

DENMARK, FRANCE,
KOSOVO, RUSSIA,
SERBIA, SPAIN, TURKEY,
UKRAINE, UNITED
KINGDOM

26% ASIA & PACIFIC

CHINA, INDIA,
MYANMAR,
UZBEKISTAN

23% NORTH & SOUTH AMERICA

ARGENTINA, BRAZIL,
CANADA, CHILE,
PARAGUAY, USA,
VENEZUELA

% MIDDLE EAST & NORTH AFRICA

EGYPT, ISRAEL,
IRAQ, LEBANON,
PALESTINE,
SYRIA

THEATRE IS BANNED:

Turkey: Authorities banned the Kurdish Theatre Days in the southern city of Adana on the grounds that it presented a security threat.

Uzbekistan: The Uzbekkontsert revoked the license of the Bravo comedy troupe and actress Khalima Ibrahimova, claiming that their artistic work does not correspond with national traditions, moral norms, spiritual values and Uzbek mentality.

Russia: Authorities banned the youth arts festival Tsvet Shafrana and questioned festival director Yulia Tsvetkova and teenage actors—members of the Merak Theatre—about their involvement in the play called Blue and Pink. The authorities alleged that it promoted “hatred against men and non-traditional family relations”.

CENSORSHIP

847

ARTISTS AND ARTWORKS WERE
AFFECTED BY CENSORSHIP

55%

OF CASES WERE COMMITTED BY
GOVERNMENT AUTHORITIES

TOP 7 COUNTRIES WITH THE MOST REGISTERED CASES OF CENSORSHIP

USA / CHINA / RUSSIA / UNITED KINGDOM / IRAN / FRANCE / SERBIA

ART FORMS UNDER PRESSURE:

MUSIC 29%
VISUAL ART 29%
FILM 21%
THEATRE 10%
LITERATURE 10%

RATIONALE FOR CENSORSHIP:

POLITICS 26%
INDECENCY 19%
RELIGION 9%
LGBT 8%
CONFLICT 8%

CENSORSHIP BY REGION:

EUROPE 34%
NORTH & SOUTH AMERICA 28%
ASIA & PACIFIC 19%
MIDDLE EAST & NORTH AFRICA 11%
AFRICA 4%

Ukraine: Ukraine's State Committee on Television and Radio Broadcasting has banned the import of at least 30 books from Russia alleging that they contained signs of propaganda.

Cuba: Cuban Institute of Radio and Television provided local radio stations with the list of musicians who should not be aired or who should be given less airtime. Claiming that these instructions were undertaken in solidarity with the Venezuelan regime, the authorities targeted artists who participated in the Venezuela Aid Live concert.

Jordan: Prime Minister Omar Al Razzaz ordered a halt to the filming of a fiction film Jaber because it allegedly falsified historical facts, telling a story about the historic roots of Jewish people in Jordan and Palestine.

RESTRICTIONS IMPOSED THROUGH LEGISLATION

FREEMUSE HAS BEEN ANNUALLY REGISTERING DOZENS OF NEWLY ADOPTED LEGAL PROVISIONS WHICH CAN HAVE DETRIMENTAL IMPACT OF FREEDOM OF ARTISTIC EXPRESSION IN DIFFERENT COUNTRIES WORLDWIDE.

PREVENTING ALLEGED INDECENCY

Tajikistan: The government approved the new Tajikfilm Charter which banned showing any physical touch or "bed scenes" in domestic and foreign films to be screened at the state-funded television channels.

Indonesia: The House of Representatives proposed the draft bill on music (known as RUU Permusikan) which would ban "negative foreign influences" and blasphemous or pornographic content. The bill was removed from the priority list for 2019 under the strong pressure from professional circles.

CRIMINALISING INSULTS AGAINST STATE SYMBOLS

Montenegro: Parliament adopted the amendments of the law on state symbols prescribing fines for those who use state symbols in a manner that violates the public morale, reputation and dignity of Montenegro.

Russia: President Vladimir Putin signed the law on insulting the state and its symbols online, imposing fines and up to two-week imprisonment for violation of these provisions.

South Sudan: President Salva Kiir Mayardit banned singing the national anthem unless he is present.

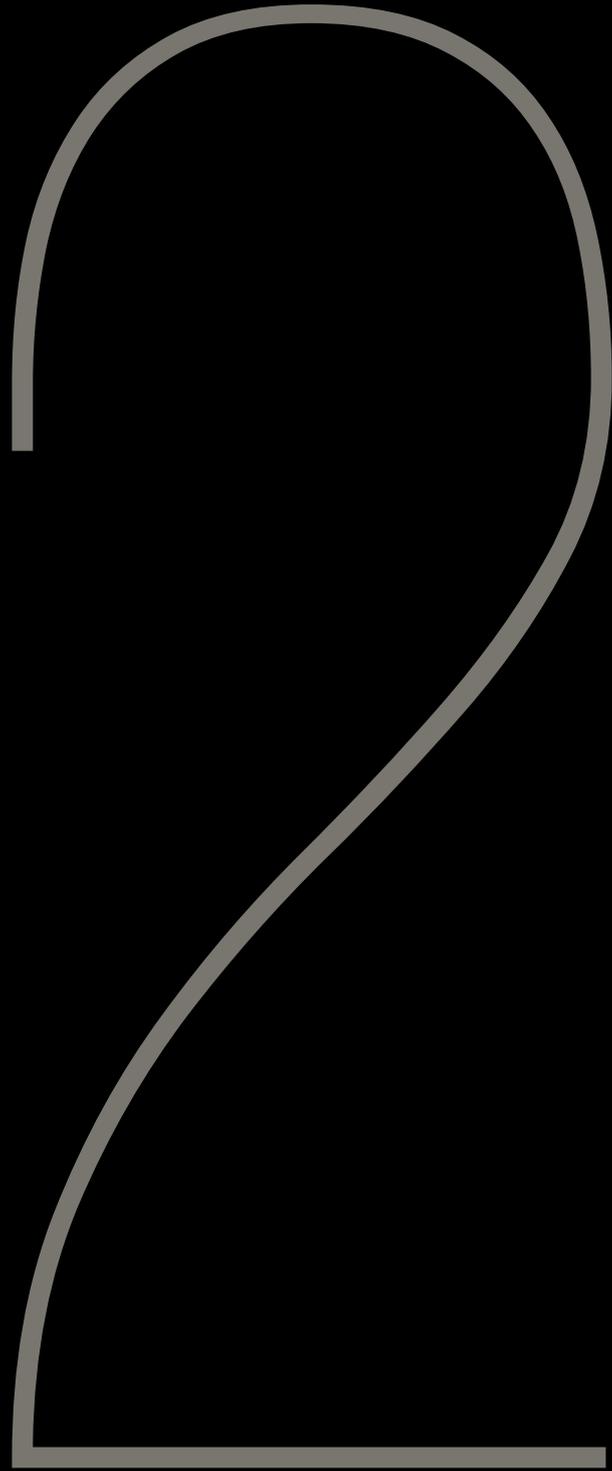
BLANKED BANS IMPOSED ON FILM

India: Netflix and several other streaming platforms agreed to self-regulate online content available in India, banning films which promote violence against India or purposefully offend the religion of any group.

China: In the light of the 70th anniversary of the People's Republic of China, National Radio and Television Administration provided local TVs with the list of 86 "patriotic" shows which can be aired and banned the screening of historical dramas that are "too entertaining".

India and Pakistan: Due to ongoing conflict over the Kashmir region, in February All Indian Cine Workers Association announced a total ban on Pakistani actors and artists working in the Indian film industry. In August, Pakistan authorities banned screening of Indian films and airing advertisements featuring Indian artists.

Cuba: Decree 349 which came into effect on 7 December 2018 continued to curb independent artists' expression in Cuba in 2019. Local artists who persistently protest this form of institutionalised censorship have been subject to systematic persecution. Performance artist Tania Bruguera, visual artist Luis Manuel Otero Alcántara, writers Jorge Olivera Castillo and Coco Fusco, rapper Maykel Osorbo have been particularly targeted.



CHAPTER 2: GLOBAL TRENDS

GLOBAL TRENDS

“Culture takes diverse forms across time and space. This diversity is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind. As a source of exchange, innovation and creativity, cultural diversity is as necessary for humankind as biodiversity is for nature. In this sense, it is the common heritage of humanity and should be recognized and affirmed for the benefit of present and future generations.”

UNESCO UNIVERSAL DECLARATION ON CULTURAL DIVERSITY, 2 NOVEMBER 2001, ARTICLE 1.

Encouragement of diverse cultures and tolerance means encouragement of democratic participation of all people. Cultural diversity and plurality have however come under significant duress following the increasing human migration pressure and globalisation that has enabled human mobility. It has triggered a subsequent growth in nationalism and spread of populist discourse, and in this unique context, topics such as gender ideology, multiculturalism, LGBTI rights and abortion are the battleground. Correlating with these issues is the growing threat to compliance with international standards of human rights that states are obligated to protect, respect and fulfil for *all* its citizens.

Carried out by states, emerging nationalistic politics seek to exercise power to build states by constructing *one* prevailing narrative and social norm, while having public and cultural institutions govern all dimensions of public life. Especially prominent is the creation of “the other”; anti-immigrant rhetoric propagated to generate cultural trends based on assimilated collective beliefs and customs.

States use argued legitimacy to silence alternative voices, push for regression on democracy and misuse judicial systems to stifle dissent. As an example, antiterrorism laws have been used by authorities to legitimise the ongoing repression of domestic political struggles and created an environment of judicial harassment. These challenges severely undermine freedom of expression and raise serious

concerns for human rights. In recent times, an open declaration of a war on culture has emerged as an attempt to control this space through marginalising dissent, projecting nationalist ideas through arts and artistic expression subservient to nationalist goals.

Freedom of expression, including artistic expression, is challenged not just in countries where this right has always been contested (as in the authoritarian regimes), but a deterioration is also seen in countries previously understood to be flag bearers of human rights.

Early 2020 was marked by further regression when US President Donald Trump brazenly and defiantly threatened to violate international humanitarian and human rights law by issuing Twitter statements threatening that the country would hit Iranian cultural sites—using language and strategy formerly adopted by militant groups now vocalised as a legitimate concept by a democratically elected leader. Human rights defenders in China are increasingly suffering restrictions on expression, while people are pressured to support the Chinese government or remain silent in their opposition. Poland and the institutionalisation of the Church’s role in decision-making have created a dominant political narrative that has polarised the population. Forms of Christian nationalism have similarly been used in Hungary and Hindu nationalism in India, where religious bodies play a growing role

in determining what is deemed appropriate in the public space. Narratives surrounding anti-LGBTI propaganda laws are used on the pretext of “protecting” minors and traditional family values and are becoming more widespread.

A continued disregard of rights is being witnessed in multiple countries across the globe. The relationship between citizens and the state is increasingly alienated for those individuals who work to defend human and cultural rights by challenging the status quo. In this landscape, civil society organisations take on particular importance. New reactions in

terms of activism and social justice movements have emerged, which recognise the intersectionality of identities that clearly exist in every nation. This global wave of protestors—including artists—who use their platforms to express discontent continue to be caught up under the same legislation claimed to provide them protection.

In this section of the State of Artistic Freedom report 2020, Freemuse provides an in-depth analysis into the global challenges that have been documented to pose a threat to artists and the right of all to freedom of artistic expression in 2019.

NATIONALISM GROWS AT THE COST OF FREE EXPRESSION

Today, perhaps all of us wonder whether a trigger pulled, a steering wheel turned, or a pin tugged by the fingers of some violent extremist will strike down our future prematurely. But the actions of violent extremists cannot totally obliterate our world. Only governments can do that—and this is the greater tragedy of today. Left on their current course, it will be governments who will break humanity. Terrorists may attack us, but the intellectual authors of those crimes will then often sit back and watch as governments peel away at human rights protections; watch, as our societies gradually unravel, with many setting course toward authoritarianism and oppression—staging for us, not a century of achievement and pride, but a century that is small, bitter and deprived, for the vast majority of humans.

UN HIGH COMMISSIONER FOR HUMAN RIGHTS **ZEID RA'AD AL HUSSEIN**, 2017.¹

Over the course of 2019, the world continued to witness the deepening of a discourse based on uninhibited nationalist, as well as populist sentiments, in which human rights concerns were repeatedly jettisoned. This platform, driven largely in contemporary times by an exclusionary impulse, has deliberately been used to undermine notions of cultural diversity and plurality in an attempt to cultivate nation-building on the idea of an 'us and them'. When paired with narratives of religious nationalism, it has heightened fears of a growing intolerance, particularly towards alternative narratives and vulnerable groups such as religious minorities, LGBTI groups, and women. In some cases, nationalist and populist agendas have corresponded with the deliberate erosion of key democratic principles and political institutions, in an effort by various states to impede any attempts to hold them to account.² In most cases, these measures have been paralleled by the introduction of a barrage of law (including those dealing with counterterrorism) radically diminishing the space for freedom of expression, in which all independent bastions of critical thinking (including artists) have been systematically targeted.³ Attempts to instil a monolithic, homogenised idea of culture,

by governments using nationalist sentiments, has allowed for a series of intentional and arbitrary acts, intended to morph the artistic and cultural sphere into one which reaffirms the nationalist project. In some parts of the world, it appears that regimes have replaced cultural politics with identity and symbolic politics. All of which have ultimately caused, driven and triggered a range of violations undermining artistic expression.

CULTURAL POLITICS: CIVIL SOCIETY SHRINKS AS POLITICS EMBEDS IN THE ARTS AND CULTURE

Over the course of 2019, President Orbán's regime further tightened and centralised its administrative noose on cultural and artistic expression in Hungary.⁴ Since 2010, President Orbán's populist government has increasingly adopted authoritarian measures and rigorously pursued soft forms of repression. This has entailed the use of various measures to pressure potentially critical voices into censorship

rather than arrest and detain artists to stifle freedom of expression whilst systematically dismantling the rule of law.⁵ Most of these reforms and democratic backsliding have been premised on the notion that Constitutions should serve national interests.⁶

At his annual summer address in April 2018, President Orbán openly declared a war on culture and remarked on the need for “embedding the political system in a cultural era”.⁷ Its specific mention, after securing a third electoral term, reaffirmed fears amongst civil society of the governments’ intention to intensify its project of countering and systematically dismantling liberal tendencies within the arts to reassert it as a nationalist mouthpiece loyal to the regime. These insecurities—compounded by the absence of an accessible state policy on culture and a ministry dealing with culture and the arts – were well founded.⁸

At the end of December 2019, the government introduced a series of further measures—in, what observers report, the absence of any real consultation—intended to further tighten its administrative control over the cultural sphere (and in particular theatres) signalling the deepening of a death knell for artistic expression.

Amongst these measures was the then-proposed (and subsequently and swiftly confirmed) introduction of a National Cultural Council. The Council, headed by a minister, authorises the government to take “responsibility for preserving national culture and strengthening national identity, as part of which it guarantees access with equal opportunities to and the preservation for future generations of national culture and cultural values”, further centralising state control over the sector.⁹ Concerns were further heightened by a government announcement in January 2020, in which the government identified strategic institutions which it identified as being key in the field of culture. These institutions were some of the very same in which the government has already replaced left-wing or liberal-leaning professionals with their own right-wing appointees—even before its declaration of a war on culture.

At the same time, it also proposed an administrative overhaul of the funding structure of independent theatres (further robbing artists of their artistic autonomy) in which funding insecurities have already had harsh repercussions on theatre production and artistic expression.¹⁰ The proposed changes affect the financing and management of state-funded theatres (and proposals also include cessation of funding to independent theatres). It essentially means that theatres which are run by the municipal government, but supported by government funds, will only receive these funds if certain conditions are met. One of these key conditions is that a state appointee will be able to interfere and intervene in the selection of theatre directors, further centralising government control over the arts and culture sector.¹¹

As the Hungarian Network of Academics highlights, “The lack of finances also has serious aesthetic consequences [as] there are hardly any independent productions designed for the big stage.

Few performances reflect (dare to reflect) on strictly current social and political phenomena and issues. At the same time, independent theatre necessarily has an “anti-government” attitude, although not all of the groups define themselves in opposition to the centrally forced Christian-Conservative value system—they simply want to make theatre about topics they feel truly interested in. There is hardly any real innovation, any radical or experimental approach and the few examples belong to the category of contemporary dance, which receives even less support from the state budget as they are out of the scope of political interest.¹²

HUNGARIAN NETWORK OF ACADEMICS, IN HUNGARY TURNS ITS BACK ON EUROPE, DISMANTLING CULTURE, EDUCATION, SCIENCE AND THE MEDIA IN HUNGARY 2010 – 2019, 2020

Many commentators believe that these changes signal artistic doom for freedom of artistic

expression in Hungary, likening the censorship that it will usher in to that witnessed under the former communist regime.¹³

USING COUNTERTERRORISM AS A MEANS OF SILENCING ARTISTIC EXPRESSION

Over the course of last year, violent extremism and the use of counterterror measures—in both authoritarian and democratic countries—has continued to undermine fundamental freedoms. Rhetoric about the need for heightened national security measures, in countries under populist regimes and otherwise, has meant the enactment of ill-considered, disproportionate and unnecessary measures which have impeded the right to freedom of expression, artistic expression, freedom of thought and association, as well as cultural rights. In some countries, Freemuse has documented how states have attempted to incorporate several provisions enacted under state of emergencies, which according to international law, are only to be used in exceptional circumstances¹⁴ and which authorise a state to derogate from its normal obligations under the ICCPR into ordinary law.¹⁵

In 2019, Freemuse documented cases in which artists were faced with spurious charges based on vague and overbroad definitions of what constitutes terrorism. The introduction of provisions in recent years, designed to counter acts considered to be inciting or “glorifying” terrorism has particularly undermined fundamental freedoms.¹⁶ Whilst the ICCPR prohibits incitement to terrorism, the range of provisions combatting the “promotion”, “apology”, “justification”, “encouragement” and “glorification” embodied within various legislation have made the imprecise definitions of terrorism in counterterrorism legislation even more grey.¹⁷ They further risk the erosion of legal safeguards intended to protect offensive speech or statements meant to shock a population crucially endangering the right to freedom of expression, but also more specifically, artistic expression.¹⁸ Responding to these evolving infringements on the right to freedom of expression, in her report to the UN Human Rights Council in 2019, the UN Special Rapporteur on

the promotion and protection of human rights and fundamental freedoms while countering terrorism Fionnuala Ní Aoláin highlighted how the focus on the content of expression alone which fails to take into consideration both its intention and actual impact does not amount to direct incitement.¹⁹

These counterterror provisions which continue to fall foul of international standards disregard the specific nature of artistic expression in which the right to shock, offend and disturb is understood to be critical to the lawful interpretation of freedom of expression.²⁰ And it is the application of vaguely worded provisions, such as those relating to what is thought to constitute incitement, which has often undermined this lawful interpretation and commonly resulted in the arbitrary and illegitimate forms of sustained harassment and intimidation of artists.

In 2019, the Turkish, Russian and Chinese governments continued to use and abuse counterterror laws against artists, amongst others. Artists faced undue censorship, harassment, threats or imprisonment on charges in which they were accused of being close to terrorist groups, or accused of apologising the crime of terror, or because their artwork was interpreted to constitute a threat to the stability of the nation.

Although the state of emergency announced by the Turkish authorities in 2016 lapsed in 2018, new counterterror laws introduced immediately afterwards, in particular Law 7145, retains many emergency powers. This law effectively has continued the emergency for a period of three more years in a wider climate where freedom of expression and media freedom has already been repressed. Reports that many of those imprisoned have been subjected to trials under antiterror laws, which lack compelling evidence of criminal activity or acts that would reasonably be deemed terrorism, are rampant. Several artists have similarly faced dubious charges of praising the members of terrorist organisations, criminalised for their legitimate exercise of freedom of expression. In June 2019, veteran and renowned Turkish singer Ahmet Alpay Nazikioğlu (known as Alpay) was under investigation by Turkish authorities on charges of glorifying terrorist organisations. At a concert in Istanbul held to celebrate his 50 years in the music industry, Nazikioğlu dedicated one of his

songs to “the beautiful people barbarically killed by the state”, whilst images of left-wing revolutionaries executed by the Turkish government in 1972, as well as a 14-year-old boy killed in the Gezi protests, were simultaneously projected onto a large screen.²¹ It was his words of commemoration, however, that were deemed sufficient to have him charged with “praising the members of terrorist organizations and degrading the state”. This, despite any material evidence of his links with a terrorist organisation or evidence of any call or apology for violence.

In March 2019, another renowned Turkish musician, folk singer Ferhat Tunç, who has faced systematic harassment and intimidation by the state for his peaceful artistic and political expression, felt compelled to leave his homeland for Germany. He had been sentenced to two years in prison for praising coalition forces and Kurdish fighters against ISIS. At the time of writing, numerous lawsuits are still pending against him for “propaganda in favour of terrorist organizations”, “apology of hatred” and “insult to the president”. He also has had countless arrest warrants issued against him.²²

“So, we went through an amazing revolution, an amazing, peaceful revolution [the Arab Spring] after 30 years. And art was a huge part of it. You see the graffiti and it’s not because people love street art, it is because they wanted to express themselves. They wanted to say it so badly that they did it on walls in the street. You know, this is the this is how much they were censored before, that literally I think the first thing that exploded in the Arab Spring was art, it’s everywhere and that’s an expression of freedom”

KHALID ALBAIH, FREEMUSE INTERVIEW, 11 OCTOBER 2019

In Russia, censorship, criminal prosecution and harassment of artists for their alleged part in terrorist acts are also common. In January, Russian publisher Komilfo were forced into withdrawing a chapter from David Lapham’s comic book Deadpool Max. Experts from the Federal Service for Supervision of Communications, Information Technology and Mass Media (Roskomnadzor) found that material within

the chapter constitute a violation of Nazi propaganda laws.²³ Roskomnadzor blocked access to the music-streaming platform Last.fm because it broadcasted the 1997 song titled *Heaven in the Shadow of a Saber* by Timur Mutsuraev, dedicated to the Chechen War. This piece was declared “extremist” by a court in 2015. Last.fm was subsequently added to the list of prohibited sites by Roskomnadzor.²⁴ Over the course of 2019, other musicians were similarly questioned or prosecuted on charges of extremism or because of their alleged apology for terrorism including opera singer Vladim Cheldiev, as well as Viacheslav Eliseev (known as Vyacha).

In China, reports that Uyghur artists are among those arbitrarily detained in mass internment camps in the Xinjiang region (western China) in which artists have been targeted because they are “Uyghur cultural icons” is heightening concerns that these particular arrests are intended as part of a wider plan to eradicate the local language and cultures.²⁵ Independent researchers believe that the camps are effectively designed to instil monolithic notions of cultural practise on a specific group of

people in order refashion and remodel them into secular and patriotic Chinese citizens, in which those in exile accuse the Chinese authorities of cultural genocide.²⁶ This plan, implemented inside and outside camps, compounds concerns that expressions relating to cultural identities which do not strictly fall in line with mainstream nationalist discourse and norms are being conveniently labelled and targeted under vague provisions within antiterror legislation.²⁷

LIMITATION ON TRAVEL AND INCREASED BORDER CONTROL

Over the course of 2019, the populist Trump administration continued to flout the right to freedom of movement impacting artists and many others. Its continued implementation of a series of measures citing national security concerns and

the need to protect its borders from “outsiders”, effectively restricting specific racial and religious groups from entering US territory, continued to cause controversy—a year in which President Trump’s unbridled and unrestrained use of racist and xenophobic rhetoric also continued to make headline news.²⁸

One of these measures—Executive Order No. 13769, originally signed in January 2017 and prompting mass global indignation—continues to impact the movement of people, including artists, into US territory. This Decree titled “Protecting the Nation from the Entry of Foreign Terrorists into the United States” suspended the program for admitting refugees, as well as citizens from specific countries, into US territory. Despite the controversy, in June 2018, the Supreme Court of the United States ruled in favour of maintaining the third version of this

decree, which restricts the entry into US territory of people from Iran, North Korea, Syria, Libya, Yemen, Somalia and Venezuela.²⁹ In January 2020, the Trump administration extended these restrictions to six other countries.³⁰ Artists continue to be one of the groups impacted by these measures. In one instance, two Iraqi artists were affected. Afifa Aleiby and the Baghdad-based artist Ali Eyalin were denied entry for the opening ceremony of a MoMA exhibition called *Theatre of Operations: The Gulf Wars, 1991-2011*, which focused on the military engagement of the USA in Iraq.³¹ Tightening visa and entry measures, including for artists, is however not just restricted to artists experience of the USA. In 2019, Freemuse documented 11 cases where artists were prevented from leaving their country or were denied access to a territory: Cameroon, Cuba, Iran, Lebanon, Turkey, Ukraine and the USA, mainly for political reasons.

RELIGIOUS VALUES AND INSTITUTIONALISATION

The global resurgence of various forms of religious nationalism presents one of the greatest threats to the right to artistic expression. The deepening of this burgeoning and often intolerant discourse—largely framed within a legal narrative of hurting or insulting religious sentiments¹—is frequently noted under theocratic regimes (Iran, for example) and manifests itself further into law, policy and practise in other parts of the globe. It can be seen in the capricious flirtation with Christian values claimed to frame Hungary’s democracy under President Orbán’s regime. And in the emergence of majoritarian democracies based on an othering of religious minorities and vulnerable groups in which religious intolerance, such as what we are seeing in India under the Prime Minister Modi, is heightened. Further, it is illustrated in the institutionalisation of conservative, religious norms, in which religious institutions not only command the role of self-appointed monitors of public morality within society, but are also being formally appointed to positions within the government, such as in Poland. This accelerating encroachment globally signals heightened concerns for advocates of freedom of expression and artistic expression.

Throughout 2019, expression, tied in with pushing artistic narratives on cultural and religious pluralism, “gender ideology” and LGBTI rights, faced intensifying conservative pushback through state reforms introduced into law and policy. These efforts were, however, often worryingly paralleled by non-state actors—sometimes appearing to operate in tandem—who instigated various acts of censorship and other violations to unlawfully restrict the right to freedom of artistic expression and in which inflammatory statements by officials were met with an increase in hate crimes against specific groups. Freemuse believes that this trend is likely to only manifest further over coming years as nationalism continues to take root, in which authoritarian states further tighten the noose on freedom of expression and artistic freedom. Within this landscape, violations of the right to freedom

of artistic expression represents 10 per cent of all abuses Freemuse documented in 2019, a number that is likely to increase.

CURRENT ATTEMPTS TO UNDO INDIA’S SECULAR AND HISTORICALLY ROOTED CULTURAL EXPRESSION

Over the course of 2019, a relentless rhetoric of fear, exclusion and intolerance, in which religious minorities (and particularly Muslims) continued to be demonised, intensified at a scale which has never been witnessed in India’s history. This policy of exclusion and the relentless use of deeply divisive sectarian language instilled in the notion of nationhood and a democratic majoritarianism—whereby Hinduism has been leveraged as the dominant defining force in India—became palpable in the mainstream political discourse surrounding the 2019 general elections. This nationalism has been paralleled by an incremental government strategy of autocratisation² and erosion of the right to freedom of expression, in which anyone critical of the government reforms or actions has been labelled as anti-national, accused of tarnishing the image of India internationally or being traitors to the nation.

Freemuse has previously observed how even in the years preceding the Bharatiya Janata Party’s (BJP) rule³ that state acts of censorship and censorship instigated by mobs calling for artworks to be removed (on religious and other grounds) has always been a recurrent feature of the artistic and cultural landscape. Author, academic and filmmaker Anubha Yadav highlights that these acts of censorship have always been dealt with by various governments through a policy in which it either “ignores it or abets it”.⁴ In Freemuse’s opinion, this sets a dangerous precedent for deepening illegitimate restrictions under the present regime which has intensified

its strategy of communalism since its re-election. Symptoms of this renewed communalism, however, were already becoming evident following the BJP's electoral victory in 2014. This was highlighted by film critic and *The Hindu* newspapers' Associate Editor for Cinema journalist, Namrata Joshi, when nationalist and patriotic themes being featured in Bollywood movies began to resurface more fiercely.⁵

Most crucially, however, signs of an emerging cultural xenophobia and deliberate attempts to communalise India's longstanding multi-layered, multifaceted history of culture and the arts took centre stage at the end of 2019. India's artistic and musical traditions—which have historically flourished in the cross fertilisation of ideas and traditions from across the subcontinent—are part of the nation's cultural fabric. However, the attempt to communalise even this inherited identity transpired in December 2019 as protests across parts of India, and most notably Delhi, against the controversial the Citizenship (Amendment) Act⁶ continued to unfold.⁷

Shortly after the anti-CAA protests mushroomed all over the country, a Professor at the Indian Institute of Technology (IIT) Kanpur filed a complaint with the Director of the institution against students who he alleged were “spreading hate against India”, as they chanted along to the words of *Hum Dekhenge (We will see)*, a song he deemed as being offensive to Hindu sentiments.⁸ The song, used as a central part of cultural resistance by students in Kanpur and across the country against the introduction of the CAA, was originally penned by Pakistan's renowned Urdu poet Ahmad Faiz.⁹ It is part of the longstanding Sufi tradition of Urdu ghazal or nazm's¹⁰ commonly iterated and recited in India and the sub-continent. The charges against the use of the song, and the notion that it was based on anti-Hindu sentiments, reminded independent observers of the battle at the heart of the communal terrain in India which first erupted in 1992 in which organisations closely aligned with the ruling government destroyed a historic 16th century mosque in Ayodhya.¹¹ Reflecting on the communalisation of her father's poem, Faiz's daughter Salima Hashmi noted how “In itself, poetry cannot fight fundamentalism but it can create circumstances for change by helping in mobilising people, giving them a sense of shared aspirations and dreams of a better future,” adding “All of which

is anathema to fundamentalist thinking which thrives on exclusion of the ‘other’ and a strange kind of self-hatred which spews hate for others”.¹²

The raging debate about the use of this supposedly “anti-Hindu” song and attempts to investigate its use, which festered over the end of 2019, is symbolic. It demonstrates how historical forms of musical expression intimately entwined with the secular ancestry of India, which do not, “hinge on the belief in God or adherence to ritual”,¹³ are being subjected to rhetorical and regressive contemporary communal debates about what is Indian and what is not. And as Dr Sumangala Damodaran (an academic at Ambedkar University in Delhi)¹⁴ points out, this communalising of India's historical musical traditions is only likely to deepen and fester.

Whilst the steam behind each of these controversies dies out, Yadav points to its residual impact in which contemporary ultra-nationalism relentlessly sidelines all kind of debate, and individuals (including artists) become partner to unspeakable levels of self-censorship, ultimately spiralling into silence within the mainstream public discourse. And all too often, she notes, how religious groups which have previously been given too much space in defining the public parameters for creative expression (under all governments) are now able to more consciously exert a legitimised censoring power.

THE UNDERMINING OF HUMAN RIGHTS NORMS IN BRAZIL

The undermining of secular, liberal, as well as human rights norms,¹⁵ under the leadership of evangelical and born-again Christian President Bolsonaro, in Brazil, a country once renowned for its social liberalism, is set to deepen in coming years.

In the years running up to his presidential electoral victory in 2018, right-wing groups in Brazil had started to push their agenda forward in the arts and cultural sphere in a way that commentators noted had never seen in Brazil's history before. This included the use of death threats, which compelled those artists who could leave, to consider self-imposed exile so that they could continue creating freely. Concerns about President Bolsonaro's continuing reiterations

echoing sentiments that, “The state is secular, but the president is Christian”,¹⁶ were magnified by ideologically driven statements over the course 2019 in which he directly targeted the creative industries, stating that the country had bigger priorities than the arts,¹⁷ reminding artists that that they were right to fear President Bolsonaro’s Brazil.¹⁸

It has also signalled a weakening of human rights norms in which emboldened right-wing religious conservatism in Brazil has now firmly taken hold.¹⁹ Bolsonaro’s appointment of ministers, including evangelical pastors (elaborated upon in the Brazil country entry in this report), was further compounded at the beginning of 2019 when he disbanded the Ministry of Culture.²⁰ The continued impact of this institutionalisation of conservative social norms has been compounded by a series of other measures, indicative of a serious spiralling in conditions under which artists operate in Brazil, jeopardizing not only their right to artistic expression, but also their access to other fundamental rights. This has included regulatory reforms introduced by the state which impact the arts and culture industry, as well as administrative attempts to restrict funding to the arts²¹ and particularly to projects featuring LGBTI expression which is mirrored by increasing attempts by religious groups to censor artwork with similar themes.

In 2019, Freemuse documented growing evidence of this deepening intolerance towards LGBTI artistic expression. In one instance, in July 2019, the mayor of the city of Belo Horizonte suspended the performance of a play *The coronation of Our Lady of the Cross-dressers* under pressure from the local archdiocese (and under the authority of the Archbishop recently elected as President of the National Conference of the Bishops of Brazil). The archdiocese declared that the play was “a criminal action prejudicial to contempt for the Christian Catholic faith”. The mayor issued reassurances on his Twitter account that the performance would be cancelled and that, as a Catholic, he would not let anyone take on a religion, adding that he did not see this production as a piece of culture. The satirical performance was created by Academia Transliteraria, a troupe composed mainly of transvestite, transsexual and transgender artists. A petition was also signed by nearly 30,000 people to

support the call of the archdiocese.²²

A reminder of this deterioration is the use of inflammatory, critical statements to undermine even the most revered of cultural events in Brazil. In March 2019, the annual Carnival in Rio de Janeiro was criticised on grounds by the President that it undermines public morality— a critical reminder that even mainstream culture and arts in Brazil are only likely to come under increasing pressure. As religious nationalism deepens—attacking even those national events which have come to symbolise Brazil’s diversity and culture—observers remain concerned that these trends and tremors will continue to be felt beyond the tenure of this government.

The deepening infringement to the right to freedom of expression and artistic expression, particularly in relation to LGBTI and women’s rights or material exploring diversity is also as artist Nataly Callai points out, likely to be entrenched further into every day discourse—particularly as profiled evangelical pastors are reported to be preaching about the kind of art believers should and should not consume. In her opinion, it is a forewarning in which projects featuring LGBTI themes, or ones which are critical of the church, or artwork not aligning with conservative norms of the ruling government, will also increasingly not be funded. Or worse still, artists will simply refrain from exploring these themes in their work, further driving all forms of “controversial” or “subversive” expression underground.

POLAND AND THE INSTITUTIONAL OF CATHOLIC NORMS EMBEDDED WITHIN ITS GOVERNANCE FRAMEWORK

In 2019, in its report *Security, Creativity, Tolerance and their Co-existence: The New European Agenda on Freedom of Artistic Expression*, Freemuse detailed how Poland has institutionally embraced social norms—eulogising heteronormativity and patriarchy—articulated by religious Catholic institutions and embedded them within its governance framework, directly impacting and shrinking the right to freedom of expression and

artistic expression. Statements and policies of the ruling Prawo i Sprawiedliwość (Law and Justice—PiS), a party which rose to prominence on the back of the European migration crisis in 2015 (which it has leveraged to position itself as the party to defend its borders against a wave of Muslim immigration), have directly contributed to and compounded an emerging pushback against anyone seen to critically engage or artistically broach issues relating to the Catholic Church, as well as those who campaign for LGBTI rights or women's rights.²⁴

Over the course of 2019, however, and in the lead up to the October legislative elections, LGBTI-related expression was proactively targeted. Labelled as a dangerous ideology undermining public morality and threatening the traditional, Catholic Polish family (particularly children), it has been subjected to relentless demonising attacks and statements from senior Church officials, as well as state-sanctioned hostility and criminal prosecution.

In April 2019, human rights defender and activist Elżbieta Podleśna distributed artwork featuring the Virgin Mary with a halo in the rainbow colours of the LGBTI pride flag in the city of Plock (central Poland). The work was in protest of the Catholic Church's call at Easter for the exclusion of LGBTI people from mainstream society. However, Podleśna did not anticipate the repeated harassment, acts of intimidation and criminal prosecution she would face as a result of her artistic expression.

Charged under Article 196 under the Criminal Code of Poland for intentionally offending religious feelings through public calumny of an object or place of worship, Podleśna argues that the charge of blasphemy is unjustified.

The picture of Mary belongs to everyone. We can't say it belongs to the Catholic Church. It doesn't belong to any priests. (It) belongs to humanity. And it means that it can be seen artistically, within certain responsible margins. Some pictures don't belong to a Church. St. Mary is an icon and if we really look at the history belongs to the Byzantium culture. For me there are no borders.

ELŻBIETA PODLEŚNA, FREEMUSE INTERVIEW, 14 MARCH 2020

However, the charges brought against her have been additionally compounded by repeated condemnation by senior officials of the church, as well as state officials. The Interior Minister Joachim Brudziński, who responded to public pressure by condemning Podleśna's arrest, reiterated, "All that nonsense about freedom and 'tolerance' does not give ANYONE the right to insult the feelings of the faithful".²⁶ And it is this relentless narration and

We were upset that LGBTI [persons] were described as sinners during the Easter congregation and some kind of criminals. Then we felt a reaction. Then we reused the image. And we went into Plock by night and put stickers of Mary everywhere. We were caught some two weeks after (I was the only person who was caught, some days later two of my colleagues went to the police on their own will). We placed a list of the name of the Bishops who had been accused of (covering) paedophilia by the dustbins where we felt they belonged. I feel sentimental about the image of Mary too. All we did was to replace the image of the golden halo with a Rainbow. The picture was intended to show love, rather than to humiliate. The intention was to show that she is protecting. And that was done with respect. We didn't want to play with the image to be insensitive as we have been accused.²⁵

ELŻBIETA PODLEŚNA, FREEMUSE INTERVIEW, 14 MARCH 2020

leveraging of conservative religious norms by state officials (aligning with and mirroring those being advocated by church officials) which essentially enable them to become part of the mainstream political discourse in which state interventions are legitimised on the pretext of needing to “protect” children and the nation. This essentially undermines the fundamental right to freedom of expression. At the time of writing, the prosecutor’s case is being finalised. If found guilty, Podleśna faces up to two years of imprisonment.

Reports that PRIDE marchers were pelted with eggs and urine in October 2019²⁷—in which the archbishop of Krakow called the LGBTQ movement a “rainbow plague”—and that 30 areas in Poland were covered with stickers²⁸ declaring themselves to be “LGBTI free” also provides some indication of the decreasing levels of tolerance and rancour essentially eroding fundamental freedoms.²⁹ It also reinforces concerns that any form of artistic expression seen as subversive or controversial will be further pushed to the margins. These concerns were already heightened over the course of 2019, by further changes introduced into the school curriculum in which the ruling government appointed a Catholic theology professor to guide its curriculum on sex education and new guidelines have been issued which not only reinforce patriarchal norms on gender identities, but reinforce discriminatory attitudes towards LGBTI communities. In October 2019, following the PiS party’s electoral victory,³⁰ it announced its intention to introduce a law which would, “criminalize the promotion of underage sexual activity” and would promote anti-abortion and anti-contraception ideology within Polish schools. This move is being understood to be part of continuing entrenchment and sanctioning of the Catholic Church’s views on sex into secondary schools, which began in earnest in 2017.³¹ The law not only jeopardises the sexual health of young people,³² but its potential misuse under ambiguous and broad sweeping provisions means that educators (which could include doctors, teachers, NGOs and could also be extended to artists engaging on the issue) could potentially face imprisonment of up to three years.³³

THE POLITICAL GROUNDSWELL OF “VERY CATHOLIC SOCIAL CONSERVATIVES” AND ITS IMPACT ON CENSORSHIP IN SPAIN

Attempts to censor artwork on the grounds that it is considered an offense to religious feelings was not only restricted to states in which a divisive narrative of religious nationalism has recently taken root. It was further evident in countries such as Spain, in which Catholicism has historically dominated the public sphere.³⁴ In one example in May 2019, Spanish politicians from the Córdoba Provincial Council demanded the withdrawal of the painting *Con flores a María* by female artist Charo Corrales considering it “an offense to religious feelings”³⁵ and threatened to sue the gallery if it did not comply with its demands.³⁶ Such attempts at censorship are likely to increase if the nationalist VOX Party continue to build their electoral groundswell from “very Catholic social conservatives” and “very nationalist supporters of a centralised Spain”,³⁷ as witnessed in the November 2019 general elections.

CONTINUED PUSH BACK AGAINST BLACK METAL IN THE USA

The political shift towards far-right populists whose electoral support emanates from the Church can be seen in the USA. In 2019, Freemuse observed how US authorities increasingly resorted to the use of border control measures as a method by which to restrict black metal artists from entering its territory. On 20 November 2019, Swedish musician Pelle Forsberg, guitarist from black metal band *Watain*, was denied entry into the US at border control in Atlanta, and further received 5-year ban when his US working visa was made void.

Never in my life was I ever treated this shit! No information, no phonecalls, if I asked about something I just got a “shut up, we are making the rules!” screamed at me. Got thrown into a cell with just a bean bag as a bed next to a toilet. Bright lights all night for 8 hours.

PELLE FORSEBERG, @WATAINOFFICIAL FACEBOOK, 22 NOVEMBER 2019.

THEOCRACIES CONTINUE TO DETERMINE THE ACCEPTABLE LIMITS OF ARTISTIC EXPRESSION IN IRAN

Theocracies continue to dictate the boundaries of acceptable artistic expression in Iran. On 3 July 2019, the General Judiciary of the Province of Tehran sentenced two Iranian musicians from the heavy metal band *Confess*, Nikan 'Siyanor' Khosravi and Arash 'Chemical' Ilkhani to 74 lashings and prison sentences of 12.5 years and six years (later reduced

to two years) respectively for “insulting the sanctity of Islam” and “propaganda against the regime of the Islamic Republic of Iran” (elaborated upon in the Iran country entry in this report).³⁸ According to Khosravi, a loophole in the Iranian judicial system’s practice of Sharia Law dictates that insults to the Prophet Mohammed are punishable with execution, but blasphemy against God are deemed forgivable. This legal technicality has enabled the release of artists on bail. Upon their release, the musicians fled to Norway, where they are currently exiled in political asylum.

LIMITATIONS STILL IMPOSED ON LGBTI ARTISTIC EXPRESSION

Through 2019, Freemuse continued to register the alarming trend of suppression targeting LGBTI-themed artworks and artistic expressions. This type of art has been subject to censorship in countries which criminalise homosexuality, as well as in those which do not impose any legal obstacles on sexual orientation and gender identity. However, statistics peaked in countries where the promotion of alleged “homosexual propaganda” is illegal. In 2019, Freemuse research shows that two thirds of violations of freedom of artistic expression were registered in countries which have decriminalised homosexuality, compared to 30 percent of cases being registered in countries with no legal limitations in regard of sexual orientation.

This data indicates that attempts to stifle LGBTI expressions occur despite a lack of legal obstacle. Nationalist authorities in many countries often misuse regulations on public morality to censor the otherness exemplified through sexual minorities which proved to be the most frequent target.¹ The growth of nationalism combined with support from far-right and religious groups results in heavily shrunken space for LGBTI expressions. This is particularly evident in countries such as Russia, Brazil and Poland. In countries which criminalise homosexuality, LGBTI artists remain fearful to express themselves in public.

The tendency of censoring art over concerns of potentially exposing children to content which contains any reference to “non-traditional sexual relations” continued to permeate across the cultural sector, primarily in Russia. In order to comply with national legislation, China’s media platforms persisted to avoid the broadcast of LGBTI content. Film was the art form most targeted by these regulations. While almost half of the violations Freemuse documented were committed by different governmental bodies, the role of religious groups in silencing artists tackling LGBTI themes in their work has also been detrimental.

RUSSIA: SUPPRESSING ARTISTIC FREEDOM IN A NAME OF PROTECTING CHILDREN

The 2013 Russian administrative law which prohibits the exposure of minors to so-called non-traditional sexual relations² has been extensively used to suppress any form of artistic expression tackling LGBTI issues. Half of the cases Freemuse registered in 2019 on the grounds of alleged “protection of children from information on LGBTI issues” occurred in Russia. The manner in which Russian authorities treated artist and activist Yulia Tsvetkova throughout 2019 particularly exemplifies the specific impact of this legislation on those artists who thematically address LGBTI topics in their work and demonstrates how the state has used all means through the law to target even those suspected to tackle LGBTI issues.

Tsvetkova, a 26-year-old Russian director and activist from the far-eastern region of Komsomolsk-on-Amur has been under the radar of state authorities since March 2019 when they banned the youth arts festival *Tsvet Shafrana (The Color of Saffron)* over alleged “gay propaganda”. After the festival was announced, its director Tsvetkova and teenage actors—members of the Merak Theatre—were questioned by a police anti-extremism unit about their involvement in the play called *Blue and Pink*. The authorities were alleging that it promoted “hatred against men and non-traditional family relations”.³ Tsvetkova stated that authorities had an issue with the words ‘Blue’ and ‘Pink’ in the play title, suspecting a violation of the “gay propaganda” law. Although these colors denote the LGBTI community, the director emphasised that the play dealt with the gender stereotypes in their society. Despite the ban, the play was performed behind closed doors, but due to fear of further repercussions, the director subsequently ceased her activities within the Merak theatre.⁴

In 2019, Tsvetkova was also under investigation because of her posts on the Russian social media

platform VK which touched upon sex education in schools, feminism and homosexuality. While questioned by police in March, she was presented with printouts of some of the posts she had shared which focused on female empowerment, using some images featuring nudity. In October 2019, police questioned her about the VK page *Vagina Monologues*—a page she administrated. A month later, she was informed that she was facing administrative charges over two additional VK pages she was moderating, which covered LGBTI and feminism topics.⁵ These investigations led to two legal proceedings against the artist.

On 23 November, she was put under house arrest after being charged with “production and dissemination of pornographic materials” because of her posts dealing with vaginal anatomy and menstruation. If found guilty, under the Russian Criminal Code (Article 242) she faces up to six years in prison. In addition, as an administrator of two LGBTI-themed online groups, this Russian artist and activist was found guilty of “propaganda of non-traditional sexual relations among minors” and fined 50,000 rubles (approx. 730 euros).⁶ The court convicted her despite the fact that both groups she was managing were marked “18+” in accordance with the Russian law.

CENSORING LGBTI FILMS ON THE GROUNDS OF OUTLAWED “HOMOSEXUAL PROPAGANDA”

In 2019, several films featuring gay characters have faced censorship, primarily in countries whose national legislation prohibits the promotion of “homosexual propaganda”. Scenes from biopics, *Bohemian Rhapsody* and *Rocketman*—which were at the center of this controversy—were banned in some countries, whilst in others, they were screened with deleted scenes. *Bohemian Rhapsody*, the biopic about LGBTI icon and lead vocalist of the British rock band Queen Freddie Mercury, was released in China without scenes in which Mercury (played by Rami Malek) kisses another man. In order to satisfy national regulation adopted in 2016 (which bans the portrayal of abnormal sexual behaviour

including gay and lesbian relationships on TV and online shows), the movie was shown in local cinemas with two minutes of its footage containing gay references deleted.⁷ Furthermore, to ensure its compliance with these regulations, China’s online video platform Mango TV amended parts of Malek’s best actor speech delivered at the Oscar awards ceremony in February 2019. The same broadcaster, which in 2018 censored all LGBTI references at the Eurovision song contest, mistranslated segments of Malek’s speech in which he referred to “gay man” and instead translated it with “special group”.⁸

Although some called it a success that the film Bohemian Rhapsody was screened in China, I get angry because of these comments. The censors maybe cut only two minutes, but they made Freddie Mercury straight.

FAN POPO, FREEMUSE INTERVIEW, 30 AUGUST 2019

Rocketman, which focused on English pop musician Elton John, was similarly censored or banned in several countries throughout 2019. In June 2019, the film was banned outright in Samoa and Egypt. Whilst the Samoa Censorship Board was resolute in its justification for the ban and stated that it had not granted permission for the release of the film because it “addresses homosexuality”, the Egyptian authorities cited Elton John’s alleged “anti-religious sentiments” as its grounds for the ban.⁹ The same film was released in Russia and Malaysia in 2019, but several of its scenes depicting kissing and sex between men were deleted. In Russia, these edits were approved by the local distributor Central Partnership in order to comply with local law.¹⁰ Similarly, in August 2019, the Malaysian distributor, United International Pictures, stated that they amended the film in order to respect the government’s rules which do not allow any scenes that “promote LGBTI in films that are for public viewing”.

Some studios wanted to tone down the sex and drugs so the film would get a PG-13 rating. But I just haven't led a PG-13 rated life.

ELTON JOHN, *THE GUARDIAN*, 26 MAY 2019

On 30 October 2019, Shana Krochmal, a passenger travelling on a US Delta Airline flight commented on her Twitter feed that the version of *Rocketman* shown as part of the on-flight entertainment had been stripped of all of gay references, including a simple chaste kiss.¹² Similar accusations have been shared by other Delta Airline passengers on different social media platforms regarding other LGBTI-themed films which have suffered from similar treatment, such as Olivia Wilde's *Booksmart* in which lesbian scenes were deleted.¹³ Responding to the criticism generated on social media, Delta Airlines claimed that its internal regulations do not require the removal of the LGBTI content and that they screened pre-existing edited versions provided by film studios themselves. In November 2019, the company announced that they had received versions of both *Booksmart* and *Rocketman* from the film studios which retain LGBTI love scenes that would be available on flights as soon as possible.¹⁴

SRI LANKA, LEBANON AND BRAZIL: RELIGIOUS GROUPS ACTING AGAINST LGBTI ART

The pressure applied by different religious groups in countries which either criminalise homosexuality or in those where same-sex relations are legal, often leads to silencing artists who produce LGBTI-themed art. In several cases Freemuse documented in 2019, artists whose works tackled LGBTI issues were prosecuted upon a request by individuals and groups motivated by religious beliefs. The Sri Lankan award-winning writer Shakthika Sathkumara was arrested in north-western town Polgahawela on 1 April 2019 for his fictional story *Ardha (Half)* published on Facebook. *Ardha* tells a story about child sexual abuse in a Buddhist temple, indirectly referencing homosexuality within the Buddhist clergy. The writer was arrested by the Polgahawela Police following

a complaint filed by a group of monks who are active members of the Buddhist Information Centre. They claimed that Sathkumara's story was derogatory and defamatory to Buddhism and had insulted the life of the Buddha.¹⁵ He was accused of inciting religious hatred and violating provisions under the Section 3(1) of Sri Lanka's International Covenant on Civil and Political Rights Act (No 56 of 2007) and Article 291B of the Penal Code.¹⁶ After spending four months in detention, the Polgahawela Magistrate Court released Sathkumara on bail on 8 August 2019. Since his release, the writer has not yet been officially charged. However, he will face court hearings on the case which have been adjourned until 19 May 2020. If convicted, he may face up to 10 years in prison.

In 2019, the increasing influence of religious groups over artistic expression relating to LGBTI topics was witnessed in Lebanon. Mashrou' Leila, a popular indie rock band, whose lead singer Hamed Sinno is openly gay, announced a concert for 9 August 2019 at the Byblos International Festival. However, it was cancelled following public outcry. On 22 July 2019, a lawyer closely associated with the Maronite Catholic Eparchy of Jbeil filed a complaint with the public prosecutor's office accusing Mashrou' Leila of insulting religious rituals and inciting sectarian tensions. He based these accusation on a Tweet shared by Sinno which featured a meme of the Virgin Mary with her head replaced with the pop musician Madonna from 2015, as well as lyrics in two songs which the band later claimed were taken out of context.¹⁷ This complaint, which in the general public sparked calls for the cancellation of the concert, was paralleled by online threats of violence made against band members. The subsequent cancellation of the concert to "prevent bloodshed and preserve security", was compounded by the state's failure to investigate the death threats made against band members. Moreover, two band members were summoned to the public prosecutor's office for questioning about the claims which had been brought against them. Although no official charges were filed, Judge Ghada Aoun ordered the band to remove "offensive" content from their social media accounts, issue a public apology and remove songs deemed to be offensive to Christianity from their future concert setlist.¹⁸

We feel true and genuine regret toward anyone who felt their creed and beliefs were targeted in our songs. We assure them and everyone that these songs do not breach sacraments or faiths, and that the offense was due mainly to smear campaigns, defamation, and false accusations. It is unfair to hold us responsible for what is said in campaigns of which we were the first victims. Our respect for the beliefs of others is as solid as our respect for the right to difference. What just transpired makes us even more committed to these values.

MASHROU' LEILA, FACEBOOK, 30 JULY 2019

In Brazil, the film *The First Temptation of Christ* also sparked criticism on similar grounds—insulting religious sentiments. Upon the Netflix release of their Christmas special film produced by Porta dos Fundos—which featured a story of Jesus Christ coming home for his 30th birthday with his boyfriend Orlando—an online petition calling for the film's ban of the film was initiated.¹⁹ The petition generated

approximately 2 million signatures. On 24 December, the headquarters of the Porta dos Fundos was attacked with two Molotov cocktail (petrol) bombs.²⁰ One of the attackers, businessman Eduardo Fauzi, immediately fled to Russia and subsequently took credit for the attack in a video published online. In addition to this, a Catholic organisation, the Don Bosco Center for Faith and Culture, filed a complaint with the prosecutor arguing that "honor of millions of Catholics" was hurt by this film. This resulted in an order by the Rio de Janeiro judge Benedicto Abicair for Netflix to temporarily remove the film from its platform on 7 January 2020.²¹ However, two days later, Judge Dias Toffoli, President of Brazil's Supreme Court, rejected the lower court's decision and allowed Netflix to continue streaming the film.²²

One cannot suppose that a humorous satire has the ability to weaken the values of the Christian faith, whose existence is traced back more than two thousand years, and which is the belief of the majority of Brazilian citizens.

JUDGE DIAS TOFFOLI, BBC, 9 JANUARY 2020

SUPPRESSING ARTISTIC FREEDOM ON THE GROUNDS OF ONGOING AND PAST CONFLICTS

Freemuse research has determined that every tenth violation of freedom of artistic expression it registered in 2019 was connected with either ongoing conflicts or those which previously occurred. This makes artistic freedom particularly vulnerable in different conflict and post-conflict regions across the globe. The legacies of armed conflicts and territorial disputes primarily negatively impacted the ability of artists to visit those territories perceived as adversary and promote their work there. These obstacles have presented themselves as travel restrictions imposed on artists coming from countries directly involved in conflicts or as systematic bans on the import of cultural content. Freemuse also registered more than 40 censorship cases where artists were targeted either because of their ethnic background or because their artworks tackled issues related to the legacy of the conflict. Some of these violations are rooted in a lack of political will for dealing with past conflicts, while in others, they constitute a political tactic employed as part of wider strategies. Cases registered in Ukraine and in connection with Israeli-Palestine conflict demonstrate how ongoing political disputes impact artistic freedoms, while violations occurring in the South Eastern Europe indicate how past conflicts can continue to permeate across cultural spheres decades after they had ceased.

UKRAINE CENSORING ALLEGED RUSSIAN “AGGRESSOR PROPAGANDA” AND SUPPORTERS OF CRIMEA’S ANNEXATION

The 2014 annexation of the Ukraine’s Republic of Crimea by Russia continues to significantly strain cultural cooperation between these countries. Its impact on cultural exchanges between the two nations, which in the Soviet era shared some cultural heritage and whose languages are to some

extent mutually intelligible, has been multifaceted. In 2019, some cultural events were cancelled in Ukraine because of the artists’ views on Crimea’s annexation, artists’ freedom of movement across the border faced restrictions, as well as bans have been systematically imposed on cultural content coming from Russia to Ukraine.

Over the course of 2019, Ukraine’s State Committee for Television and Radio Broadcasting instigated bans of Russian literature books, asserting them to be “aggressor propaganda” on at least four occasions. In February 2019, it prevented the import of 32 books. Of the 13 books banned on 1 February, one belongs to prominent Russian writer Sergei Dovlatov whose preface includes text from actor Sergey Bezrukov understood to hold anti-Ukrainian sentiment, officially listed by Ukraine’s Ministry of Culture as a person who poses a threat to Ukrainian security.¹ In addition, the Committee banned a number of children’s books whose design reportedly contained “communist symbols or symbols of the aggressor state”. On 19 February, the Committee



Ukraine’s State Committee on Television and Radio Broadcasting banned the import of another 13 books from Russia alleging that they contain signs of propaganda.

banned an additional 19 books, including the Russian translation of the Martin J Dougherty's fiction book *A Dark History: Vikings - Raiders, Pillagers, Explorers and Traders - the Truth Revealed*.² The same was done on 22 March, when along with other books, the censor banned Mikhail Bulgakov's *Master and Margarita*.³ Children's fiction was again on the Committee's radar in November when it banned the import of Tatyana Zarubina's book *From a Dinosaur to Kompot. Scientists Answer 100 (and eight more) Questions about Everything*.⁴

Experts noted that certain chapters of this book were written in the spirit of Russian propaganda. It zombifies children that Russia is a superpower, while at the same time forming a disregard for other sovereign states.

UKRAINE'S STATE COMMITTEE FOR TELEVISION AND RADIO BROADCASTING, 29 NOVEMBER 2019

Due to the ongoing conflict, artists in Russia and Ukraine have also been exposed to illegitimate restrictions on freedom of movement. Since August 2015, the Ministry of Culture has blacklisted at least 150 artists and cultural workers from entering its territory on grounds that they pose a threat to national security. These bans are applied for a period of three years. Acting upon suggestions of Ukraine's national security services,⁵ in 2019, the Ministry of Culture added five persons to this list which is available on its website. Ekaterina Varnava, Russian artist and a former participant in the show *Comedy Woman*, was blacklisted on 21 March,⁶ while another four artists were added to the list on 9 October 2019. In addition to Russian nationals, in 2019, Ukrainian authorities also prevented at least two foreign artists from entering their country.⁷ In March 2019, Italian singer Albano Carrisi, known as Al Bano, was accused of supporting Crimea's annexation and therefore banned from entering Ukraine.⁸ In addition, Belarusian comedian Vanya Usovich who was due to perform in Kiev on 19 July 2019, was prevented from entering the country because he performed in the Crimea in 2017.⁹

Amid the ongoing disputes over the Russian annexation of Crimea, Ukraine also withdrew from the 2019 Eurovision Song Contest which took place in Israel. Pop singer Anna Korsun, known as Maruv, who won the popular vote to represent Ukraine, withdrew from the contest in February 2019, on the grounds that she refused to participate in the politicisation of the song contest.¹⁰ Because of her Russian origin, Korsun was asked to comment on political issues, as well as to sign a contract in which she would be obliged not to perform in Russia before the Eurovision. The national broadcaster UA:PBC faced similar problems with two of the other Ukrainian finalists and eventually decided to pull out from participating in the contest due to be held in May 2019.

I am a musician, rather than a tool on the political stage.

ANNA KORSUN, KNOWN AS MARUV, BBC, 27 FEBRUARY 2019

CULTURAL BOYCOTT AND THE PUSH BACK ON BDS MOVEMENTS IN CONNECTION WITH THE ISRAELI-PALESTINE CONFLICT

Through 2019, political tensions and territorial disputes between Israeli and Palestinian authorities continued to permeate across the region and have a detrimental impact on the production, distribution and consumption of cultural commodities. It particularly intensified during the Eurovision Song Contest which Israel hosted. The organisation of this annual event was paralleled by intensive campaigning inspired or supported by the Boycott, Divestment and Sanctions movement (BDS) Movement. This movement advocates for various forms of boycotts against Israel until the country fully complies with "obligations under international law" with regard to the treatment of Palestinians.¹¹ Through 2018 and 2019, Eurovision was met with calls from various Palestinian and international

groups urging participating artists to boycott this event given that it was hosted by Israel.¹² In January, 50 UK artists, led by a former Pink Floyd front man Roger Waters, also called on the BBC to refrain from broadcasting the contest because of “Israel’s systematic violation of Palestinian human rights”.¹³



Boycott Eurovision 2019, logo used by the BDS Movement, credits @ bdsmovement.net

Eurovision was eventually held in Tel Aviv from 14-18 May, but was met with protests in which dozens of local and international BDS activists blocked one of the main entrances to the opening ceremony for 20 minutes, denouncing Eurovision as “enabling Israel to whitewash its human rights record through the arts”.¹⁴ In addition, unknown hackers attacked the webcast of the first semi-final on the local online platform Kan to show fake explosions in Tel Aviv, accompanied by an animated video with a fake logo of the Israeli army and the sound of air raid sirens. This fictitious video contained the warning: “Risk of missile attack. Please take shelter”.¹⁵

The BDS campaign for the boycott of Eurovision in Israel was met with harsh push back against this movement and its supporters outside the Middle East. This push back was particularly strong in Germany, where Freemuse registered the practice of censoring artists solely because of their support to the BDS movement. On 17 May 2019, during the Eurovision contest, the German Bundestag passed a resolution describing the BDS campaign against Israel as anti-Semitic and in this way targeted all movement’s supporters as anti-Semites.¹⁶ Subsequently, several venues cancelled events which featured artists who support the BDS movement. In June, US rapper Talib Kweli was disinvited by the Düsseldorf Open Source Festival because he refused to denounce his support for the

BDS movement. The festival organisers claimed that since they were working with public funding, they had no other option but to ask Kweli for an official statement concerning his position towards the BDS.¹⁷

The ball is in your court. I would like to perform in Germany, but I don't need to. I'd rather be a decent human being and stand up for what's right then censor myself and lie about BDS for a check.

TALIB KWELI, ALARABY, 10 JUNE 2019

Freemuse also registered cases in which international artists were sanctioned in Germany through decisions made by local authorities. On 6 September, British-Pakistani author Kamila Shamsie was awarded with the Nelly Sachs prize—the German city of Dortmund’s literary prize honoring authors for their contributions to the promotion of tolerance and reconciliation.¹⁸ However, when the six-member jury learned about her pro-Palestine activism, they withdrew the decision to award Shamsie the 15,000-euro prize. Similarly, on 30 September, officials from the city of Aachen in Eastern Germany announced that they had withdrawn the decision to award the Lebanese American artist Walid Raad a 10,000-euro prize because of his refusal to distance himself from the BDS movement. The Ludwig Forum for International Art—a museum which is one of the partners in the prize—overrode the mayor’s decision and awarded Raad without financial support or permission of the Aachen authorities.¹⁹

THE IMPACT OF THE PAST CONFLICTS ON THE CONTEMPORARY CENSORSHIP IN THE WESTERN BALKANS CULTURAL SPHERE

The legacy of the decade long conflicts in the former Yugoslavia (1991-2001) continues to negatively

impact cultural cross-border cooperation in the region. In addition, in 2019, Freemuse determined the trend of censorship affecting different ethnic groups within national boundaries. Challenges in exercising artistic freedoms become evident when artists address conflict-related issues in their artworks, but they also emerge in cases where artists are targeted because of their ethnic background.

On 11 July 2019, which marked the 24th anniversary of the genocide in Srebrenica committed by the Bosnian Serb Army, a group of 20 individuals wearing T-shirts with nationalistic symbols disrupted a performance of a theatre show Srebrenica—When Dead Rise Up (*Srebrenica—Kada mi ubijeni ustanemo*).²⁰ The play staged in the capital of Serbia was directed by Zlatko Paković as part of a programme organised by the Belgrade-based Helsinki Committee for Human Rights which aimed to mark this anniversary.²¹ Protesters claimed that genocide had not occurred in Srebrenica, and that Ratko Mladić—a convicted war criminal and army general sentenced to life imprisonment on charges which included genocide in Srebrenica²²—was a hero. After arguing with actors and members of the audience, police escorted them out of the venue.

“In the play about Srebrenica I want to achieve something that this society seems to be incapable of doing... The essence of one republic should be to take a side of victims who are not its citizens and against criminals who are its citizens.”

ZLATKO PAKOVIĆ, RADIO FREE EUROPE, 11 JULY 2019

In April 2019, a local cultural centre in Bujanovac—a town in southern Serbia which is home to an ethnically mixed population of Albanians, Roma and Serbs—cancelled the screening of *The Balkan Line* (*Balkanska međa*), a 2019 Russian-Serbian

coproduction action film. The film focuses on a real-life event—the Russian operation to capture the Slatina Airport in Kosovo at the end of the NATO bombing of Yugoslavia in June 1999. Released in Serbian cinemas in March, the film incurred huge public interest, but Jetmir Ismaili, director of the Bujanovac cultural center and from the Albanian community, decided to ban its release. Bujanovac argued that it might trigger inter-ethnic hatred among Serbs and Albanians due to still-unresolved issues related to the Kosovo conflict.²³ Serbia’s Ministry of Culture expressed concerns about this ban, calling it politically inappropriate, particularly given that at that time Serbia was commemorating the 20th anniversary of the NATO bombing.

In August 2019, Mayor of the Čapljina Municipality Smiljan Vidić denied permission for the local Muslim community to hold the Bayram concert in the playground of the elementary school in Domanović.²⁴ The municipality is in Bosnia and Herzegovina and predominately populated by Croats. The organisers wanted to stage the concert in this school, as a large percentage of its students are the children of the war-time Muslim refugees who returned to live in Domanović. The leader of the Muslim community Izedin Kurtović claimed that prior to requesting approval from municipal authorities, he had obtained necessary permissions from all relevant police services. However, the mayor denied permission, claiming that local authorities would not be able to guarantee participants’ safety due to frequent traffic at the requested venue and suggested moving the concert to a local cultural center. The organisers interpreted this response as a sign of unwillingness by local authorities to support their request, especially as police (whose permission they already had) should guarantee safety at public events.²⁵ In addition, they claimed that the local cultural centre did not have the required capacities to host the planned concert. They eventually cancelled the event.

THE RESTRICTIVE ENVIRONMENT FOR ARTISTIC EXPRESSION ONLINE

“In the digital age, public spaces are no longer limited to strictly physical spaces but also include cyberspace. This implies that human rights guarantees continue to apply online, subject to the same regime of limitations recognized in international human rights law for distinctive rights and that public powers, to fulfil their human rights obligations, may need to take measures to ensure access to and participation in cyberspace for all.”

REPORT OF THE SPECIAL RAPPORTEUR IN THE FIELD OF CULTURAL RIGHTS, KARIMA BENNOUNE, A/74/255, PARA. 70.

New national laws implemented to combat the spread of hate speech are risking freedom of artistic expression and carry potential harm to the implementation of international standards governing human rights. In 2016, the Human Rights Council, recognising the burgeoning responsibility and lack of accountability in which social media platforms were operating, issued a resolution reaffirming how all human rights governing freedom of expression must be guaranteed on the Internet as they are offline. It adopted a resolution regarding the promotion, protection and enjoyment of human rights online, which affirmed that “the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one’s choice, in accordance with article 19 of the Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights.”¹

During 2019, Freemuse continued to document cases of censorship of art shared on social media platforms, threats made against artists and other violations of fundamental rights. Restrictions placed on artistic expression in the online sphere are not only extending the opposition towards certain topics deemed unsuitable for display, but also exacerbate censorship by demanding the removal of images of artworks that have been visible in museums for many years. The accommodation of national laws in

governing online content reveals the push on social media platforms for intermediary liability. In other cases, restrictions are due to social media platforms’ own community standards of content prohibited in order to “protect” users. However, certain topics face these challenges more than others and are wrongly taken down by the platforms, thus falling short of international standards of human rights by restricting artistic freedom.

In its 2019 report *Privatising Censorship, Digitising Violence: Shrinking Space of Women’s Rights to Create in the Digital Age*, Freemuse highlighted how online spaces enable a worrying frequency of abuse and threats endured by women artists in particular. Especially feminist artists who use their work to engage audiences in conversations about the female body and sexuality face backlash online. Due to the anonymity that online platforms can provide, some women artists are compelled to reduce their online presence in the longer term.²

NATIONAL LAWS TO STIFLE HATE SPEECH

Any restriction placed on online expression must comply with international standards of human rights to avoid ambiguity and to ensure transparency for all users in terms of regulation. Article 19 of the ICCPR—

to which 173 countries are party—guarantees the right to freedom of expression including in the form of artistic expression.³ However, the right is not absolute: Article 20(2) of the ICCPR provides that advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. This also applies to freedom of artistic expression. The role of social media platforms in hosting speech that is thought to incite hatred and intolerance has long been debated. Yet, with recently introduced laws that put the responsibility on platforms to remove illegal content, new concerns have arisen about the failure to comply and thus undermine the right to freedom of expression.⁴

As a principle for business and human rights, the responsibility to respect human rights is a global standard of expected conduct for all businesses and exists “independently of States’ abilities and/or willingness to fulfil their own human rights obligations.”⁵ However, lately laws have been introduced to govern the online space by giving private companies the responsibility to halt online attacks and remove hate speech. Indicative of this global trend are laws passed in 2017 by the German Parliament which approved the Network Enforcement Act. The Act was adopted to combat the sharing of unlawful content by requiring Internet platforms to remove or block such content within 24 hours of receiving a complaint.⁶ Failing to comply with the law can result in a regulatory fine of up to five million euros.⁷ The Act makes platforms responsible for distinguishing between free speech and hate speech, and human rights organisations have raised concerns about such laws, as the companies might turn into “overzealous censors” to avoid expensive fines.⁸ With the law, the role of public institutions is changing and critical stands are made towards its potential for undermining free speech and artistic freedom. In his 2019 report, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, has raised concerns about the law being “problematically vague”, as it fails to define key terms such as “incite” and “hatred”, giving companies’ little room to systematically adhere to the provisions.⁹ In July 2019, Facebook was—as expected by critics—fined after violating the law by failing to report the number of complaints it received.

The social media company was similarly accused of selectively reporting complaints, mainly violating its own community standards rather than the ones provided by the Act. In its response, Facebook stated that the German law lacks clarity as emphasised by critics of the law during its introduction.¹⁰

The lack of a clear definition of incitement, hatred and hate speech (combined with an absence of judicial oversight by public institutions and an absence of the rights of users to appeal decisions regarding the removal of content) is particularly challenging for ensuring adequate protection of the right to freedom of expression online. Regarding the German law, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression also confirmed that, “The liability placed upon private companies to remove third party content absent a judicial oversight is not compatible with international human rights law.”¹¹ Artists are similarly likely to be caught up in these laws governing the Internet when private companies decide the parameters of what does, and what does not, constitute hate speech issues. The laws undermine free speech and thus set “a troubling example” for other countries that want to limit artistic freedom.¹²

SILENCING ONLINE POLITICAL DISSENT

Other cases show how government control and other restrictions placed on online content hurt artists. With artistic freedom of expression as a strong subset of freedom of expression, artists who want to confront the status quo through debate and use online networks to comment on injustice or criticise heads of state or laws are enacting core principles of democracy.

In April 2019, Myanmar film director and founder of Myanmar’s Human Rights Human Dignity Film Festival, Min Htin Ko Ko Gyi, was sentenced to one year in prison for sharing a post on Facebook in which he criticised the role of the military and the country’s constitution. He was convicted under 505(a) of Myanmar’s Penal Code, which punishes “Whoever makes, publishes or circulates any

statement, rumour or report with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman, in the Army, Navy or Air Force to mutiny or otherwise disregard or fail in his duty as such.”¹³ He was released in February 2020,¹⁴ yet concerns about prisoners of conscience in Myanmar remain.

Online platforms play an increasingly important role for all people in expressing political dissent, as well as for artists in sharing their artistic creations. As the then-UN Special Rapporteur in the field of cultural rights Farida Shaheed highlighted in her 2013 report:

*The open access to, and circulation of, artworks through the Internet has increased challenges, with instances of conflicts ignited over artistic expressions made locally but distributed globally. However, the issue of the Internet must not obfuscate the fact that a great majority of violations of artistic freedoms concern artists working in their own country and questioning their own cultural heritage, traditions and surroundings.*¹⁵

Filtering online content targeted at political opposition to the ruling government is a common tactic to block critical content by governments. This practise “spans many countries” but most commonly is characteristic of authoritarian and repressive regimes, who regularly project critical content instead as a threat to national security, legitimising unlawful interferences in the right to freedom of expression.¹⁶ In a different approach, some governments do not allow certain platforms in their countries, such as Twitter and Facebook in China.

Controversially, 2019 saw several governments enforce national shutdowns of Internet services amid protests as in Iraq, Iran, India, Venezuela, Ecuador and Turkey, leveraging it as a “common tool” to stifle criticism, restricting both the right to freedom of expression and access to information.¹⁷ Internet shutdowns have been denounced by various UN experts reaffirming these as a clear violation of international human rights law. Summarising the “dark side” of the digital revolution, UN High Commissioner for Human Rights, Michelle Bachelet, cites “online hate speech and harassment,

internet shutdowns and restrictions on access, the deliberate targeting of human rights defenders and civil society groups through digital surveillance and spyware, and of course breaches of privacy. Data has been harvested on a huge scale and used to manipulate voters”.¹⁸ Other restrictions include a social media tax as implemented in Uganda in 2019 requiring users to pay for the use of platforms such as WhatsApp, Facebook and Twitter resulting in millions of users in Uganda abandoning social media.¹⁹ Critics call the newly implemented tax a further instrument to restrict freedom of expression and speech in the country.²⁰

COMMUNITY STANDARDS CONTROLLING ONLINE CONTENT

Artists are also caught up in social media platforms’ own guidelines on content restrictions. Women and LGBTI artists experience specific forms of censorship when using the platforms to express their views and challenge social norms related to, for example, body positivity or LGBTI rights.

Social media platforms are often used to promote upcoming exhibitions and are important tools for spreading awareness, increasing the number of visitors and thus ensuring success of both artists and venues. In February 2019, the Museum of Art and History in Geneva, Switzerland posted images of half-naked statues—one of which was *Venus of Arles*—to promote its upcoming Caesar and the Rhone exhibition. Facebook removed the pictures. In response to the removal of the image, the Museum of Art and History spokesperson, Sylvie Treglia-Detraz, shared Facebook’s given grounds that instigated the ban.

*[Facebook] don’t allow ads that depict nudity, even if it isn’t sexual in nature. This includes the use of nudity for artistic or educational purposes*²¹

This pattern of censorship is inconsistent with Facebook’s own guidelines. The platform’s Community Standards do in fact allow photographs of paintings, sculptures, and other art that depicts nude figures.²² However, social media algorithms register nudity and block it automatically. Acts of de facto censorship restrict artists and their audiences

from sharing, enjoying, and exchanging views on the arts without the necessary lawful justification of restriction, which parallels offline censorship. In response to the image removal, the museum took to Twitter and posted the *Venus of Arles* pictures covered with the word “censored” in French stating, *Maybe it’s time that this platform changes its policy for museums and cultural institutions?* Facebook later overturned its decision and apologised to the museum.

The lack of distinction specified on these platforms between art and obscenity negate the voices of women artists, already historically marginalised by the arts and culture sector, leaving many women artists feeling discriminated against. Instead, punitive measures impact women artists who use abstract forms of nudity, often to address crucial issues such as body positivity, in an attempt to desexualise the female form. *The arbitrariness, lack of transparency and opaqueness in decision-making by the platform, including its appeals process, has left many artists exploring other online spaces to exhibit their work.*

Online platforms are not transparent in the implementation of their rules when their effective function is different from the official standards that they present to users. Censorship is sometimes followed by an apology from a platform. Yet LGBTI expressions are generally more challenged than others when shared online. In February, Blank Space Studio, an online art shop based in Vancouver, posted two cartoon drawings created by artist James Lauder to celebrate Valentine’s Day onto its Facebook page. The illustrations depicting two men and two women kissing were immediately removed by Facebook on grounds that the image was “overly sexual, implies nudity, shows excessive, amounts of skin or cleavage or focuses unnecessary on body parts”.²³ Although a Facebook spokesperson later said the images had mistakenly been removed and subsequently restored, the co-owner of Blank Space Studio, Matt Osborn, felt it was an act of censorship of sexual orientation, “[...] this Valentine’s Day we got a reminder that there are those who will still want to censor or shame love that does not fit into one box”.²⁴ While several accounts of censorship have been explained as “errors”, LGBTI artists and nudity in art remain disproportionately impacted by guidelines governing obscenity.

HOSTILITY AND ONLINE THREATS MADE TOWARDS ARTISTS AND VENUES

Over the course of 2019, Freemuse registered a number of online threats and harassment targeted at artists for their artistic expressions. In China, popular artist Badiuca was censored by Instagram for advocating for human rights and freedom. He continues to experience intimidation and death threats as a result of his artistic creations.²⁵ To the artist, social media platforms such as Instagram and Facebook are the most important platforms to express his art. In an interview with Freemuse, Badiuca explained that his aim is to empower people with his art by combining political messages with humour. His intention is thus to bring ease to a time with struggles (for example, in Hong Kong where protests are ongoing), participating in peaceful protests through his art.

*Art is important to create a new form of protest, which is nonviolent, which is engaging, which is appealing to the media as well.*²⁶

VISUAL ARTIST **BADIUCAO** AFTER REVEALING HIS IDENTITY, FREEMUSE INTERVIEW, 4 OCTOBER 2019.

Badiuca remained anonymous during his early artistic period, which is an option more easily available when sharing art on online platforms. Yet, in 2019, he decided to reveal his identity. Apart from the decision opening new opportunities for him and his career, it also meant becoming a public target and potential exposure to harm.

“I’ve already experienced all sorts of intimidation and clearly it is related to my gesture of standing out and showing my face. So, this is the concerning part. But as an artist, yourself is a very important subject to explore.”

VISUAL ARTIST **BADIUCAO** AFTER REVEALING HIS IDENTITY, FREEMUSE INTERVIEW, 4 OCTOBER 2019.

In May 2019, artist Kate Kretz's Facebook account was deactivated after posting art which featured the repurposing of 'Make America Great Again' hats into a Ku Klux Klan (KKK) hood and another hat which used this slogan in the form of a swastika. Kretz states that *The MAGA Hat Collection* was meant to both "call out wearers who claim the hats to be innocuous, and to sound the alarm that history is repeating itself".²⁷ However, Facebook claimed the artwork violated their Community Standards and took it down. The artist appealed the decision and reposted the photo with the text: "This is not hate speech. This is an art piece addressing hate speech." Facebook then disabled her account. After several failed attempts to have her account restored, she realised the difficulty.

*Facebook is an impenetrable fortress, completely disempowering to any user who feels they have been wronged.*²⁹

KATE KRETZ'S BLOG STATEMENT, 20 MAY 2019.

Based on Freemuse documentation, it is evident that the scale, intensity and frequency of threats made towards artists and venues are striking on online platforms. In the same month, Jen Tough Gallery in San Francisco contacted Kretz and decided to show *The MAGA Hat Collection*. Due to increasing threatening comments on Instagram (including threats to destroy the artwork), the gallerist decided to move the exhibition to a more secure location, to remain secret until just before the show. The gallerist then received threatening phone calls to the gallery and an "obscene" letter using sexual assault language was addressed to the artist. This was later taken to police and became an open case file at the local Law Center. Kretz says the backlash is missing the point of the artwork and calls for people to "get outraged at the injustice, not the art

calling it to light".³⁰ The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has emphasised that the advocate whose expression constitutes incitement is to be prohibited under Article 20(2) but that "a person sharing examples of hatred and incitement to report on or raise awareness of the issue, is not to be silenced under article 20 (or any other provision of human rights law)"³¹ —but on the other hand, protected by the state.

In *Privatising Censorship, Digitising Violence: Shrinking Space of Women's Rights to Create in the Digital Age*, Freemuse reported on the challenges and frequency of threats directed particularly at women artists online. Such threats do not only affect those threatened, but the visibility of intimidating comments also encourage other users to self-censor to avoid similar hostility directed towards themselves. UN experts on freedom of expression and on violence against women reported on the online gender-based abuse saying, "This abuse is often overlapping in its forms, may involve offline threats and attacks, and can lead women and girls to limit their participation and sometimes withdraw completely from online platforms".³²

The challenges posed by online platforms to ensure artistic freedom in the online world reflect an urgent need for greater consideration for international standards of human rights. Any act of censorship or limitation to the right to freedom of artistic expression need to fulfil the criteria of legality, necessity and proportionality, as presented in Article 19 of the ICCPR. Governments must take more measures to protect artists against human rights abuses online and take positive action to ensure human rights are enforced at the national level.

RESTRICTIVE LAWS AND POLICIES LIMITING ARTISTIC FREEDOM

Governments worldwide are consistently developing new measures to shift information flow to sit beneath state control. This is done by either introducing new laws and policies to their national legislations or (mis)using already existing legal provisions. Even when these measures are not explicitly for the regulation of the cultural sphere, they still have a potentially detrimental impact on arts and culture. Freemuse emphasises that the implementation of various national legislative measures, in practice, results in depriving people of their right to freedom of artistic expression, limiting their opportunities to promote their work or subjecting them to legal prosecution.

Freemuse research demonstrates that particularly damaging legislation in the sphere of culture has been the Cuban Decree 349 which came into effect on 7 December 2018. This decree, which institutionalises censorship of independent art and culture, sparked many protests within the local artistic community.¹ This was met with an extremely hostile reaction by the state authorities. Dozens of artists were arbitrarily detained or in other ways harassed because of protest performances and actions they staged.² Performance artist Tania Bruguera, visual artist Luis Manuel Otero Alcántara, writers Jorge Olivera Castillo and Coco Fusco, all outspoken against Decree 349, have been arrested on multiple occasions. As of March 2020, Otero Alcántara alone has been the victim of 32 incidents of harassment since Decree 349 was adopted.³

Despite the efforts at international level to improve the legal standards for the protection of freedom of expression, each year, Freemuse research documents dozens of newly adopted restrictive laws and policies in this regard. Some of these enacted in 2019 threaten to seriously curb artistic creativity and freedom of expression. Initiatives registered in Tajikistan and Indonesia demonstrate the practice of governments' attempts to prevent alleged foreign influence into the sphere of culture

by limiting artistic content deemed "indecent" for the local population's sentiments. In 2019 Freemuse also documented some initiatives through which state authorities imposed blanket bans on cultural exchange among countries in conflict. The examples of this restrictive measure in the cultural sphere were registered in India and Pakistan, which imposed a series of limitations on the cross-border cooperation between two countries amid growing political and military tensions over the Kashmir region.⁴ Furthermore, the law amendments on the use of state symbols passed by Montenegrin and Russian legislative bodies potentially subject artists to fines and imprisonment if they use the national anthem or coat of arms in their artworks in a way deemed defamatory for the state.⁵

TAJIKISTAN AND INDONESIA: COMBATING ALLEGED INDECENCY IN ART COMING UNDER FOREIGN INFLUENCE

In January 2019, the Tajik authorities introduced a new regulation on morality in films screened at state-funded television channels. The government approved the new Tajikfilm Charter which banned showing any physical touch or "bed scenes" in domestic and foreign films. According to this regulation, Tajikfilm (the state film regulatory body and studio) will only release films cleared from intimate scenes and also strictly ensure that all "explicit" content is cut from domestic and foreign films. Deputy Chairman of Tajikistan's State Committee on Television and Radio Broadcasting, Mahmadsarif Bobozoda, said that "prevention of propaganda of a foreign culture and respect for national values" were motives behind this decision.⁶ Responding to the criticism that films would lose their flow by cutting original content, Bobozoda claimed that a film would not suffer due to the removal of one scene.

You must admit, the demonstration of intimate scenes does not correspond to our culture. Imagine that you are watching a movie with your family, and suddenly a love scene begins. Daughters are embarrassed in front of their father, father becomes uncomfortable in front of their daughters.

MAHMADSHARIF BOBOZODA, DEPUTY CHAIRMAN OF TAJIKISTAN'S STATE COMMITTEE ON TELEVISION AND RADIO BROADCASTING, RADIO AZATTVQ, 20 JANUARY 2019

Reportedly, prior to adopting the regulation, national television broadcasters in the country (which has a majority Sunni Muslim population) received numerous requests from viewers to not show films with “intimate scenes”. Comparatively, the government’s decision was criticised by those who claimed that Tajik officials could make distinction between love and vulgarity, as well as questioned the efficiency of this measure in the online sphere of the Internet.⁷

This regulation came as a follow-up action on the proposal to cut film scenes deemed inappropriate made in March 2018 by Tajikfilm. At the time, a Tajikfilm official announced the adoption of the agency’s updated guidelines and the establishment of the commission which would be tasked to cut nude, erotic, sexually explicit scenes and any other “inappropriate” content before films were shown on Tajik televisions.⁸ A similar regulation has existed in neighboring Kyrgyzstan since 2016 when this country banned pornographic scenes, rape and other scenes of violence in films.⁹

Motivated by banning “negative foreign influences” and “blasphemous” or pornographic content, in January 2019, Indonesian authorities proposed the draft bill on music—known as RUU Permusikan. Designated as a priority bill by the House of Representatives, the bill included two articles of particularly detrimental impact on artistic freedoms. Apart from prohibiting pornographic content and sexual violence, the Article 5 placed restrictions on “bringing negative influences from foreign cultures

or demeaning a human being’s dignity”. In addition, Article 50 prescribed conviction with imprisonment or fine for anyone found in a breach of the Article 5.¹⁰

In order to fight against the official adoption of this legislation, a group of more than 200 musicians created the National Coalition to Reject RUU Permusikan. They organised dozens of events across the country. Parallel to that, Indonesian singer Danilla Riyadi initiated a petition on change.org to reject the bill proposal, which drew more than 300,000 signatures in early February 2019. Artists who criticised the proposal claimed that it reminded them of Indonesia’s Old and New Order eras,¹¹ when musicians were “jailed for merely playing music with western influence”.¹² They also marked this move as hypocrisy, with the knowledge that the current Indonesian President Joko Widodo had been a known fan of foreign bands such as Metallica.

This criticism resulted in an agreement between the House of Representatives Commission X (Education, Youth, Sport, Tourism, Arts and Culture Affairs) and the National Coalition to Reject RUU Permusikan that the House should drop the proposed music bill. Subsequently, and amid strong opposition from musicians across the country, in June 2019 the House of Representatives officially dropped the bill from the priority list for 2019.

For me, creating music is an absolute freedom as a human being. When it is controlled, where does that leave us as musicians? All this time the government has been absent and when it finally shows its face, it’s trying to teach us how to make art?

FARID AMRIANSYAH, A Hardcore PUNK MUSICIAN, THE JAKARTA POST, 31 JANUARY 2019

INDIA AND PAKISTAN: IN POLITICAL TURMOIL, FILMS ARE THE FIRST TO BE AFFECTED

The decades-long conflict between India and Pakistan due to territorial disputes in the Kashmir region on the border between the two countries has had a consistent effect on the cultural cooperation between the countries. The tensions in this region

were intensified in 2019, when on 14 February a Pakistani militant group carried out an attack on the India-administrated Pulwama district.¹⁵ In the aftermath of the attack, a series of measures were introduced on both sides which curtailed the possibilities for their cooperation in the film industry.

Four days after the Pulwama attack, the All Indian Cine Workers Association (AICWA) announced a total ban on Pakistani actors and artists working in the Indian film industry. This professional film association stated that “any organisation which insists on working with Pakistani artists will be banned by AICWA and a strong action will be taken against them.”¹⁶ Subsequently, on 26 February 2019, the Pakistani Minister of Information Fawad Chaudhry tweeted that no Indian films would be released in Pakistan, whilst the Pakistan’s Film Exhibitors Association announced the boycott of Indian content.¹⁷

In light of the prevailing situation, and in solidarity with the government, the film exhibitors fraternity have volunteered to focus on local content till the normalisation of the current situation in the region.

ZORAIZ LASHARI, CHAIRPERSON OF THE FILM EXHIBITORS ASSOCIATION, AL JAZEERA, 27 FEBRUARY 2019

Further political developments in 2019 continued to permeate across cultural sectors in India and Pakistan. New restrictive measures targeting Indian films were introduced in Pakistan after 5 August 2019, when India revoked Article 370 from its constitution, canceling Kashmir’s autonomy.¹⁸ Three days later, Special Assistant to Prime Minister on Information and Broadcasting Firdous Ashiq Awan tweeted that the screening of Indian films in Pakistani theatres had been banned.¹⁹ Furthermore, on 14 August 2019, the Pakistan Electronic Media Regulatory Authority (PEMRA) banned airing of advertisements featuring Indian artists and Indian-made products which resulted in the Pakistani Ministry of Interior’s crackdown on the sale of Indian films (on disc) in CD retailers.²⁰ While some Indian officials claimed that this measure would not affect the local film industry, others believe that it will have negative impact on the box-office as Indian film are, to some extent, dependent on the Pakistani market.²¹

The censorship in the film industry existed between the two countries even before the tensions over the attack on Kashmir erupted in 2019. India and Pakistan have instituted bans over each other’s films and actors on an individual basis.²² Indian content was initially banned on television channels and radios in Pakistan in 2016. The Lahore High Court lifted this regulation by the Pakistan Electronic Media Regulatory Authority in 2017, but the ban was reinstated by the Supreme Court in October 2018.²³ In January 2019, Pakistan’s then-Chief



All Indian Cine Workers Association banned Pakistani artists working in film industry, published on Twitter on 19 February 2019.

Justice Saqib Nisar confirmed that the Supreme Court would not allow Indian content to be shown on Pakistani TV channels stating that it “damages our culture”.²⁴

MONTENEGRO AND RUSSIA: CRIMINALISING INSULTS AGAINST STATE SYMBOLS

In 2019, Freemuse registered that at least four countries had either proposed or adopted laws restricting the use of state symbols. These laws were initiated in South Sudan and Hong Kong, but the amendments introduced to the national legislations in Montenegro and Russia can potentially have a particularly damaging effect on freedom of artistic expression.²⁵

On 25 January 2019, the *Parliament of Montenegro* adopted amendments of the Law on State Symbols. The new law prescribes a fine of 1,000 to 20,000 euros to any legal entity for: “use the coat of arms and state flag in artistic creation, teaching and educational work in a manner that violates the public morale, reputation and dignity of Montenegro; add, alter or correct anything on the coat of arms or flag; use coat of arms and flag in promoting any goods or services; use damaged or incorrect coat of arms

or flag; set the flag to touch the ground, a rug or a curtain; make any changes in the text or melody of the anthem; performs the anthem in a manner and on occasions that offend the reputation and dignity of Montenegro.”²⁶

This move by Montenegrin authorities has been met with heavy criticism in cultural circles. The network Culture Corrective (*Kultura Korektiv*; consisting of associations, organisations, formal and informal groups and individuals working in the field of culture and arts in Montenegro) claimed that the amendments to the Law on State Symbols introduced censorship and self-censorship into the field of art. They emphasised that the national interests in the interpretation of the Montenegro lawmaker, and an ongoing project of the national homogenisation, aimed to overrule all rights, including the right to freedom of speech and artistic expression.²⁷

Above all, it is a retrograde and ignorant act to draft and adopt a law like this one in 2019 - when in the collections of the most significant international museums and representative public national institutions, as well as school textbooks and books on art history and theory, we have artworks which use national symbols in every possible way, from criticism to humor.

LENKA ĐOROJEVIĆ AND NATALIJA VUJOŠEVIĆ, MEMBERS OF THE CULTURE CORRECTIVE, VIJESTI, 4 FEBRUARY 2019



“Note to an eternity”, Simona Semenič, Nada Žgank (2018)

In March 2019, similar regulations were adopted in Russia when President Vladimir Putin signed the law on insulting the government. This law introduced fines and jail terms for insulting the state and its symbols online, targeting information which presents “blatant disrespect for the society, government, official government symbols, constitution and governmental bodies of Russia”.²⁸ The fines for violating provisions of the law vary depending on the offender’s legal status and the number of times the offence has been committed. It prescribes a fine of up to 300,000 Russian roubles (approx. 4,000 euros) or 15 days in jail for repeated offences.²⁹ The law also allows the government to shut down websites which publish material deemed offensive, if they do not remove the content within a 24-hour notice period.

The critics in Russia claim that provisions of this law are loosely defined in order to allow the government to regulate information online which it finds undesirable.³⁰ A number of journalists, activists,

writers and members of writers’ associations in Russia signed the petition against this law in which they referred to it as “the establishment of direct censorship in the country”.³¹ They also emphasised that it violates Article 29 of the Constitution of the Russian Federation which prohibits censorship.

In July 2019, the Ministry of Internal Affairs provided police officers with guidelines on administrative matters under this law. These guidelines contained instructions that in order to initiate an administrative proceeding, all three must be fulfilled. The law can be applied only on a public statement “in a rude form, containing obscene or pornographic images, images unacceptable for the society or other offensive language”. Such a publication should include state symbols, the president, the State Duma, the Federation Council, the government and the courts. Finally, the author must “contrast himself with others, demonstrate arrogance, cynicism, and a humiliating attitude.”³²

“ Cultural rights defenders may experience the paradoxical phenomenon of the very rights they defend being co-opted to undermine them. For example, culture, cultural diversity or cultural rights may be misused, in violation of international standards, to seek to justify violations, and undercut those who advocate precisely for the cultural rights of women or minorities or those excluded on the basis of caste or facing discrimination due to their sexual orientation or gender identity. Discrimination in the exercise of cultural rights is then claimed to be justified in the name of respect for cultural diversity or culture. This is unacceptable. ”

REPORT OF THE SPECIAL RAPPORTEUR IN THE FIELD OF CULTURAL RIGHTS, CULTURAL RIGHTS DEFENDERS, A/HRC/43/50, 2020, P. 12

3

CHAPTER 3: COUNTRIES OF CONCERN



BRAZIL:

POLITICAL AND RELIGIOUS AUTHORITIES AS CULTURAL CENSORS

- Newly elected President Jair Bolsonaro shatters regulations governing cultural expressions.
- Following government interference in the rights of LGBTI artists, creative expressions featuring LGBTI content are continuously challenged.
- Artistic performances face backlash after being perceived as “insulting” and “disrespecting” to religion by religious authorities.

Following the Brazilian presidential election in October 2018, right-wing candidate Jair Bolsonaro was elected as president under the coalition name “Brazil above everything, God above everyone”. He was a member of the Social Liberal Party before founding and moving to the conservative Alliance for Brazil to “advance Christian values”.¹ Prior to President Bolsonaro taking office on 1 January 2019, artists expressed concerns about aggravating conditions for artistic freedom and fear of increasing censorship, threats and intimidation.²

disrespect and intolerance are being promoted.³ During the recent election, she explained that some media were engaged in making people believe artists were “getting rich with the public money they get to enable their projects, and that their work was a threat to family values”. And further that, “people who never cared about museums were protesting against a LGBTI exhibitions, for example.”⁴ She explained that the current “dangerous” mix of church and state has increased the resistance towards art that is not aligned with conservative family values, shows naked bodies, addresses sexuality, and everything that questions Christianity or the Church.

“Freedom of expression is guaranteed by the constitution, you can talk about anything you want and put your work out there, but there are lower chances you will get public financial aid and you can suffer all kinds of negative reaction, from boycott to violence.”

NATALY CALLAI, FREEMUSE INTERVIEW, 6 JANUARY 2020.

During the subsequent days of being sworn in, President Bolsonaro dissolved the Ministry of Culture and instead merged it with the ministries of sports and social development and created the umbrella Ministry of Citizenship led by Osmar Terra.⁵ President Bolsonaro also suggested a plan to extinguish the Brazilian Film

Nataly Callai, a filmmaker and writer living in São Paulo, started her career in 2010. In her interview with Freemuse, she explains how she experiences the current administration as “destructive” (when compared to the more opportunistic political scenario when she started her career in 2010) where

Agency (ANCINE) operating under the Ministry of Citizenship if he could not impose “filters” on audio-visual productions.⁶ Along with dramatic cuts to ANCINE’s budget, his resolve marks the growing struggle for Brazilian cinema, with the imposition of filters subsequently contradicting Article 5 of

the country's constitution.⁷ However, the attempts to target artistic expression are symptomatic of a wider resistance towards LGBTI content. This is also evident in primary schools. In September 2019, President Bolsonaro announced that legislation would be prepared to prohibit "gender ideology";⁸ a term typically known as supportive of gender stratification and claimed by conservative politicians to threaten "Christian values".

Along with the changes in the political landscape, the Brazilian secretary of culture, Henrique Medeiros Pires, resigned in protest of the government's series of efforts to restrict artistic expression containing LGBTI content.⁹ Exemplifying this, in August 2019, Terra suspended government funding of 80 screenplays—including plays with LGBTI themes—for up to 360 days. The move was anticipated after President Bolsonaro, during a live stream, had expressed opinions on funding LGBTI screenplays, describing it as "throwing money away."¹⁰ Nevertheless, in October 2019, Brazil's Supreme Court ruled that financing must be resumed after federal prosecutors argued that the funding restriction was discriminatory. A federal judge further underscored the misapplication of power when the funding initially was suspended.¹¹

In April 2019, President Bolsonaro reduced the maximum funding amount allowed per project in an amendment to the 1991 Rouanet Law. This amendment was enacted in order to address what he called the "waste of resources" that the law was asserted to enable.¹² Developments have yet to determine whether the regulatory changes will have the desired effect of decentralising projects in the country.

In a more specific case, the mayor of Rio de Janeiro, Marcelo Crivella, ordered the September book fair *Biennale do Livro* to seize books containing LGBTI content including the 2010 comic 'Avengers: The Children's Crusade' as it featured a kiss between two male characters. The mayor explained his view on Twitter:

"It is not censorship or homophobia that many people think. The issue of comics at the Biennale has a clear goal: to comply with the provisions of the Child and Adolescent

*Statute. We just want to protect our children, fight for the defence of Brazilian families and obey the law."*¹³

MAYOR OF RIO DE JANEIRO, **MARCELO CRIVELLA**, @MCRIVELLA ON TWITTER, 8 SEPTEMBER 2019

Justifying censorship with protection of minors is prohibited by international standards of freedom of expression, yet not uncommon in Brazil. A group of people demonstrated against the repressive stands taken against LGBTI content, and the books sold out in support of the artwork. A decision was later made by a lower court to permit a ban. However, in the same month, the decision was overturned by Brazil's Supreme Court.¹⁴



Credit: Academia TransLiterária (@academiaintransliteraria) on Facebook, 24 April 2018.

Commenting on the political development in Brazil and how it will impact her creative work, Artistic Director of Pivô, Fernanda Brenner, said: "I think, for sure, it's going to be harder, especially in the sense that there's a threat of censorship and even more austere policies towards culture. We thought things were getting better, but the feeling overall, I think, is like we're going back 40 years."¹⁵

Art performances used to express political dissent and societal issues have faced significant challenges. A transgender-led theatre play 'The Coronation of Our Lady of the Transvestites' was produced by Academia TransLiteraria to highlight the high number of murders of transvestites and transgender people in Brazil. It was scheduled to take place in the city of Belo Horizonte but was cancelled by the mayor of Belo Horizonte one day before its performance. The cancellation was triggered by a statement made by the Archdiocese

of Belo Horizonte arguing it was a "disrespect" to the values of the Catholic Christian faith because it included a portrayal of the Virgin Mary. The statement ended with an encouragement to all to strongly demonstrate against the play so that "common sense, truth and justice for peace prevail".¹⁶ The play was sponsored by the local government, yet cancelled by the mayor who reaffirmed the play's attack on religion and claiming on Twitter that "it is not culture."¹⁷ The theatre group emphasised the play should not be censored saying, "this is not Our Lady, the Mother of Jesus, but another Lady, our transvestite, a lady that is daily excluded from society."¹⁸

Censoring counter-discourse to religious or political powers contradicts the Constitution as well as internationally recognised commitments made to ensure the right to freedom of artistic expression.

CHINA:

ARTISTS DETAINED, CENSORED AND DIGITALLY SURVEILLED

- Directly threatening the very existence of expressions of national identity by minorities, Uyghur artists were arbitrarily detained.
- Unprecedented and sophisticated digital censorship and surveillance measures by Chinese authorities and Chinese technology companies further stifled minority artists, but also Chinese artists in general—in particular those whose artistic practice touches topics deemed controversial by the government, including the 30th Anniversary of the Tiananmen Massacre and the Hong Kong pro-democracy protests.

The 70th anniversary of the People's Republic of China was supposed to be a year of celebration in the country—marked with flag waving and grand parades. However, 2019 also witnessed a clamp down on artists and other citizens who questioned Beijing's dominant celebratory narrative. Uyghur and other minority artists in the autonomous northwestern region of Xinjiang, were particularly targeted in what amounts to a deliberate effort led by general secretary of the Communist Party of China, President of the People's Republic of China and chairman of the Central Military Commission, Xi Jinping—under the pretext of countering terrorism—to eradicate expressions of national identity by minorities.

Upgrades to surveillance technology, including the rapidly increasing use of artificial intelligence, further contributed to the silencing of artists from minority backgrounds, while other artists around China faced related forms of digital surveillance and censorship. Controls during the 30th anniversary of the Tiananmen Massacre¹⁹ were tight and while creative expressions from the Hong Kong pro-democracy protests went viral around the world, they were censored on the Chinese Internet. As UN human rights experts presented devastating assessments of the Chinese government's counterterrorism law and efforts in Xinjiang, 2019 saw disturbing and systematic efforts by the same

government to undermine existing UN human rights mechanisms and replace them with what one government spokesperson called “human rights protection with Chinese characteristics.”

ERADICATING EXPRESSIONS OF A MINORITIES' NATIONAL IDENTITIES

In November 2019, the New York Times published leaked internal government documents revealing how the mass detention of Uyghur and other minorities in Xinjiang came from directives by leader Xi Jinping, to “show absolutely no mercy” in the “struggle against terrorism, infiltration and separatism”.²⁰

Musicians and other artists have been among the estimated one million predominantly Muslim people, such as Uyghurs and Kazakhs, that have been held since China began constructing detention camps in 2017.²¹ In one classified directive, local officials were instructed to tell students whose parents were in detention, but had not been convicted of any crimes, that: “Freedom is only possible when this ‘virus’ in their thinking is eradicated and they are in good health.”²²

Article 47 of the Constitution of the People's Republic of China states that citizens “have the

freedom to engage in scientific research, literary and artistic creation and other cultural pursuits” and article 35 ensures “freedom of speech, of the press, of assembly, of association, of procession and of demonstration.”²³

“I think the detention of so many Uyghur cultural leaders is clear confirmation that the internment camps have nothing to do with combating extremism. It seems to me that these artists have been targeted simply because they were Uyghur cultural icons. It was a message that their expressions of national identity were no longer acceptable,” Rachel Harris told Freemuse. Harris teaches at the School of Arts at SOAS, University of London and has published extensively on Uyghur expressive culture and religion.

Sanubar Tursun, who has been called one of the most famous Uyghur musicians in the world, is among those who have been detained and allegedly released again but under house arrest.²⁴ In 2019, Tursun was scheduled to perform two concerts, but both were cancelled without explanation.²⁵ The prominent Uyghur artist, comedian Adil Mijit, was allegedly released in 2019. “He is free but he hasn’t contacted us fearing he would get into trouble,” Arslan Hidayat, Mijit’s son-in-law who lives in Turkey, told Freemuse. On the question of why the authorities have been detaining artists, China researcher for Amnesty International, Parick Poon told Freemuse:

I believe the Chinese government is very much concerned about the spread of the cultures of the ethnic minorities to the next generation.

Verifying incidents of artists being detained remains difficult. However credible information suggests that the use of technologies for mass surveillance and social control in Xinjiang has been unprecedented and unfettered access to the region, while relatives of the detained and people previously detained risk serious repercussions for speaking out.²⁶ This is all while the authorities continue to deny independent observers, including UN human rights experts.

According to Harris, the harsh disciplinary measures are in place to ensure compliance when individuals

are finally released. She says that under these circumstances “it seems likely musicians have been allowed out because they can be employed to further the state narrative by singing patriotic songs, etc.”²⁷

In November, 12 UN experts issued “an unprecedented and devastating assessment” of the Chinese government’s counterterrorism law—and in particular how it has been implemented in Xinjiang: “We are deeply concerned that the approaches taken in the Counter-Terrorism Law not only violate fundamental rights but also may contribute to further radicalization of persons belonging to the targeted minorities, creating major and growing pockets of fear, resentment and alienation.”²⁸

DIGITAL CENSORSHIP AND SURVEILLANCE—TIANANMEN, HONG KONG AND BEYOND

The Chinese government and Chinese technology companies engaged in unprecedented and sophisticated digital measures to exert narrative control throughout 2019—affecting artists, audiences as well as all other citizens. Censorship of domestic social media platforms in China is operated through a system of intermediary liability in which companies are held liable for content on their platforms.²⁹ Monitoring of blacklisted keywords and images, from a range of applications including microblogs, live streaming platforms, chat apps, and mobile games, show that the anniversary of the Tiananmen Massacre remains one of the most consistently censored topics with controls during the 30th anniversary on 3 June more restrictive than ever.³⁰

Starting in June, Hong Kong’s pro-democracy movement—which saw millions of people protesting a now extinct extradition bill and calling for greater democracy in Hong Kong—was accompanied by a whirlwind of creative and artistic interventions shared and coordinated across social media such as Instagram, Twitter and the reddit-like local Hong Kong platform LIHKG.³¹ However, across mainland Chinese social media platforms, keywords and content associated with the Hong Kong protests was heavily censored.³² Twitter, Facebook and other



The Chinese government censors all references to the 1989 Tiananmen Square Massacre. Across the strait in Taiwan, a giant artwork of an inflatable “Tank Man” by Taiwanese artist Shake, inspired by a sketch of dissident Chinese artist Baidiucuo, was prominently on display. Credit: Magnus Ag

prominent non-Chinese owned social media platforms remain blocked on the Chinese Internet, while Beijing actively used thousands of accounts on the very same platforms to spread propaganda internationally.³³

Upgrades to surveillance technology, including the rapidly increasing use of artificial intelligence, have been urged on by new policies introduced by the Cyberspace Administration of China (CAC).³⁴ Xinjiang’s mass surveillance systems are known to monitor many facets of people’s lives, including their movements and electricity use, alerting authorities when it detects irregularities.³⁵ A vast, secret system of advanced facial recognition technology to track and control the Uighurs was uncovered in April, described by the New York Times as “the first known example of a government intentionally using artificial intelligence for racial profiling”.³⁶

The digital censorship and surveillance also led to other human rights violations by the state, including arbitrary detentions and arrests of artists and others. On 17 May, police detained documentary filmmaker and activist Deng Chuanbin at his home in Sichuan province in Southwestern China. Hours

“The Egyptian state clearly has a problem with freedom of creation. It is a state that wants to put citizens under its tutelage, control their freedoms, dictate them its own morality, control the music that people listen to, the movies they watch, the books they read, what they wear, etc. Everyone must conform to the same values and rules. And therefore, the state prohibits and punishes to set an example and arouse fear. The forbidden is the rule to scare people.”

TAREK HUSSEIN, EGYPTIAN LAWYER, RESEARCHER AND HUMAN RIGHTS DEFENDER, FREEMUSE INTERVIEW, 1 MARCH 2020

earlier, the filmmaker (who was also detained in 2015 and has previously collaborated with dissident artists Ai Weiwei) had tweeted a picture of a liquor bottle labelled “64”—a reference to the date of the Tiananmen Square Massacre. He was reportedly held for several days at the Nanxi District Detention Centre for “picking quarrels and provoking trouble”—a charge under article 293 of China’s Penal Code frequently levelled against critics of the government.³⁷

Outside China’s borders, Apple Music decided to remove songs from its Chinese streaming service in the lead-up to the Tiananmen Anniversary. A 1990 song by Hong Kong’s Jacky Cheung that references Tiananmen Square was removed, as were songs by artists from Hong Kong’s pro-democracy movement.

Apple has significant business interests in mainland China, but it is not clear if any direct pressure was put on the US company.³⁸

HUMAN RIGHTS WITH CHINESE CHARACTERISTICS

Prominent singer and activist Denise Ho was repeatedly interrupted by Chinese diplomats during her speech at the UN Human Rights Council on 8 July where she argued Beijing is “preventing [Hong Kong’s] democracy at all costs”.³⁹

On International Human Rights Day, 10 December, a Chinese Ministry of Foreign Affairs spokesperson defended China’s approach as “opening a new path of human rights protection with Chinese characteristics”.

FRANCE:

INCREASE IN NON-STATE ACTORS CENSORING ARTISTIC FREEDOM

- Individuals and non-state actors have increasingly restricted artistic freedom across France.
- Widespread lack of tolerance towards political and social expressions.
- Absence of government support protecting individuals from artistic freedom violations.

Freedom of artistic and creative expression is protected in France under Law 2016-925: The Freedom of Creation, Architecture and Heritage Act, whereby Article 1 states that artistic creation and diffusion of such is free.⁴⁰ The right to freedom of expression and opinion is similarly guaranteed by the French Constitution and the international standards on human rights that have been ratified by France, notably the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights.⁴¹

However, across 2019, French authorities and non-state actors have facilitated a restrictive environment for artistic freedom across the country as individuals in civil society have operated as the gatekeepers of cultural and political expressions. This is an expansion from state-authorized censorship and has facilitated a decline in the protection of expression in the country, with Charlie Hebdo denouncing the rise of “censorship 2.0” in the country (five years after the attack on its editorial staff), whereby individuals and algorithms are censoring or trying to censor one another in the name of morality.⁴²

SILENCED ALTERNATIVE EXPRESSIONS

The Institut du Monde Arabe (IMA) in Paris cancelled the concert of Sahrawi singer Aziza Brahim which was scheduled in March 2019 at the *Les Arabofolies*

Festival under the theme ‘women and resistance’. The IMA had received pressure from the Moroccan Embassy in Paris to cancel the musician’s performance and a number of patrons from the Institute threatened to withdraw their support for the festival unless Brahim was removed from the schedule. Brahim is known for denouncing the Moroccan policy and decades-long war of attrition in the Western Sahara and for being connected to the Polisario Front liberation movement whose goal is to end Moroccan presence in the Western Sahara.⁴³

IMA President Jack Lang insisted that Brahim was expressing herself and her people’s history and was not an agent of propaganda for the Front. Yet, on 7 February 2019, the IMA officially announced the cancellation of concert for “reasons beyond the artist’s control”. In response, Brahim commented that “The concert was cancelled following pressure from the Moroccan Embassy and Moroccan patrons”.⁴⁴

I do not understand that a public institution in France, which knows to what extent freedom of expression is not respected in Morocco, gives in to this blackmail.

AZIZA BRAHIM, LE POINT CULTURE, 1 APRIL 2019

In March 2019, the Black African Defense League (LDNA), the Anti-Negrophobia Brigade (B.A.N), and the Representative Council of Black Associations (CRAN), succeeded in obtaining the cancellation of

Eschyle's theatre play *Les Suppliantes* at the Parisian Sorbonne University on the grounds of racism for using blackface in the play. *Les Suppliantes*, directed by Philippe Brunet and performed by the theatre troupe Démodocos, explores the ancient Greek tragedy of Aeschylus where the daughters of Danaos visit Argos to seek refuge and protection from Pelasgos. The play's organisers denied any malicious intent and Sorbonne University's President called the protests "an unjustified attack on freedom of creation".⁴⁵ The LDNA, B.A.N, and CRAN said they were shocked that the director "covers the skin of his actors with black paint" and called it an act of Afrophobia, which is condemned under European Parliament Resolution 2018/2899(RSP).⁴⁶

On 6 March 2019, a planned screening and debate of *Fukushima, The Cover of the Sun* by Japanese director Futoshi Sato was cancelled and moved to a cinema 30 kilometres away from the original location in the central French Cosne-Cours-sur-Loire commune. The film documents how the Japanese authorities managed the Fukushima nuclear disaster and was scheduled to be spotlighted as part of anti-nuclear association *Sortir du nucléaire's* event commemorating the eight-year anniversary of the disaster. Cosne-Cours-sur-Loire is located around 10 kilometres from the Belleville nuclear power plant and is located within the plant's protection perimeter.⁴⁷

The cinema manager was informed at the town hall that the nuclear power plant administration objected to the event taking place. The local mayor explained that it was "a problem of partnership with the Belleville nuclear power plant"—which is a regular donor of the municipalities of Nièvre—that interfered with the activity. The power plant subsidises the *Festival des Avant-Premières* in Cosne

and has given support to the municipality's plan to build a third cinema in the area.

Throughout 2019, increased divisions and mistrust towards politicians spread across France. This contributed to a restrictive environment for artistic freedom in the country whereby growing intolerance led to cultural expressions being censored at the hands of non-state actors. Alongside this, France's engagement in diplomacy and international relations is considered to transcend into a bias towards artists, whose role is crucial in denouncing the negative effects of certain state policies.

In addition, France's 2017 antiterror legislation, Strengthening Internal Security and the Fight Against Terrorism (SILT law) granted police additional investigative powers to bypass procedural safeguards to detain and question terrorism subjects and raid houses without a warrant. Since its introduction, French authorities have pursued those who have spoken positively about a terrorist act or group regardless of the presence of an intent to promote violence and/or the group; thus restricting freedom of expression under the guise of countering terrorism and extremism.

Due to these violations on free artistic and cultural expression in the country, it is imperative that France respects and upholds the provisions of its international human rights obligations and its national legislative landscape, notably Article 1 of the July 2016 Law on Freedom of Creation, Architecture and Heritage which affirms how "Artistic creation is free". It is also essential that the French authorities implement more effective educational policies that promote human rights, cultural rights, freedom of expression and equality in accordance with their legislation.

EGYPT:

SILENCING OPPOSITION THROUGH INDUSTRY BANS, THE EXCESSIVE USE OF ANTI-TERROR LEGISLATION AND SURREPTITIOUS THREATS.

- Little evidence of positive developments when compared to 2018 as restrictive laws, permanent renewal of the state of emergency, deliberate restriction of artists' freedom of expression continue.⁴⁹
- Continued excessive use of anti-terrorism legislation by the Attorney General for State Security against any critical, including peaceful, opposition.⁵⁰
- Artists unions and pro-government lawyers use judicial means to harass artists, fill legal complaints, discipline, ban and/or censor artists on various grounds.

"The Egyptian state clearly has a problem with freedom of creation. It is a state that wants to put citizens under its tutelage, control their freedoms, dictate them its own morality, control the music that people listen to, the movies they watch, the books they read, what they wear, etc. Everyone must conform to the same values and rules. And therefore, the state prohibits and punishes to set an example and arouse fear. The forbidden is the rule to scare people."

TAREK HUSSEIN, EGYPTIAN LAWYER, RESEARCHER AND HUMAN RIGHTS DEFENDER, *FREEMUSE* INTERVIEW, 1 MARCH 2020

The Egyptian Constitution of 2014⁵¹ guarantees freedom of opinion and creation (Articles 65 and 67). However, artists are still targeted by the regime. In 2018, a repression campaign was carried out against artists and their freedom of expression. The Prime Ministerial Decree 1238 published in June 2018 in the Official Gazette has drastically limited freedom of artistic expression.⁵² This decree imposes a license on anyone wishing to organise an artistic or cultural event, which must be organised under the supervision of a special committee directly chaired by the Ministry of Culture and including other members of the state, such as foreign affairs, interior, finance, tourism, antiquities, civil aviation, youth and sports, and local development ministries.⁵³

"The Egyptian constitution is superior to freedom of expression and to the value of the freedom of artistic creation. It cannot guarantee them without restrictions, because if it did, it would be a destructive freedom that would destroy the values of society. Artistic works would destroy the values and principles of citizens and the foundations of society would be exposed"

COUNCILLOR SAID MERHI, PRESIDENT OF THE SUPREME CONSTITUTIONAL COURT, ON THE OCCASION OF THE 50TH ANNIVERSARY OF ITS CREATION.

Despite the amendments to the NGO law⁵⁴ (voted in July 2019 by the Egyptian parliament) which withdrew prison sentences and replaced them with exorbitant fines, the law continues to be rejected by civil society organisations which deplore its “superficial” measures. In order to be accepted, the reform will need other laws used against NGOs to be amended such as the Penal Code, the Counterterrorism Law, amongst others.^{56, 57}

The Syndicates of Artists⁵⁸ (music,⁵⁹ cinema, television and theatre,⁶⁰ and visual arts⁶¹) has been notably detrimental to artists and their ability to exercise their right to freedom of artistic expression. Syndicate actions can silence dissident artists by refusing them authorisations to perform, blacklist them from working, or cancel their membership on the grounds of treason, threat to state security or insult. Law No. 35 of the Arts Union Law (promulgated in 1978 and amended in 1987 and 2003) defines the modalities of constitution of Artists’ Unions, as well as their missions and their role in the promotion and management of these creative sectors. The government uses a variety of bodies and individuals (media, unions, lawyers) to take punitive measures against artists for their art works or because of their political activism.

In 2019, Freemuse documented several violations of the right to freedom of artistic freedom, perpetrated in 84% of cases by government or pro-government bodies and individuals in Egypt. In most cases, these artists have faced criminal legal proceedings, and some have been detained or sentenced to prison. In 2019, two Egyptian artists were imprisoned or detained: Khaled Lotfi, a publisher who translated a book by an Israeli author, was sentenced to five years imprisonment by a military court; and the poet and playwright Ezz Darwish with a group of other writers and poets, was detained in Alexandria for “participation to a terrorist group”. Darwish was released after a few days of detention and charges were dropped.

Amr Waked and Khaled Abo Al Naga are two internationally renowned Egyptian actors. Both actors were figures of the Egyptian revolution and are known for their public opposition to Egypt’s President Abdel Fattah Al-Sisi and the amendments to the Egyptian Constitution. These amendments would enable President Al-Sisi to run for president until 2034. Both faced harassments following their

participation in the 2019 US Congress sitting in which they elaborated on the deteriorating human rights situation in Egypt. Their membership status was withdrawn by the Union of Actors which accused them of “high treason against the nation and the Egyptian people” and their alleged will to harm “the security and stability of Egypt”.⁶² The Union also reportedly ordered that industry professionals refuse to hire them in the country. In March 2019, Waked already announced on his Twitter account his conviction in absentia by a military court, which sentenced him to eight years in prison for spreading false news and insulting state institutions. He also stated that he did not obtain a copy of these judgments and that he could not renew his passport with the Egyptian consular authorities.⁶³

The current situation [for artists in Egypt] is an extension of the Mubarak era, and governance policies have not really changed after his departure.

However, under the presidency of Mubarak, there was a greater margin of freedom of expression, in particular concerning the arts, because artistic creation was considered as the soft power of the state. It was possible to criticise the state, politicians, the Ministry of the Interior, the economy, etc. through artistic works...

It was thus possible, as artists and citizens, to declare publicly being against Mubarak’s policy. This was already the case for Amr Waked and Khaled Abol Naga at that time. This does not mean that these artists-activists did not have problems, but they were not of the scope of what we are experiencing today.

The actors Amr Waked and Khaled Abol Naga, the director Ahmed El Garhi, the satirist Shadi Abu Zaid and many others had to face prosecutions or persecutions because of their artistic creations or their political positioning or the two of them. Some have been the subject of media smear and defamation campaigns, accusing them of high treason, attacks on state security, terrorism, etc. Others were prosecuted by the military court, kept in preventive detention for constantly renewed periods or sentenced, in their presence

or not, to sometimes very heavy penalties (eight years in absentia for Waked for example).

Artists, who were previously "protected" because they could contribute to the "soft power" of the state, are now crushed by an authoritarian regime, which refuses the existence of any opposition. The restriction of freedom is just the cursed legacy of Mubarak.

TAREK HUSSEIN, EGYPTIAN LAWYER, RESEARCHER AND HUMAN RIGHTS DEFENDER, FREEMUSE INTERVIEW, 1 MARCH 2020

In November 2019, when the Egyptian actor Haitham Zaki died suddenly, the online version of a newspaper Al-Dostor published, on its Facebook page, a collage of photos of dissident artists along with their names. The post named Mohamed Attia, Khaled Abol Naga, Amr Waked, Hisham Abdullah and Muhammad Shoman and questioned, "Why don't these people die?" and why "God, in his wisdom, takes the life of a promising youth and spares those?". Lawyers and journalists active on social networks, expressed their indignation at this headline, which they understood to be a real call to impunity for any attacks—even those resulting in fatalities—of public and renowned figures.⁶⁴ Only targeted artists residing abroad reacted. For instance, Waked and Abol Naga, who live outside Egypt, announced they would take necessary legal measures against the newspaper.⁶⁵

On 14 March 2019, Egyptian writer Alaa Al-Aswany was summoned to a military court regarding his recently published novel 'The republic, as if'. He was summoned on the charges of "insults against the president, the armed forces and the judicial institutions". The novel tells the story of twenty

fictional characters during the 2011 revolution events in Tahrir Square, describing the repression suffered by the demonstrators and the violence.⁶⁶ Al-Aswany writings had already been banned in Egypt for five years previous to the release of 'The republic, as if'. According to the writer, since President Al-Sissi came to power, he has faced extremely conditions in expressing himself artistically. This includes being banned from writing articles, having publishers refuse to work with him for fear of reprisals, being excluded from coverage on public- and private-owned television channels, due to disapproval of his discourse by the authorities.⁶⁷ Thus, he now lives in exile in the USA, where he has decided to address the UN Special Rapporteur on the promotion and protection of freedom of expression in April 2019.⁶⁸ According to his lawyers, he can no longer travel to Egypt for fear of arrest and charges before the military courts. He is concerned for the safety of his family and loved ones who continue to live in Egypt.



Image posted by El Dostor newspaper on their Facebook page with the mention "Why don't these people die?" Credit : Facebook @ElDostorEgypt

INDIA:

DEMOCRATIC FREE EXPRESSION ATTACKED UNDER INCREASINGLY AGGRESSIVE BJP SPONSORED NATIONALISM

- A landslide election victory for the Hindu nationalist BJP has seen a restrictions and attacks.
- India's sedition laws are being used to penalise artists and artworks that challenge the authorities as 'anti-nationalist'.
- Mob violence and fear of attack by nationalist extremists has led to the banning and closure of film and stage performances.

"A democracy must empower its weakest, its most marginalised. A democracy cannot function without questioning, debate, and a vibrant opposition. All this is being concertedly eroded by the current government. The BJP, which came to power five years ago with the promise of development, has given free rein to Hindutva goons to indulge in the politics of hate and violence."

FROM AN APPEAL ISSUED IN MAY 2019 SIGNED BY OVER 600 ARTISTS AND ACTORS.⁶⁹

In May 2019, the Hindu nationalist Bharatiya Janata party (BJP) won the general election in a landslide victory, winning over 300 of the 543 constituency seats,⁷⁰ securing a second five-year term in office as Prime Minister for its leader Narendra Modi with an increase in the number of seats won in the previous 2014 elections.⁷¹ This is a clear indication of the growing power of the BJP, whose right-wing Hindu nationalist and anti-Pakistan platform is becoming increasingly mainstream. Preceding the elections and thereafter saw a vicious campaign against Muslims and other non-Hindus, as well as government critics. There is climate of exclusion and fear across India, including among artists who are facing, as described by the Supreme Court, "a growing intolerance: intolerance which is unaccepting of the rights of others in society to freely espouse their views and to portray them in print, in the theatre or in the celluloid media".⁷²

This intolerance has become increasingly violent. Mobs affiliated with extremist Hindu groups supportive of the BJP have carried out threats, physical attacks and lynchings, which increased as the year ended. The BJP, with its parliamentary majority and little political challenge, enacted aggressive legal reforms. Among them was the passing in December 2019 of the Citizenship (Amendment) Act (CAA) that gives rights of citizenship to non-Muslim immigrants fleeing religious persecution in neighbouring countries, while disallowing similar rights to Muslims.⁷³ As a result, protests broke out across India, which were met with police brutality, thousands of arrests and with around 20 were reportedly killed.⁷⁴ These brutal events continued into 2020.

LEGISLATION – “TARNISHING” THE IMAGE OF INDIA AND ITS INSTITUTIONS

India is a party to the key international standards protecting freedom of expression, and notably its own Constitution is party to Article 19 (a), which states that all citizens have the right to “freedom of speech and expression”.⁷⁵ Yet India’s Penal Code contains articles that undermine these rights, such as those relating to sedition and incitement to enmity and hatred towards religion. These laws, created during the British colonial era, are vaguely formulated and have been used to label protestors against the CAA, for example, as anti-national. For example, Article 124A of the Penal Code provides heavy sentences for sedition which is described as: “Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards ... the Government...”. Article 153A provides heavy terms for acts that promote disharmony or enmity on religious grounds, again through use of spoken or written words, and visual representation.⁷⁶

An example of the how sedition laws can be used to stifle legitimate comments can be seen in an investigation that was launched against 49 writers, filmmakers and other celebrities who in July 2019 signed an open letter to Prime Minister Narendra Modi demanding an end to the violence and lynchings.⁷⁷ Two months later, in October, a First Information Report (FIR)—where police receive a complaint of an offence under which investigation proceedings then start—was filed against the signatories by a lawyer, Sudhir Kumar Ojha. Ojha has a long history of filing complaints against celebrities in his combat against what he describes as “corruption and social evils”.⁷⁸ The complaint accuses the signatories of having “tarnished the image of the country and undermined the impressive performance of the Prime Minister” and “supporting secessionist tendencies” and refers to sections of the Penal Code relating to sedition, hurting religious sentiments and provoking breach of peace.⁷⁹

As the CAA protests spilled into the new year, artistic expression continued to come under attack,

shockingly this time affecting children as young as nine and ten. On 21 January 2020, the Shaheen Urdu Primary School in the Karnataka region of south west India staged a 10-minute drama that they had scripted themselves that explored the CAA crisis. It included schoolchildren describing its effect on Muslims and a Bollywood song that has been adopted by anti-CAA protestors.⁸⁰ Soon after, a complaint was made by a member of the BJP who accused the play of sedition and “disrespect” for Prime Minister Modi. Over the following days, children were interrogated by police on multiple occasions, followed by the arrest of the school principle and a mother who was accused of “tutoring” her daughter to speak the critical lines in the play. If convicted as charged under Article 124 A, they face a maximum of life imprisonment. The CEO of the consortium that runs the school defended the play, pointing out that 50% of the school’s pupils were from Muslim backgrounds and that it was “important to stage a play on an issue that affects the community at large”.⁸¹

RIGHT-WING MOBS CLOSE PERFORMANCES

Right-wing nationalist groups have also been instrumental in the banning and closure of film and theatre performances, threatening audiences and venues. In the face of these threats, police have ordered the cancellation of shows, citing public security rather than protecting and upholding artistic freedom, in effect, colluding with the extremists.

On 14 February 2019, 40 police personnel were killed by a suicide bomber, an attack the Indian government accuses Pakistan of instigating, which Pakistan in turn denies. A few days later in Jaipur Rajasthan, northern India, the showing of the play ‘Eidgah ke Jinnat’ (The Djinns of Eidgah) was cancelled, despite tickets having already sold out. Commissioned by the Jaipur government-run Jawahar Kala Kendra (JKK) theatre in Jaipur, the play is by the internationally renowned playwright Abhishek Majumdar. Described as a contemporary classic that is included on university syllabuses in India, it is an exploration of the radicalisation of young people in the Kashmir conflict. It has been performed in its original English since 2011, including at London’s Royal Court Theatre in 2013.⁸²

The version staged in Jaipur is its first Hindi-Urdu adaptation, also directed by Majumdar. Following its first performance, the local press reported that members of the audience had been offended by what they saw as the negative portrayal of soldiers and an insult to Hinduism. Members of the right-wing fringe group, Jan Samasya Nivaran Manch, then reportedly threatened theatre staff and called for retribution against Majumdar, leading police to recommend that the theatre cancel further performances.⁸³ Despite this incident, the play went on to be staged at least three times further in the weeks after in other parts of India without incident.⁸⁴

Right-wing protests are all about event management. There is no spontaneity, no real anger there, not that that would have made it better. The moral imperative then is on us artistes to carry on. Today you can't do a play on Kashmir because of Pulwama,⁸⁵ tomorrow Ayodhya⁸⁶ may mean clamping down on all mentions of Shri Ram in theatre. What next?⁸⁷

ABHISHEK MAJUMDAR, INTERVIEW WITH SCROLL.IN, 12 MARCH 2019

Threats by the nationalist far-right group Maharashtra Navnirman Sena, against the Akhil

Bharatiya Marathi Sahitya Sammelan—an annual Maharashtra-based literary event that celebrates Marathi literature, led to the disinvitation of its keynote speaker, the prominent writer Nayantara Sahgal. Sahgal was scheduled to make the speech when the festival was opened in Yavatmal on 11 January 2019. The organisers had capitulated to external pressure, including threats of protest and disruption. A staunch critic of the BJP, Sahgal's planned speech included strong criticism of the mob violence and intolerance by government supporters.

We are told, "Don't publish your book or we will burn it. Don't exhibit your paintings or we will destroy your exhibition." Filmmakers are told, "Change the dialogue in this scene and cut out the next scene or we will not let your film be shown, and if you show it we will attack the cinema hall. Don't do anything to hurt our sentiments." In other words, they are saying: do as you are told or your life and your art are not safe. But the creative imagination cannot take orders from the state, or from the mob.

EXTRACT FROM **NAYANTARA SAHGAL'S CANCELLED SPEECH**⁸⁸

INDONESIA:

- Suggested amendments to the Criminal Code threaten to extend suppression of art and artists dealing with issues including around morality, religion and criticism of the country's leadership.
- LGBTI expressions banned on grounds of offending religious values.
- A thirty-year-old protest song leads to charges of insult to a state institution.

"We've witnessed the rise of populism with religious identity as its backbone. At the same time, our standards of democracy are decreasing, leading to persecutions against freedom of expression."

AQUINO HAYUNTA, INDONESIA ART COALITION, *SOUTH CHINA MORNING POST*, 5 MAY 2019⁸⁹

LEGISLATION DEBATES

Indonesia's two-decades of multi-party democracy is threatened by proposed wide-ranging revisions to Indonesia's 1965 Criminal Code which, if passed, would have a detrimental impact on freedom of expression as well as on artistic freedom. The proposed changes, which included 628 suggested amendments on a wide range of issues, were postponed in September 2019 amidst widespread public protests when thousands took to the streets across Indonesia. The demonstrations turned violent leaving over 300 wounded and one killed. The protests, said to be the largest since those in 1998 which led to the overthrow of the President Suharto dictatorship, were led by students, women's and civil society groups fearing that the changes could roll back hard-won democratic reforms.

The contentious amendments included a ban on abortion, a hardening of laws against blasphemy, treason and insult to the president and prohibiting sex outside of marriage.⁹¹ Among them were six new laws expanding existing crimes of blasphemy, including defamation of religious symbols, leading

to fears that they could be used to target non-Muslims.⁹²

Earlier in the year, plans to introduce the Music-making Bill (RUU Permusikan) that would have put severe constraints on artistic freedom (including bans on works considered obscene or blasphemous)⁹³ were also shelved. The Bill was met with protests, notably by a coalition of music workers who pointed out that if passed, it would contravene Indonesia's constitution that protects freedom of expression.⁹⁴ Among the contentious articles was Article 5, which states, "In creating, everyone is prohibited from [...] bringing negative influences from foreign cultures or demeaning a human being's dignity". Such acts could see fines or even imprisonment. The Bill was dropped from the House of Representatives' list of priorities in June.⁹⁵

These events took place in a Presidential election year, when in April, President Joko Widodo, first elected in 2014, was re-elected to a second five-year term winning 55% of votes and formally taking office in October.⁹⁶ Indonesia has the world's largest Muslim population which is largely moderate.

However, in recent years there has been a rise of Salafism, a branch of Wahabi Islam that emanates from Saudi Arabia. Commentators have noted that although a moderate himself, during his election campaign, President Widodo was keen to secure the conservative Muslim vote by, among other things, choosing a Muslim cleric with a history of antipathy towards Shiites as a running mate.⁹⁷

The proposed Music-making Bill, with its suggestion that “foreign expression” be criminalised, together with the proposed amendment of the criminal code covering blasphemy, treason, insult of the president and sex outside of marriage, illustrate the emergence of a new religious-political narrative. Attempts to bring this ideology to the mainstream politics would be at the cost of freedom of expression, deterioration of democracy and intolerance, which at present uphold Indonesian democracy.

As these events illustrate, Indonesia is standing at a crossroads within the current global context and trends lean towards nationalism and populism. Can it withstand the challenges to its young democratic society? Or will it fall to the political narrative of intolerance and division fueled by religious fundamentalist ideology and populist politics?

CENSORSHIP OF ARTS CHALLENGING RELIGIOUS VALUES

In recent years, Freemuse has noted attacks against works by LGBTI artists as an indication of the influence of conservative elements in Indonesia. In 2016, comments from the Minister of Higher Education suggesting that LGBTI rights groups in universities should be banned sparked a wave of homophobic rhetoric in the public, religious and political spheres, with calls for homosexuality to be criminalised.⁹⁸ Although the furore waned, there remain repercussions. In March 2019, the president of North Sumatra University in Medan ordered the closure of the student union website, SUARA, for posting a short story depicting a lesbian love affair which was deemed “pornographic” and promoting homosexuality. Eighteen students working on the site were dismissed. The students filed a complaint against the decision to the Medan Administrative Court, yet in November 2019, the complaint was dismissed.⁹⁹

“All over the world, there is a rise of extreme politics of identity in religions. It leads to feelings of being threatened within the state and ... censorship without prior study and logical thoughts.”

GARIN NUGROHO, DIRECTOR *KUCUMBU INDAH BODY* (MEMORIES OF MY BODY), *THE JAKARTA POST*, 16 NOVEMBER 2019

In April, the film *Kucumbu Indah Body* (Memories of My Body), which had been approved for distribution by the Film Censorship Board, was banned in several states following a petition launched on change.org protesting that it was an affront to religious values. The petition gathered over 100,000 signatures.¹⁰⁰ The film tells the story of a lengger dancer, a traditional Indonesian cross-gender art form.¹⁰¹ In May, students attending a World Dance Day festival in Pontianak were set upon and beaten by members of a right-wing youth group who accused the dancers of wearing clothes that were “vulgar” for being too effeminate.¹⁰²

ACCUSED OF INSULTING THE ARMY IN A SONG

On 7 March 2019, human rights defender, academic and Amnesty International Indonesia board member, Robertus Robet, was arrested in Jakarta by the National Police Cybercrime unit. He was accused of singing a song at a weekly human rights demonstration outside the State Palace in Jakarta on 28 February, a video of which went online. The song was popular among anti-Suharto demonstrators in 1998, with lyrics referring to the Indonesian Armed Forces as “useless”, leading a National Police spokesperson to comment that “discrediting an institution without facts and evidence is dangerous”.¹⁰³ Robet was briefly arrested and freed on charges under Article 28(2) of the Law on Electronic Information and Transactions (ITE) for “inflicting hatred”¹⁰⁴ and Article 207 of the Criminal Code for insulting an authority or a public institution.¹⁰⁵ Amendments to the ITE in 2016 reduced sentences for defamation from six

to four years in prison, but still retain penalties for defamatory statements disseminated through the internet.¹⁰⁶ Robet left Jakarta with his family the following day, saying that they had received online threats.¹⁰⁷ He has since informed Freemuse that he is now back in Indonesia, although the charges against him remain.

Proposed amendments to the Criminal Code present a threat to freedom of expression and

artistic freedom, specifically those relating to obscenity, religious defamation and blasphemy, insult and sedition. The definitions of these offences are vague and open to wide interpretation, leading to concerns that these laws could be used to suppress legitimate criticism and expressions. There are similar concerns about the presence of articles in other laws that have also been used to stifle artistic freedom, notably the ITE.

IRAN:

ARTISTIC EXPRESSION CHALLENGED BY ISLAMIC PRINCIPLES

- In 2019, at least 11 artists were either prosecuted or sentenced to prison terms, largely due to expressing views out of line with the principles of the Islamic Republic.
- In one quarter of cases Freemuse documented, women artists were targeted due to restrictions imposed on their participation in cultural life.
- Music and film were the most frequently targeted artforms constituting two thirds of all registered violations.

In 2019, the practice of suppressing political dissent has intensified in Iran as the country's relations with the USA worsened, resulting in reinstated sanctions causing a serious economic crisis. These sanctions, which have resulted in an increase in the price of fuel and other every-day life necessities, sparked protests which were met with harsh repercussions by Iran's judiciary. In 2019, local courts sentenced dozens of human rights defenders to decades-long prison sentences, posing threats to the right to peaceful assembly and free expression.¹⁰⁹ Artistic expression came under attack in such an atmosphere, with different activities—artistic or otherwise—carried out by artists seen as propaganda against the Islamic Republic, and on several occasions, harshly punished.

For some years, Freemuse registered a systematic issue related to obstacles for women who wish to take an active role in cultural life. This problem is specifically evident in the music industry. Women musicians are particularly targeted by Shia religious leaders who believe that their performances in front of gender-mixed audiences go against Islamic principles.¹¹⁰ Although women can sing in mixed choirs, they are prohibited from holding solo concerts in most of Iran, with the exception of Tehran and several other cities. In these instances, women are allowed to perform only in front of an all-female audience, but they struggle to organise such performances since these can only be promoted

on few social media platforms.¹¹¹ Under such conditions, women artists struggle to find the space to promote their artistic work at the constant risk of punishment.

In 2019, Iranian authorities used Islamic principles to justify restrictions imposed on the general population to enjoy music and other forms of entertainment. In June, the Iranian police shut down 547 restaurants and cafés in Tehran, mainly due to “playing illegal music”.¹¹² These venues are primarily singled out through requests by local inhabitants who were invited by the Tehran's guidance court to report cases of “immoral behaviour”. Using similar rationale, a concert of the Persian pop band Hoorosh was cancelled on 20 February in the city of Firouzeh in northeastern Iran.¹¹³ Reportedly, the concert was cancelled through a judicial order only an hour before the concert would begin after a complaint by a powerful local ayatollah.

IMPRISONING ARTISTS ON THE PRETEXT OF PREVENTING PROPAGANDA AGAINST THE STATE

In 2019, Freemuse documented that at least 11 artists were prosecuted in Iran because of artistic expressions that authorities categorised as “propaganda” against the state. Their actions

varied from raising awareness about censorship in the sphere of arts and culture, being in contact with enemy states to producing music and films which “violated Islamic principles”.

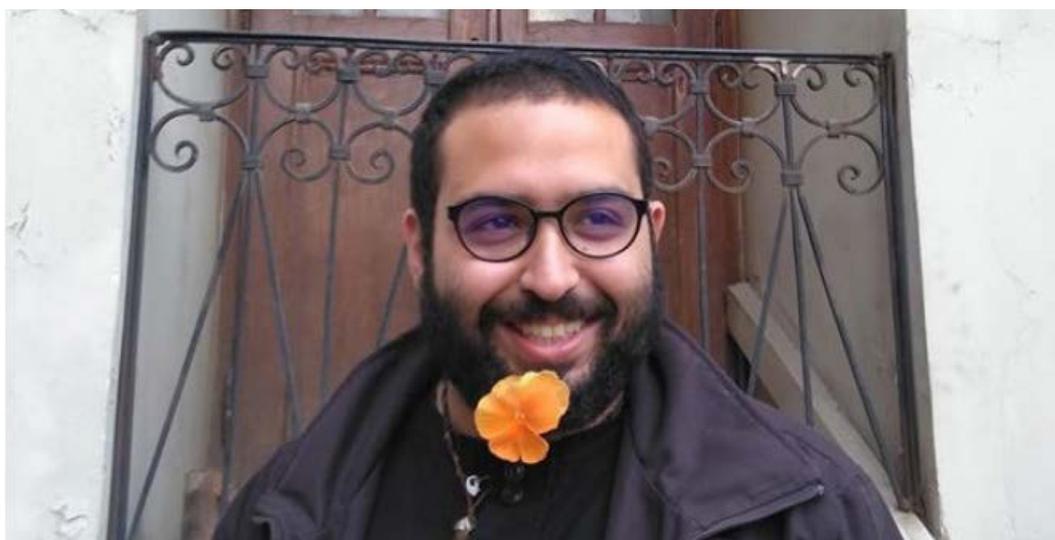
In January, Baktash Abtin, Reza Khandan Mahabadi and Keyvan Bajan—prominent members of the Iranian Writers’ Association (IWA)—were arrested and charged with “propaganda against the state” and “assembly and collusion against national security”.¹¹⁴ These charges were allegedly initiated because they printed publications critical of the censorship of art and literature in Iran, as well as their membership of the IWA, perceived to be an unauthorised organisation.¹¹⁵ On 15 May, the IWA announced that the Branch 28 of the Revolutionary Court sentenced each artist to six years in prison.

In August 2019, Branch 15 of the Revolutionary Court in Tehran sentenced satirist Keyomars Marzban to 23 years and nine months in prison for his writing contributions to websites funded by the USA. Based on Article 134 of Iran’s Islamic Penal Code, the artist will serve the sentence for the charge with the highest penalty. He was convicted to 11 years in prison for “contact with U.S. enemy state,” 7.6 years for “insulting the sacred”, three years for “insulting the supreme leader,” one year for “propaganda against the state” and nine months for “insulting officials.”¹¹⁶ This sentence was upheld by the appeals court on 13 October 2019.¹¹⁷

As an artist, I do not have good memories on Iran! Being an underground band forever and not getting the attention we deserve... not being able to perform art without government permission... self-censorship (though I never became its slave)... being banned from working as a music artist in a theatre show in 2014... arrested and held in prison for year and a half in 2015. And finally, being sentenced to 12.5 years in prison and 74 lashes on multiple political and security charges in 2019.

NIKAN SIYANOR KHOSRAVI, FREEMUSE INTERVIEW, 22 MARCH

On 3 July 2019, two members of the Iranian metal band Confess, Nikan ‘Siyonor’ Khosravi and Arash ‘Chemical’ Ilkhani, were sentenced to a joint 14.5 years of imprisonment and 74 lashes because of heavy metal music they produced. They were convicted for “insulting the sanctity of Islam” and “propaganda against the regime of the Islamic Republic of Iran”.¹¹⁸ In the first verdict delivered on 17 March 2017, band members were sentenced by the Revolutionary Court in Tehran to six years in prison.¹¹⁹ However, both artists fled Iran following



Keyomars Marzban was sentenced to 23 years and nine months in prison because of his writing contributions to websites funded by US @credits Keyomars Marzban's Facebook account

initial arrests by Army of the Guardians of the Islamic Revolution in 2015, which occurred just a day after they released the second album *In Pursuit Of Dreams*. They are currently based in Norway.

Furthermore, award-winning filmmaker Mohammad Rasoulof was sentenced to one year in prison in July 2019 for “spreading propaganda” against the Islamic Republic.¹²⁰ Rasoulof’s prison sentence was followed by a ban on both leaving the country and joining any political or social organisation in Iran for a period of two years. The artist was prosecuted because of the content of his films which allegedly illustrated a “dark picture” of Iranian society and could create despair.¹²¹

DISCRIMINATION AGAINST WOMEN ARTISTS

Discrimination of women artists in Iran continued to permeate across the country’s cultural sphere, particularly affecting women in the music industry. Although there is no legislation directly barring women from singing in public, Freemuse has consistently registered incidents whereby women artists were prevented from performing in front of gender-mixed audiences. In addition, male artists have been sanctioned for giving a space to female colleagues to perform with them on a stage. Local human rights organisations elaborate that these limitations in practice occur due to inconsistent policies arbitrarily applied by religious conservatives, hardline security agencies and judicial officials.¹²²

In May 2019, Isfahan’s prosecutor initiated an investigation against singer Negar Moazzam for singing solo as part of a sightseeing tour. She sang dressed in traditional costume in the historical village of Abyaneh in Isfahan Province on 17 May, but she was interrupted by the Cultural Heritage Organisation staff.¹²³ However, a video of this performance was shared on social media and went viral. Her Instagram account was subsequently taken down, with the content no longer available.¹²⁴ Several days after this, on 22 May, a group of women musicians (members of a traditional band) was barred from performing at a charity concert at the Azad University in Qazvin Province. In the middle of the event, the university’s President Moussa

Khani ordered not only the cancellation of their performance, but also prevented the musicians from sitting in the audience.¹²⁵



Negar Moazzam was under investigation because she sang solo during a sightseeing tour. Video screenshot from Negar Moazzam’s performance @zeynab.karimian on Twitter

Besides direct censorship exercised against women musicians, Iran continued to exercise the practice of punishing male artists who encouraged women to perform solo parts during their concerts. Tar player and composer Ali Ghamsari was banned from performing in Iran “until further notice” because he refused to comply with the request by Ali Akbar Safipour (Islamic Guidance Ministry official) to remove women singer Haleh Seyifzadeh from his concert held on 7 January 2019 at Tehran’s Vahdat Hall.¹²⁶ Despite the warrant that his concert would be interrupted if the female vocals were included, Ghamsari proceeded with his initial plan. The sound equipment was turned off when Seyifzadeh took the stage, but the band continued to perform. The same scenario occurred on 30 January, when pop singer Hamid Askari, who performed at the Milad Tower Music in Tehran, let his female guitarist, Negin Parsa, sing a solo at the end of a song.¹²⁷ After Parsa sang for 12 seconds, her microphone was taken away by the venue management. In response, Askari brought his microphone over to share it with Parsa. This resulted in their ban from performing in Iran.

LEBANON:

RELIGIOUS RULE AND CENSORSHIP COMMITTEES LEAVE CRITICAL RESTRICTIONS ON THE CREATIVE SECTOR

- Religion, politics, regional conflicts and sexual freedoms are still barriers that artists must cross at their own risk.
- Multi-institutional and organised prior censorship is a threat to freedom and to the establishment of a real democracy.
- The recent social protest movement deserves to be observed in order to assess the impact on the freedom of expression of artists involved.

Lebanon is a small country with a multi-faith character which determines its system of political governance. This situation generates many tensions in the country and divisions within Lebanese society. Its borders with countries such as Palestine, Israel and Syria have also resulted in many conflicts and Lebanon has been hosting millions of refugees for many years.¹ The latter half of 2019, Lebanon witnessed heightened political tensions as mass demonstrations continued into the early part of 2020; protests which call for the ousting of the ruling political class who stand accused of mass corruption and poor governance.² The Lebanese Ministry of Culture has opted for a “market” and “free enterprise” oriented cultural policy. Thus, the artistic sector and cultural production are left to the law of “market and free enterprise” with a dynamic independent sector and civil society.³

Artistic expression, and freedom of expression more widely, continued to come under duress in which direct acts of censorship were exercised by multiple bodies.⁴ The creative sector has been present since the start of the demonstrations and many artists and cultural organisations have joined the call for change through an open strike in solidarity with the demonstrators.⁵ Freemuse continues to document cases in which religious institutions and politicians impeded the rights of artists to exercise their freedom of artistic expression (censorship, travel restrictions, prosecution, threats and persecution).

In Lebanon, there are multiple bodies that exercise censorship and prior censorship.⁶ Any theatrical, cinematographic or artistic production requires prior authorisation before its presentation to the public, issued by a “Censorship Committee” within

“The independent cultural sector has been in growth since after the civil war ([1975-1990]). Artists and spaces were always involved in the continuous crisis the country has been facing. They do work in refugees’ camps and they are part of Lebanese uprising that started in October 2019. However, the role they are performing and its efficiency was always a controversial topic. ([...]) There was always been censure from different parties: security and religious mainly but on the other hand, it wasn’t a new or surprising force of censure but it was more what the scene has been adapting to and aware of”.

AREEJ ABOU HARB, LEBANESE CULTURAL MANAGER AND CO-FOUNDER OF THE BEIRUT-BASED CULTURAL NGO ME’ZAF, FREEMUSE
INTERVIEW, 1 MARCH 2020.

the General Security Directorate which ensures that the works do not cause any controversy. In particular they are reviewed to ensure they respect good morals and religion and do not contain any links to Israel. When content is deemed “non-compliant” or harmful to political or religious institutions or figures, General Security informs the creators.⁷ The General Security also checks requests for filming or theatre play authorisations upon prior submission of the scripts. Producers can appeal prohibition decisions to the State Council, but the court rarely overturns the General Security’s decisions.⁸ Despite the preamble to the Constitution of Lebanon,⁹ many NGOs regularly document cases of censorship and violations of freedom of expression.¹⁰

In February 2019, Freemuse registered three acts of censorship by the General Security’s censorship committee.¹¹ The first was a caricature of the Iranian Supreme Leader Ali Khamenei drawn by Italian cartoonist De Angelis, originally published in the Italian daily newspaper *La Repubblica*. The caricature also appeared in a special issue of the weekly French *Courrier International* to mark the 40th anniversary of the Iranian Revolution.¹² The caricature was manually covered with a grey sticker. Stickers were also used to hide two caricatures published in the satirical French weekly *Le Canard enchaîné* about paedophilia in the Catholic Church. Further, pages 56 to 60 of the French weekly magazine *L’Obs* had been torn apart because the paper focused on technological developments of Israel titled “Israel, the promised tech”.¹³

In July 2019, the internationally renowned pro-LGBTI indie rock group Mashrou’ Leila was violently targeted for “undermining Christian values and symbols” largely due to a Facebook post. The post by Hamed Sinno, the openly gay leader and vocalist of the group,¹⁴ illustrated a photomontage where the face of the Virgin Mary had been replaced by that of the singer Madonna. Also, some of the group’s songs were considered as insulting to “the sacredness of Christian symbols”.¹⁵ Lebanese Catholic Church leaders demanded the cancellation of the band’s concert and also commissioned a lawyer to fill a complaint against Mashrou’ Leila with the prosecutor for “insulting a religion”, “incitement to sectarianism”, and for “dissemination and promotion of homosexuality”. Two members of the

group were interrogated during two hours by the General Security and then released without any charges with the promise to issue a public apology and to remove the image from their Facebook profile.¹⁶ The band and particularly its gay vocalist, have been the subject of an intense and hostile campaign, which included death threats.¹⁷ Politician Naji Hayek from President Michel Aoun’s own party Courant patriotique libre commented how, “Anyone who violates the Christian sacraments must have a broken head”. Under the pressure of controversy (as mentioned on page 29 of the report), one of their concert’s was cancelled, garnering complaints, solidarity concerts, press releases and statements by civil society organisations, activists, lawyers and artists as well as international organizations.



Musician Firas Abou Fakher from Mashrou’ Leila and Srirak Plipat, Freemuse Executive Director, in Oslo during Music Freedom Day 2020. Credit: Freemuse

Ziad Itani, an actor and playwright, was attacked by three unknown individuals in November 2019 while he was participating in one of the many debates on rights, justice and corruption organised during the protests in the public space in Beirut (Samir Kassir square).¹⁸ When Itani spoke about his previous arrest and detainment (after being wrongly accused of spying for Israel), his microphone was torn off and thrown to the ground by men who wished to interrupt

his speech. Itani pleaded “to be left alone” after his release from detainment, but stated that “people he sued after his release would never let him talk about his story”.¹⁹ After his release in March 2018, the artist also filed a lawsuit against Suzanne El-Hajj, former Cybercrime and Intellectual Property Bureau of the Internal Security Forces, whom was accused by a military judge of having fabricated false evidence against the playwright with the help of a cyber hacker. These false accusations were reportedly an act of revenge from El-Hajj to punish Itani for having liked a caricature on Twitter which mocked the Saudi authorities after their authorisation of female drivers.²⁰ In 2019, Itani presented his new play *Colette never showed up*, where the central character denounces the excesses of the security services and settles his scores with the media.²¹

Indeed, the Arab-Israeli conflict has always been a

source of numerous violations of artistic freedom. The presence of the Israeli border police stamp on a passport prohibits entry into Lebanese territory. Thus, on April 22 2019, American-Palestinian comedian Mo Amer was denied entry into Lebanon after performing a show in his birthplace of Kuwait. Upon his arrival at Beirut airport on the Middle East tour of his successful show, Amer was denied access into the territory because of an Israeli immigration stamp in his passport dating back to 2016.²² The artist declared that it was related to a visit he had with his mother to the West Bank to visit family. Amer published that he was prevented by General Security from contacting his embassy on his Instagram profile, declaring that “the decision to prevent [him] from entering Lebanon is illegal and contrary to all international laws”. His show, scheduled for the next day, was cancelled and the artist was evicted after an hour spent in airport detention.²³

NIGERIA:

INCREASE IN POLITICALLY MOTIVATED VIOLATIONS AGAINST NIGERIAN ARTISTS

- Imprisonment of Nigerian artists on the grounds of offending heads of state
- Increased censorship of music and music videos to silence dissidence
- The Nigerian Criminal Code contains provisions that make defamation a criminal act, running contrary to freedom of expression guaranteed by human rights standards.
- The Cybercrimes Act of 2015 allows for broad authority with regards to surveillance measures.

The increasing misuse of criminal legislation and censorship rules in 2019 to imprison and censor artists is signalling a worrying trend for artistic expression in Nigeria. Despite constitutional guarantees, the right to freedom of artistic expression showed signs of further deterioration. This decline was particularly noted in cases where artists used their creativity as an act of political dissent.

Freemuse has shown consistent concerns for the protection of artistic freedom in the north of Nigeria.²⁴ The Kano State Censorship Board (KSCB), which was instituted by the Sharia legal system, serves as a parastatal to the Kano government. The KSCB have invoked the Nigerian Criminal Code, Chapter 7, Section 60, and placed it in conjunction with the broadly defined legislation of the State Censorship Board Law 2001²⁵ to censor and imprison Nigerian artists who are found to be critical of the government. Under the regulations of the censorship board, artists are required to seek prior permission before releasing any songs or music videos for public distribution. Freemuse reinforces the UN Special Rapporteur's report 'The right to freedom of artistic expression and creativity' where it is stated that prior-censorship bodies should only "be an exceptional measure, taken only to prevent the imminent threat of grave irreparable harm to human life or property."²⁶

In August 2019, the UN's Human Rights Committee, which monitors the implementation of the ICCPR, published its 'Concluding observations on Nigeria in the absence of its second periodic report'²⁷ in which it outlined its concern about specific provisions contained within Nigeria's Criminal Code.²⁸ It demanded that imprisonment should "never be a punishment"²⁹ for acts such as defamation (which have been used extensively over the course of 2018)³⁰ to quash the right to freedom of expression and political dissent, including that voiced by journalists, artist and political opponents. This suppression of political dissent has continued into 2019.

On 19 June 2019, Nigerian musician AGY was sentenced by the Kano Magistrate Court to two years imprisonment. The artist was charged under Chapter 7, Section 60 of the Criminal Code,³¹ which criminalises "Defamation of persons exercising sovereign authority over the state".³² AGY was charged with both failing to comply with KSCB regulations and for defaming the Governor of Kano State Abdullahi Umar Ganduje with lyrics in his song.³³ The prosecution of AGY is a direct infringement on the right to his artistic expression protected in article 19 of the ICCPR. This is a case where censorship board legislation is placed in conjunction with criminal code laws to silence dissidence of the Kano state governor.



A photograph of Jelili Atiku performing his piece 'Aragamago Will Rid this Land Of Terrorism'. The performance was with Monsuru Saula, Hassan Nosiru, Jamiu Sanni and Ashimiu Muyideen in Ejiḡbo, Lagos on the 14 January 2016. Credit: Emmanuel Sanni.

In an interview with Freemuse, Nigerian artist and human rights defender Jelili Atiku spoke about the deteriorating conditions in Nigeria for freedom of expression.³⁴ Atiku was arrested and detained by the Nigerian police in January 2016, faced with charges including “disturbing the peace” and “intimidating the public” over his performance piece ‘Aragamago Will Rid this Land Of Terrorism’.³⁵ The piece was a political commentary on the Ejiḡbo royal family. Atiku was again arrested in 2019 on 1 May and charged by Lagos Magistrate Court in Oḡba on 3 May.³⁶ The artist was charged with four counts under the Criminal Laws of Lagos State of Nigeria 2015, including Chapter 8 with “unlawful assemblies” and Chapter 47 of “conspiracy”. The artist spent three days in jail, but was released on bail. Atiku claimed that he was peacefully protesting for cultural rights in Nigeria. He stated that the courts of Nigeria often find ways to prosecute Nigerian artists who are allegedly deemed “too political”.

The courts work with the police—this is problematic—[you] demand for your rights, and then they say you are working against the authority, this becomes a problem.

JELILI ATIKU, FREEMUSE INTERVIEW, 5 MARCH 2020.

Atiku says that Nigerian artists today “still have fear, you don’t say things about the government, don’t talk about issues about power”. Freemuse finds that there is increased pressure on Nigerian artists to avoid defamation charges as their political and civil rights are not being protected.

On 1 August 2019, Director Sunusi Oscar was arrested, sent straight to court, imprisoned and was eventually released on bail on 16 August. Oscar was prosecuted for directing a music video that was subsequently released on YouTube.³⁷ According to reports, the music video did not have the prerequisite approval by the censor board.³⁸ Despite Oscar’s defense that he had only directed the video

and was not responsible for its distribution, he was imprisoned and charged under the provisions of the State Censorship Film Board Law, article 57(2).³⁹

Artists who Freemuse interviewed believe that the actual reason for the harassment meted to Oscar is because of his refusal to politically support Governor Ganduje.⁴⁰ In the 'General Comment No.34' on Article 19 of the ICCPR it states that "all public figures, including those exercising the highest political authority are legitimately subject to criticism and political opposition".⁴¹ The General Comment stated that the suppression of political dissent has always been a motivation for art censorship,⁴² and in the case of Oscar, Freemuse can presume the motivation of the KSCB to prosecute the director was because of his lack of political affiliation with the government.

As well as an increased censorship of music and music videos to silence dissidence in the north of Nigeria, elsewhere in the south and west, there is evidence of central government breaches in the protection and promotion of freedom of expression. On 10 May, a day after releasing his song, the Nigerian hip-hop artist Naira Marley was arrested and detained by the Nigerian law enforcement agency, the Economic and Financial

Crimes Commission (EFCC).⁴³ Marley had allegedly committed an offense contrary to Section 27(1)(b) and punishable by Section 33(2) of the Cyber Crimes (Prohibition, Prevention, ETC) Act. 2015.⁴⁴ The UN had in 2019 expressed concerns with the provisions of this Act in that it "provide[s] for broad authority with respect to surveillance measures."⁴⁵ Marley's arrest by the EFCC allegedly relates to the lyrical content of his music,⁴⁶ particularly his song, 'Am I A Yahoo Boy',⁴⁷ in which he criticised the EFCC for its policy of relentlessly arresting Nigerian citizens for cyber-fraud.

*I shouldn't be getting arrested for what I'm saying. Freedom of speech! I should be allowed to be saying what I'm saying.*⁴⁸

NAIRA MARLEY IN RESPONSE TO THE EFCC CHARGES, *THE FACE*, 10 DECEMBER 2019.

There is much speculation as to why the EFCC originally arrested the musician, but Marley's management along with other sources speculate that the charges against him were not for cybercrimes, rather for his politically related lyrics and comments.⁴⁹ Marley's court case took place in the Federal High Court in Lagos on 27 February 2020, but has been subsequently adjourned for a later date.⁵⁰

RUSSIA:

ARTISTS UNDER DUAL ATTACK BY STATE AUTHORITIES AND FAR-RIGHT GROUPS

- More than 60 percent of violations of artistic freedom Freemuse documented in Russia in 2019 were committed by the government, while every seventh case was initiated by individuals and groups aligned with ultraconservative ideologies.
- Artists faced arbitrary detention and prosecution in one quarter of cases documented by Freemuse.
- Theatre was the most targeted art form in Russia in 2019: one third of all documented cases.

In 2019, Russian artists who used art to express their political views or criticised the regime and certain policies were predominately targeted by state authorities. According to Freemuse research, this amounted to almost half of the cases documented. Artistic expression was also restricted as concerts, films and theatre performances faced pressure and cancellations from authorities, often as a result of campaigns by far-right groups claiming to protect children from the promotion of “homosexual propaganda”, drug use and “extremism”. The issue of suppressing artistic freedom in line with the law banning the “promotion of non-traditional sexual relations among minors” has been discussed on the page 24 of this report.

In addition to utilising existing legislations to silence artists in 2019, Russia implemented new legal initiatives which threaten to curtail artistic expression in the digital space through the adoption of a series of laws restricting online expressions. In May 2019, laws on “fake news” and insulting the government were enacted and the “Sovereign Internet Law” came into force in November.⁵¹ Legislation banning insults against the state prescribes different monetary fines, as well as up to 15 days in jail for disrespect to the state, society, governmental bodies and constitution when expressed online.⁵² Sharing false information of public interest in the digital space can result in fines up to one million rubles (approx. 12,300 euros)

in the most severe cases.⁵³ Under the Sovereign Internet Law, Russian authorities introduced legal obligations to internet service providers to install special equipment which can track, filter, and reroute Internet traffic, providing legal basis for the government to directly censor online content.⁵⁴ These legislations have been criticised for their potential to deteriorate freedom of expression, as well as protection of privacy.

ATTACKS ON PUSSY RIOT: STATE OPPRESSION AGAINST POLITICAL DISSENT

Members of the Russian protest performance group Pussy Riot have been on the radar of state authorities ever since the group was established in 2011. They have been targeted because of their activism, which focuses on criticising state policies under President Vladimir Putin and the state’s connections with the Orthodox Church. They have also been vocal against the law on “anti-homosexual propaganda” and the suppression of media freedoms in Russia. In 2012, three group members were sentenced to a two-year prison term for “hooliganism motivated by religious hatred” following a performance against President Putin staged in a Moscow church.⁵⁵ More recently, in August 2018, four Pussy Riot members

were sentenced to 15 days in prison for a performance during a FIFA World Cup match between France and Croatia played in July at the Luzhniki Stadium in Moscow. They were convicted for violating the law on behaviour for spectators at sporting events because they entered the pitch dressed in police uniforms calling for the release of political prisoners and ending illegal detentions at political rallies.⁵⁶

Since then, different group members have been arbitrarily detained on numerous occasions. Group member Veronika Nikulshina was arrested three times in 2019. The first arrest occurred on 16 April 2019, when, together with artistic directors of the *Theater to Go* (*Teatr Na Vynos*) Alexey Yershov and Maxim Karnaukhov, she was on her way to the Bolshoi Theater. The three were to receive the Golden Mask National Theatre Award,⁵⁷ after being nominated in the experimental theatre category for their participation in the play *Poe.Tri*. This annual award is supported by the Ministry of Culture of the Russian Federation and the Moscow Government. Nikulshina told Freemuse that she believed that when nominations were first being discussed, the organisers of the Golden Mask festival were unlikely to have been aware of the Pussy Riot member's involvement in the play.⁵⁸ She suspects that her detention was a way to prevent her from attending the high-profile government-sponsored event. All three artists were quickly released.

Nikulshina was taken into police custody again on 8 May 2019, when at least ten Moscow police officers entered an apartment where she was gathered with friends.⁵⁹ In total, six of her friends were arrested, four the same night and two the following day. She was suspected of drug use, an accusation which she denied. The artist was detained overnight and



Moscow police arrested 16 Pussy Riot members and prevented them from staging artistic performance a day before Moscow City Council elections on 7 September 2019. Credit: @pussy riot official Instagram account

subsequently released without charge. Again, on 7 September (the day before the Moscow City Council elections) Nikulshina and 15 other members of Pussy Riot were arrested. They were arrested as they left an apartment to make an art statement in front of the Russian government.⁶⁰ They were released after six hours of detention with no charges filed. Asked if there is a pattern behind these repeated detentions, Nikulshina said that "due to a fear that something would happen on big national holidays, authorities try to protect themselves from contemporary art".⁶¹

TEATR.DOC TARGETED BY FAR-RIGHT GROUPS

Moscow independent documentary theatre Teatr.doc is known for staging plays which tackle important political and social questions for contemporary

Russian society. The theatre group has been repeatedly and relentlessly targeted by authorities since it was founded in 2002. In her interview with Freemuse, Teatr.doc Director Anastasia Patlay highlighted that this targeting became particularly challenging in 2019. The mounting number of complaints filed by far-right groups against her theatre, but also other Russian artists, were largely on grounds relating to the theatre's alleged failure to respect "traditional values".⁶²

"Cultural authorities and even President Putin often talk about the independence of artists and about artistic freedom. But it is only words. To show their commitment to these values of freedom, authorities should publicly condemn violent acts [against artistic performances] and punish the groups behind, [these acts], for breaking the law."

ANASTASIA PATLAY, DIRECTOR, TEATR.DOC, FREEMUSE INTERVIEW, 3 FEBRUARY 2020.

Teatr.doc was under the attack of far-right groups on two occasions in 2019. When the play *Coming Out of the Closet*—based on real stories about gay men living in Russia and their families—was performed on 28 August 2019, members of the South East Radical Block (SERB) movement⁶³ forced their way into the theatre and disrupted the performance. They chanted homophobic statements and accused the theatre of illegally exposing minors to "gay propaganda", claiming that an audience member was under 18 years old.⁶⁴ This accusation came to be true; it was determined later that one audience member (affiliated with this far-right group) had shown a doctored ID at the entrance to the theatre indicating his age as 19 years old.⁶⁵ Suspicious that the presented document was fake, Patlay had taken a photo of the ID. However, when asked by the police, the young man presented a different passport showing he was 15 years old. None of the SERB movement members were taken for questioning for their part in instigating the physical brawl during the performance. However, Patlay was taken to the police station where she gave a statement and was subsequently released.

In addition, on 20 September 2019, during the performance of the play *War is Close*, unknown individuals threw a foul-smelling substance, suspected to be a mixture of faeces and chemicals, through the window of the theatre where the play was being staged.⁶⁶ The play tells the story of the war in Eastern Ukraine and was based on both the journal written by a man in a Lugansk conflict zone (for approximately two years of his life), and segments from a documentary project based on materials from the trial of Oleg Sentsov. Sentsov is a Ukrainian film director and a Maidan activist who spent more than five years in a Russian prison on terrorism charges.⁶⁷ The play was stopped, but some audience members returned later to the premises for a video talk with Sentsov who was released from the prison on 9 September.⁶⁸

Patlay told Freemuse that Russian authorities took no action against the attacks on Teatr.doc in 2019. She understood this "as their approval" of these actions.⁶⁹ Instead, in November, the police launched an investigation into the three plays performed at the theatre following a complaint from activist group the National-Conservative Movement, whose founder publicly referred to Teatr.doc as "an enemy of our country that is working from within".⁷⁰ The complaint accused the theatre of disseminating LGBTI propaganda in *Coming Out of the Closet*, justifying terrorism in *War is Close* and promoting drug use in a play *Rave 228*.⁷¹ After questioning Teatr.doc members and reviewing scripts, police said in December that they would not file criminal charges.⁷²

In addition to these examples of systematic harassment exercised against internationally recognised artists, through 2019 Freemuse documented dozens of other cases where Russian authorities and far-right groups acted to silence artistic creativity. On the pretext of protection of traditional values and political order, many cultural events were cancelled. In February 2019, rapper Eldzheya's (Alexei Uzenyuka) concert was cancelled in Kaliningrad due to (according to concert organisers



Teart.doc staff cleaning up the venue after the bad smelling 'bomb' attack during performance of the War is Close play on 20 September 2019, @Polina Ivanova, Twitter

Makroconcert) pressure from the authorities and an online petition against the performance initiated because of alleged “aggressive promotion of vulgarity”.⁷³ The participation of rock band Mashina Vremeni (Time Machine) in celebration of Russia’s National Day on 12 June 2019 at Moscow’s Red Square was cancelled just few days ahead of the planned concert. The group leader Andrei Makarevich, who is known for expressing critical views on Russian politics, including the annexation of Crimea, stated on Facebook that the reason for this cancellation was that “someone called someone”.⁷⁴

In 2019, further Russian artists faced detention and prosecution. In January 2019, musician Vyacheslav Eliseev (Vyacha) was charged over calls for terrorism in relation to his song *Kill the President*.⁷⁵ In August, Dmitry Smolev, actor at the Moscow-based Sovremennik Theatre, was sentenced to eight days in jail for disrepute of the Russian police and illegally wearing a police uniform in a 12-second video posted on the social network TikTok.⁷⁶

TURKEY:

- The government was the main violator of artistic freedom in 2019.
- Violations primarily occurred on the grounds of supporting terrorist organisations and insulting the president.
- There was an increase in self-censorship after the 2016 state of emergency decrees were adopted into permanent legislation.

Throughout 2019, Freemuse documented 33 cases of artistic freedom violations in Turkey. This includes four detentions, three imprisonments and seven prosecutions. The Turkish government was the main violator of artistic freedom and primarily executed the violations under the rationales of counterterrorism and protecting the state.

Two primary pieces of legislation were employed: Article 7/2 of Turkey's Anti-Terror Law (TMK) and Article 299 on insulting the president in the Turkish Penal Code. The proliferation of their systematic deployment was catalysed by the 15 July 2016 attempted coup and the consequential declaration of a state of emergency, whereby more than 30 emergency decrees were adopted and made permanent through changes to Turkey's legislative framework in July 2018.

These charges and their misapplication have contributed to a number of artists being forced to end their creative careers due to the pressure of being arbitrarily detained, whilst others have left the country in exile due to the fear of additional charges being presented against them if they had remained.

SILENCING ARTISTS THROUGH MISAPPLIED ANTITERROR LEGISLATION

The vague wording of TMK Article 7/2 proscribes "propaganda in favour of terrorist organizations" as actions or speech that praise and/or legitimise

the "force, violence, and threats" of terrorist organisations.⁷⁷ This has restricted the ways people may express themselves artistically because their expressions opposing the political, social and religious status quo are surmised as being congruent with terrorist organisations.

This has particularly affected the cultural and artistic expressions of Turkey's minority population, Kurdish people, both inside and outside the country through 7/2's disproportionate employment on Kurdish cultural expressions on the grounds of "separatist propaganda" and "terrorist" behaviour, often for the Kurdistan Workers' Party (PKK), which is proscribed a terrorist organisation in the country.

Illustrative of this censorship is the protracted targeting of Turkish-Kurdish band Grup Yorum, who in 2019 saw several group members charged and jailed for being "members of a terrorist organisation".⁷⁸ Members of Grup Yorum have been on a hunger strike since 16 May 2019; the band's guitarist İbrahim Gökçek and five other group members are on Turkey's "most wanted terrorists" list and there is a 300,000 Turkish lira (46,000 euros) bounty for each of them. On 25 February 2020, Gökçek was released from prison after almost two years without a court hearing and 252 days of death fasting.⁷⁹ Prior to being released, the musician was said to be in a "very intense state of weakness and has difficulty speaking". However, he affirmed:

I want to pick up my bass guitar and give a concert to millions with Grup Yorum.⁸⁰

Imagine that for the first time in the world, artists are on terrorist lists.

FERHAT TUNÇ, FREEMUSE INTERVIEW (ONLINE), JANUARY 2020



Grup Yorum guitarist İbrahim Gökçek on 26 February 2020 after being released from a two-year imprisonment and 252 days of death fasting on 25 February 2020. Credit: Grup Yorum Solidarity Committee 2020

On 4 February 2020, director Kazım Öz saw his case hearing for “being a member of the organization” adjourned at the Tunceli 2nd High Criminal Court for the second time. The director, known for his work on the films *Bahoz* and *Zer*, was detained for two days on 24 November 2018 in the Pertek district of Dersim for attending a training by the Peace and Democracy Party, which was considered to be ‘secret’, for attending the funeral of PKK co-founder Sakine Cailmez and for participating in the Gezi protests.⁸¹ Öz’s first hearing in October 2019 was adjourned to 4 February 2020, but following another adjournment the director will attend court on 28 April 2020 for the next hearing. If charged, Öz faces seven years, six months and 15 years in prison but maintains his innocence.

In similar cases, Turkish actor Ersin Umut Güler was sentenced to one year and three months in prison for “making propaganda for a terrorist organization”

in social media posts;⁸² four members of the Kurdish music band *Dewran* and four members of another band were detained for ‘spreading propaganda for a terrorist organisation’ for the PKK during performances in the Turkish town of Viranşehir;⁸³ and Turkish authorities banned a pro-Kurdish Peoples’ Democratic Party-organised theatre event in the southern city of Adana on the grounds that it represented a security threat.⁸⁴

CONVICTING ARTISTS FOR “INSULTING THE PRESIDENT”

Following Recep Tayyip Erdogan taking office as President of Turkey in 2014, prosecutions under Article 299 for “insulting the president” dramatically increased. In 2018, German news agency Deutsche Welle reported that investigations under Article 299 reached 20,539

in 2017, whilst 6,033 criminal cases were opened.⁸⁵ Prosecutions under 299 carry a prison sentence of up to four years and require permission from the Minister of Justice.

A number of these investigations and criminal cases were opened against musician Ferhat Tunç, who is currently facing seven cases adding to more than 20 years in prison. The musician fled into exile at the end of 2018 but on a visit to Turkey in January 2019 he was arrested and later released.⁸⁶ On 18 September 2019, Tunç saw two cases heard at the Istanbul’s Büyükçekmece 14th Criminal Court of First Instance for “insulting the president” and “provoking people into enmity and hatred”. Both cases were adjourned.⁸⁷ In two other cases, Tunç is charged with insulting former Prime Minister Binali Yıldırım in social media posts and with insulting the current President Erdoğan for equating him with the leader of the 1980 coup, Kenan Evren. Through

these protracted adjournments, Tunç is stuck in judicial limbo stating: “[I] cannot exercise my art in Turkey. So, I have been in Germany for 11 months already”.⁸⁸

Alongside these cases, Tunç has also been indicted on the charges of “making illegal organization propaganda” and “illegal organization membership”. In one case, the musician faces a sentence of up to 20 years for criticising Turkey’s military operation in the Syrian city of Afrin and allegedly attending meetings of the Kurdish Democratic Society Congress.⁸⁹ Other cases include sharing news from the Kurdistan Post that allegedly claimed Turkey was supporting ISIS and another that accuses the artist of “disseminating terrorist propaganda” for the PKK relating to his on-stage remarks in 2011 Mayday celebrations.

I have new cases and arrest warrants about me. It's all about criminalizing my messages of peace on social media. However, I was directly targeted by the names of the government.

FERHAT TUNÇ, FREEMUSE INTERVIEW (ONLINE), JANUARY 2020⁹⁰

In a separate case exemplifying the reach of Article 299, construction worker Deniz Avcı was sentenced to two years and two months imprisonment in May 2019 for “insulting the president” for sharing caricatures on his social media of President Erdoğan.⁹¹ The cartoons were originally drawn and published in 2017 by famous artists Sefer Selvi in the Evrensel newspaper and Musa Kart in the

If you are an opponent, the current judicial mechanism sees you as an enemy and tries to punish you.

FERHAT TUNÇ, FREEMUSE INTERVIEW (ONLINE), JANUARY 2020

Cumhuriyet newspaper.

An increasing number of prosecutions and imprisonments are being levied against oppositional voices and expressions in Turkey on the grounds of threatening national security and insulting the authorities. The Turkish government have actively distanced national legislation from international human rights standards and conventions that Turkey has previously ratified. In addition, through Law 7145, Emergency Decree Laws became normalised in the law, consequently leading to discretionary powers being given to local authorities. Governors are now able to ban meetings and events, remove civil servants from their jobs, and shut down spaces used by art and culture associations.

This rapid shrinking of civil society space in Turkey has contributed to a restrictive environment and climate of fear across the country whereby artists are censoring their own expressions or leaving the country before inevitable indictments are introduced against them. This risk is even more paramount for high-profile musicians, as the authorities seek to make an example of these people.⁹² Yet despite this, artists in Turkey continue to express themselves artistically and civil society remains persistent in finding alternative ways to engage because “in this country [Turkey], the struggle for rights is under a big roof, we are all under this roof”.⁹³

USA:

ARTISTIC EXPRESSION IN THE LIGHT OF INCREASING INTOLERANCE

- In 2019, artists and artworks critical of President Donald Trump were targeted or censored directly by the president and government agencies.
- LGBTI-themed artistic expressions increasingly faced censorship.
- One third of violations against artistic freedom in the USA in 2019 were committed by governmental bodies.

2019 saw the polarisation of American politics, followed by increasing levels of societal intolerance. These trends have also been reflected in the sphere of arts and culture, due to their effect on impeding the exercise of the freedom of expression. On 4 July 2019, 17-year-old Elijah Al-Amin was stabbed and killed for listening to rap music in Peoria, Arizona. This teenager was killed by Michael Paul Adams who admitted to committing the crime, claiming that rap music makes him feel “unsafe” and that he feels threatened by the people who listen to this type of music.⁹⁴

During his third year in office, USA President Donald Trump officially lashed out at the film industry for the first time. Further, he has led a state whose different agencies targeted and censored artists critical of him and his policies. In addition to different government agencies which are being held responsible for one third of violation cases documented in 2019, non-state actors, such as various private entities and individuals, have been recognised by Freemuse as violators in approximately 30 percent of cases. Further, those in the artistic community—mainly cultural institutions—initiated restrictions to artistic freedoms in 20 percent of all documented violations in the USA. In two thirds of cases registered by Freemuse, artists and artworks were censored and most frequently instigated by political and gender identity and sexual orientation (SOGI) related motivations.

CRITICISING THE TRUMP ADMINISTRATION

Through 2019, political opposition of President Trump was particularly targeted by different government actions.⁹⁵ Some moves by the representatives of state institutions have also negatively affected artists critical of state policies. For the first time in his presidency, President Trump became personally involved in criticising the film industry. On 9 August 2019, he told reporters at the White House: “Hollywood is really terrible. You talk about racist—Hollywood is racist. What they’re doing, with the kind of movies they’re putting out—it’s actually very dangerous for our country.” He continued: “They treat conservatives and Republicans totally different than they treat others. And they can’t do that.”⁹⁶ Although he did not name the film in the statement, he later clarified that he was referring to the thriller *The Hunt*, a satirical film about the story of “liberal elites” hunting right-leaning Americans for sport.⁹⁷ Following President Trump’s criticism of the film producers for inciting the violence and two mass shootings in early August,⁹⁸ Universal Pictures cancelled the release of the film scheduled for 27 September.⁹⁹ Although this film eventually entered the US market¹⁰⁰ in March 2020, the cancellation of its initial release indicates that the president’s comments can make critical and alternative narratives—be it artistic or otherwise—legitimate targets.

In another case documented in California, US authorities abused their powers to surveil their critics. On 6 March 2019, the media outlet NBC 7 Investigates from San Diego published a story leaked by an anonymous Department of Homeland Security source that the United States Customs and Border Protection had compiled a database of 59 activists, journalists, and social media influencers who were to be stopped for questioning by border agents when crossing the US-Mexican border.¹⁰¹ This list reportedly included persons based on their engagement with revealing information about US detention centers for immigrants in 2018. One person on the list was the US documentary photographer and artist Kitra Cahana whose photo and personal details were also included. She was subsequently repeatedly denied entry into Mexico and was detained for questioning on both sides of the border.

Further cases illustrate how those critical of President Trump are subjected to harassment or face censorship. In August 2019, the Richmond Arts & Culture Commission requested that interdisciplinary artist Christy Chan remove any mention of President Trump from her artistic installation *Inside Out*.¹⁰² Through this art project, the artist collected 1,100 submissions from Richmond residents reflecting on different social and political issues. Her idea

was to project them in the form of a 75-minute art video on an outdoor wall of the Richmond Memorial Auditorium from 21 to 25 August. One statement deemed particularly problematic read: “Donald Trump, *te perdono por rasista*” (I forgive Donald Trump for being racist). Following the ban by this publicly administered government agency, Chan came up with the idea, subsequently approved by the institution management, to replace the censored text with the message:

The city of Richmond has banned us from projecting phrases you submitted that criticise the President of the United States by name. Of the 1,100 phrases submitted many have shown viewpoints on the president in both English and Spanish.¹⁰³

Furthermore, after receiving an anonymous threatening phone call on 2 August 2019, the officials of the Southwind High School, located just outside of Memphis, Tennessee removed a piece of student art depicting President Trump and the Statue of Liberty from the school hallway.¹⁰⁴ This artwork, which was on display since 2016, showed President Trump with his mouth covered by white brush strokes and the Statue of Liberty covering its face. The school management elaborated in the media that this painting sparked criticism on social media over the past several months, adding that they were urged to remove it only after they received threats.

TARGETING LGBTI COMMUNITIES

In 2019, the USA continued to deteriorate in respect to human rights, perpetuating racism and discrimination.¹⁰⁵ In the past year, different US bodies adopted legislations which discriminate on SOGI grounds.¹⁰⁶ In such an atmosphere, Freemuse research demonstrates that artistic expression tackling SOGI issues has been under particular pressure. In May, Alabama Public Television refused to air the episode of the TV series “Arthur”, a long-running animated television show for children, because it featured a gay wedding. In the 22nd season premiere titled “Mr Ratburn and the Special Someone”, Arthur’s teacher Mr Ratburn marries Patrick and this wedding is attended by students. The television management elaborated that they



Project *Inside Out* Richmond. Credit: Christy Chan

opted to not run this episode in order to respect “the choice of parents who felt it was inappropriate for their children” and played a rerun of another Arthur episode instead.¹⁰⁷

In June, the President of the University of Central Arkansas, Houston Davis, ordered the removal of a sign at the university—put up to celebrate the LGBTI Pride month—quoting artist Lady Gaga saying: “Being gay is like glitter. It never goes away”. Davis justified this action by arguing that there is a “fine line” between “individual freedom of speech and institutional voice”.¹⁰⁸ In Delaware County, a drag queen-related event scheduled to be held at Ohio public library on 5 June, also during Pride Month, was cancelled. The organisers announced that participants in this event would be taught how to apply makeup for dressing in drag, which sparked a huge backlash. Republican House Speaker Larry Householder sent a letter in which he said that public libraries “should not be a resource for teenage boys to learn how to dress in drag”.¹⁰⁹ Subsequently, following extensive consultations with law enforcement officers, library management cancelled the “Drag 101” event.¹¹⁰ This string of cases give witness to a wider 2019 trend that also saw the removals of books featuring LGBTI content from libraries and school curriculum, as well as the cancellations of artistic events featuring LGBTI artists.¹¹¹

Free speech has been guaranteed by US national legislation (through the First Amendment to the United States Constitution), as well as through ratified international human rights instruments. Although international standards allow for limitations in regard to freedom of expression, they need to be prescribed by domestic law and satisfy the tests of necessity and proportionality. In the sphere of artistic expression, this means that artists cannot be arbitrarily censored or put under pressure due to their political dissent, nor under the pretext of border security or alleged protection of public morals in the case of LGBTI-themed artworks. International standards assure that the expression of political dissent and participation in public debate, including in the form of art, is protected under Article 19 of ICCPR.¹¹² Under this provision, criticism of a sitting president or his policies can never merit the targeting or censorship of artists by government agencies at any level. Furthermore, restricting public access to LGBTI artistic content under the pretext of public moral and protection of children constitutes violation of international law. Several international human rights bodies have consistently argued that the restriction of access to LGBTI information in the public space fails to pass the test of proportionality and necessity,¹¹³ and further, that states which prohibit the flow of information about LGBTI issues in the name of protection of minors failed to produce evidence in support of claims that the mention of homosexuality has any adverse effect on children.¹¹⁴

ZIMBABWE:

BRUTAL REPRESSION CONTINUES IN POST-MUGABE GOVERNMENT

- Human rights activists believe that Zimbabwe's security services are responsible for an abduction of a comedian found to be critical of the government.
- Zimbabwe's Criminal Law (Codification and Reform) Act and the Public Order and Security Act (POSA) include provisions that limit freedom of expression and of assembly.
- Despite promises of reform to the POSA, Zimbabwean law enforcement are still given broad regulatory discretion and powers.

Human rights violations against Zimbabwean artists have remained a notorious feature of the Zimbabwean government in 2019. On the surface, President Mnangagwa and his government have taken steps to appear that measures are in place that put an end to the systematic human rights abuses that were deeply institutionalised in Zimbabwe under former President Mugabe.¹¹⁵ However, reports that President Mnangagwa and his government have continued to uphold the autocratic legacy of President Mugabe are rampant.¹¹⁶

In January 2019, the government demonstrated that it would place extreme measures on its citizens to limit mounting political dissent. From 14 January 2019, peaceful nationwide demonstrations took place in response to the rising fuel prices in the country. The government unlawfully responded to these demonstrations with a nationwide Internet shutdown, along with Zimbabwean security forces using forms of torture, detentions and mass arbitrary arrests to silence protesters and members of the public.¹¹⁷ The Internet shutdowns, first imposed by the Zimbabwean Minister of State for National Security on 15 January, and then again on the 17 January, were imposed without following appropriate legal procedures.¹¹⁸ The High Court in Harare ruled that the Internet shutdowns were in direct violation of Zimbabwean laws found in Section 61 "Freedom of expression and freedom of the media" of the Zimbabwe Constitution of 2013 and

were thus made illegal and without effect.¹¹⁹ A report by The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression states that Internet shutdowns, like those carried out in Zimbabwe in January, "ordered covertly or without an obvious legal basis violate the requirement of article 19 (3)".¹²⁰ Under human rights law, a nationwide Internet shutdown can never be justified,¹²¹ yet the actions of the Zimbabwean government in January 2019 demonstrated it would act illegitimately to silence any form of dissidence.

FREEDOM OF EXPRESSION CONTINUES TO BE UNPROTECTED DESPITE PROMISES OF REFORM

President Mnangagwa set up a commission of inquiry, headed by the previous South African President Kgalema Motlanthe, to investigate the violence after his election. The Institute for Security Studies (ISS) stated that despite President Mnangagwa's "careful plans to present himself as a reformer" in the "disingenuous" inquiry, the results show a real lack of reform.¹²² Reports from multiple human rights organisations suggest that the systematic human rights abuses are only getting worse.¹²³ Freemuse findings align with the reports and demonstrate that freedom of expression continues to be unprotected and violated.

A significant factor for violations of artistic freedom is the national legislation that has been used to arbitrarily restrict this right. Zimbabwe's Criminal Law (Codification and Reform) Act and the Public Order and Security Act (POSA) both include provisions that restrict freedom of expression and assembly.¹²⁴

BRUTAL ABDUCTIONS BUT NO ACCOUNTABILITY, PAST OR PRESENT

*They pushed me and ordered me to sit in sewage water. They were saying 'You are too young to mock the government. You are being paid to mock the government.' They started beating me.*¹²⁵

SAMANTHA KUREYA, MAIL & GUARDIAN INTERVIEW, 4 DECEMBER 2020



Gonyeti (real name Samantha Kureya) performing. Credit: courtesy of the artist

On 21 August 2019, famed Zimbabwean comedian Gonyeti (real name Samantha Kureya) was abducted from her home in Harare, Zimbabwe by unidentified armed men who claimed they were police officers. Gonyeti was beaten, stripped, made to drink sewage water and left in what she believes was a sewage facility.¹²⁶

Civil society organisations have claimed that more than 50 people have been abducted in 2019¹²⁷ in what is seen as an increased form of political violence since President Mnangagwa's election.¹²⁸ Human rights activists believe that Zimbabwe's security services are responsible for the comedian's abduction.¹²⁹ Freemuse is deeply concerned about this form of political violence used to silence dissidence,¹³⁰ as it directly threatens the space protected by international human right treaties to openly criticise the government without interference. According to the comedian, her registered complaint with the police has not led to any progress or subsequent investigation.¹³¹

Prior to her abduction on 26 February 2019, Gonyeti was arrested by Harare police officers at her home in Mufakose. Employed by Bustop TV,¹³² the artist believes that her arrest was linked to her skit aired on the media channel titled #charitycharambachallenge. In the skit, Gonyeti and fellow comedian Magia (real name Sharon Chideu) performed a satirical piece where they impersonated police officers as a comment on police brutality in the country.¹³³ Although arrested, the artist was discharged from the Criminal Law and Order Section at Harare Central Police Station on the same day after paying a fine for "criminal nuisance."¹³⁴ Sources suggest that the abduction is an act of retaliation by Zimbabwe's law enforcement as a response to the comedian's performance.¹³⁵

BROADCASTING REGULATORY MECHANISMS AT THE DISCRETION OF ITS BOARD APPOINTED BY THE GOVERNMENT

The Broadcasting Services Act¹³⁶ is the key legal framework by which the authorities maintain control over the airwaves. This Act, passed on 3 April 2001, establishes the Broadcasting Authority of Zimbabwe (BAZ). BAZ is a body that falls under the Ministry of Information, Publicity and Broadcasting Services—as the key regulatory mechanism and vehicle by which it exercises multiple laws that concern licensing and ownership rules.¹³⁷ BAZ has its Board members appointed by the Minister of Information, Publicity and Broadcasting Services, Hon. Senator Monica Mutsvangwa who is consulted by President Mnangagwa.¹³⁸ The Broadcasting Services Act has restricted media freedoms for journalists, Zimbabwean musicians and media houses for many years despite constitutional provisions for freedom of expression.¹³⁹

Freemuse is concerned with the way the provisions for the act allow the board of BAZ to have discretion over the licensing legislation, and how it imposes censorship of music that it deems not fit for the broadcasting services to play.¹⁴⁰ The lack of transparency of the regulatory body also creates a lack of accountability, which provides for an unstable environment for Zimbabwean musicians with regards to how they and their music is regulated.

On 1 June 2019, the BAZ issued a letter to all radio stations nationwide, informing them that the song, *African Queen (Binga)*, released approximately 12 weeks before by dancehall musician Tocky Vibes (real name Obey Makamure) had been banned.¹⁴¹ According to sources, BAZ received an anonymous complaint about the content of the song and they thus banned it from the airwaves.¹⁴² *African Queen (Binga)* was found to be offensive to the people of the Zimbabwean district of Binga.¹⁴³ The lyrics that

were alleged to have led to its ban were: “if you visit Binga you will see naked people, if you stay in Binga you will be naked.”¹⁴⁴ Tocky Vibes, who self-identifies as a “defender of African people, their culture and their rights”¹⁴⁵ has objected to the ban, claiming he wanted to showcase the culture of the people of Binga rather than offend.¹⁴⁶

The Broadcasting Services Act vaguely defines offences and BAZ’s equally vague justification to artists often lack the precision needed under international human rights law to be a necessary and legitimate restriction on freedom of expression. According to the UN Special Rapporteur in the field of cultural rights, “The fear that some communities may protest should not be sufficient to lead to the conclusion that some artworks should not be displayed or performed; a certain level of contest and dispute is often inherent to contemporary art”.¹⁴⁷ The Broadcasting Services Act is deeply restrictive for Zimbabwean musicians, as its regulation is at the discretion of the board that is appointed by a Minister¹⁴⁸ approved by the president. Freemuse supports the UN’s Special Rapporteur’s statement that broadcasting bodies should not seek to censor artists without a reasonable justification, but instead seek to dispute the claims that this song was offensive.

In a supposed effort to repeal repressive laws, the Maintenance of Peace and Order Bill (MOPB) was presented in parliament to replace POSA. However, the proposed bill still leaves law enforcement agencies with broad regulatory discretion and powers, which if implemented, potentially violate international human rights standards.¹⁴⁹ This attempt at reform demonstrates a lack of political will from the president and his government.¹⁵⁰ This new measure only demonstrates that certain freedoms may be guaranteed in the constitution and in international human rights obligations, but are primarily dispensable to the discretion and commitment of the Zimbabwean state to its citizens.

RECOMMENDATIONS

Freemuse addresses the following recommendations to governments, international and regional bodies, including relevant bodies and mechanisms of the United Nations and civil society organisations.

Freemuse acknowledges the universality and indivisibility of human rights in all of these recommendations.

ALL GOVERNMENTS

1. Should ensure that the full array of states' obligations to respect, protect and fulfil the right of every person to freedom of artistic expression and creativity is taken as the core driver of all developments of law, policy and measures related to freedom of artistic expression and creativity.
2. Must ensure that any legislation (including defamation, insult and blasphemy) which places illegitimate limits on freedom of expression and artistic freedom are brought in line with international obligations under Article 19 of the ICCPR.
3. Should justify any restrictions (including cases in which art is censored) in accordance with provisions within the law, serve a legitimate aim and be proven necessary for the protection of the legitimate aim, according to Article 19(3) of ICCPR.
4. Must ensure that all limitations be proportionate against the benefits of the restriction when assessing the possible impact on freedom of expression; implemented with transparency, consistency and in a non-discriminatory manner.
5. Should understand how freedom of artistic expression is impeded legally and socially—using relevant UN treaties as a benchmark—in consultation with representatives of independent associations of artists, human rights organisations and other relevant bodies.
6. 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 ICCPR, and such liability should be imposed exclusively by a court of law. To this end, classification bodies should be independent; their membership to include representatives of the arts field; the terms of reference, rules of procedure and activities to be made public; and an effective appeal mechanism to be in place.
7. Should uphold the call from the then-UN Special Rapporteur in the field of cultural rights' 2013 report, in which she outlines how the regulation of access by children to controversial artistic material should not result in measures which prohibit or disproportionately restrict access for adults.
8. Should ensure that non-state actors—including unofficial religious groups, private individual actors and others—which are found to have used hate speech, or use threats (online or offline) or acts of violence (including the abduction of artists, as well as acts of vandalism or destruction targeting artwork) in an attempt to instigate acts of acts of censorship, must face prompt, impartial and effective investigation in accordance with international legal standards.
9. Governments should ensure that syndicates and other professional bodies are strongly encouraged to actively adopt human rights principles to guide their internal policies on how they govern artist members.
10. Should ensure the immediate release of all artists in administrative or arbitrary detention, or charges should be brought against them.

ON THE RIGHT TO INSULT

11. Must ensure that public debates about public morality or debates about the “need to protect the nation” do not lead to undue or arbitrary restrictions on the right to freedom of expression and on artists when exercising their right to artistic freedom, and in such cases, all restrictions should be in line with provisions laid out in Article 19 (3) of the ICCPR.
12. Must review and repeal laws or provisions penalising insult to heads of states, including against foreign heads of states, national institutions and emblems; should not allow that the offence of insult to religious feelings be used as a vehicle for repressing freedom of expression in accordance with Venice Commission findings, as well as the UN Special Rapporteur in the field of cultural rights’ 2013 report findings, that artistic expression and creativity may entail the re-appropriation of symbols including religious (figures, symbols, venues) as part of a response to the narratives promoted by states, religious institutions or economic powers unless it is found that the work contains an element of incitement to hatred as an essential component.

LGBTI LAWS

13. Must uphold the findings of the Venice Commission’s 2013 report in which it found statutory provisions of LGBTI anti-propaganda laws incompatible with international human rights standards by being ambiguous and including blanket restrictions aimed at legitimate expressions of sexual orientation.
14. Must urgently review and repeal all laws which embody discriminatory provisions undermining the rights of LGBTI communities to equality before the law and introduced with the intention of protecting children from “information harmful for their health and development” which can also be used to restrict dissemination of information on LGBTI topics.
15. Must ensure that all laws governing hate speech are in line with international standards and that senior government officials condemn the use of hate speech by officials and non-state actors towards LGBTI persons.

ON THE RIGHT TO PROTEST

16. In recognising the right of every individual to hold and share opinions as stipulated under Article 19 of the ICCPR, should take into consideration the specific nature of artistic creativity, as well as the right of artists to dissent, to use political, religious, economic and national symbols as a counter-discourse to dominant powers and to express their own beliefs and world vision, in accordance with the recommendations of the former UN Special Rapporteur in the field of cultural rights. The use of imaginary and fiction must be understood and respected as a crucial element of the freedom indispensable for creative activities.

ON COUNTERTERROR

17. Should treat cases in which artists are reasonably suspected of involvement in a recognisable terrorism-related crime, that they are charged and prosecuted, in an ordinary criminal proceeding and only where sufficient evidence exists, in line with international standards, supporting and endorsing the recommendations by the UN Special Rapporteur in the field of cultural rights.
18. Must ensure that no provisions within domestic counterterrorism legislation violate state obligations under international human rights law and standards, specifically Article 19 of the ICCPR. These laws should only criminalise expression that encourages others to commit a recognisable criminal act with the intent to incite them to commit such an act with a reasonable likelihood that they would carry it out and there is a causal link between the statement made and the criminal act.
19. Must ensure that the use of measures primarily intended to counter terror are not used to suppress forms of artistic expression including peaceful political commentary. This should be especially extended to visual and performing artists who use humour, satire, parody, often invective forms of expression but also groups, such as women and minority artists, who are particularly vulnerable to discriminatory

treatment and otherwise whose political expression may lead to arbitrary censorship of their work.

20. Must urgently review and remove all arbitrary restrictions on the right to freedom of movement which specifically prevent artists from rightfully practising their art in a country of their choice.
21. Should establish ministries with a specific focus on culture and art in countries where ministries on this area are absent, ensuring that these ministries are separated from other functions including the governance of sport and youth.

ON DIGITAL RIGHTS GOVERNING FREEDOM OF EXPRESSION

22. Should sufficiently govern social media companies' policies and practices so that they respect the right to free expression especially through: (a) revising community guidelines so that they are consistent with relevant international human rights standards (including the ICCPR); (b) granting artists whose content has been removed the right to appeal through a fair and transparent process in which artists are provided with easy access to information about appeals, as well as timely responses to appeals and complainants in line with international human rights standards; (c) publicly disclosing information on the number of incidents in which social medial companies remove content and their reasons for removal.
23. Must apply human rights protections as stipulated under section 19 of the ICCPR equally in the offline and online context and governments "should not demand—through legal or extra-legal threats—that intermediaries take action that international human rights law would bar States from taking directly themselves", reiterating the 2018 call of the UN special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.
24. Should recall the statement of the UN Human Rights Council, in which it unequivocally condemns the use of "measures in violation of international human rights law that prevent or disrupt an individual's ability to seek, receive or impart information online, calls upon all States

to refrain from and to cease such measures, and also calls upon States to ensure that all domestic laws, policies and practices are consistent with their international human rights obligations with regard to freedom of opinion and expression online."

STRENGTHENING OF ARTS AND CULTURE INSTITUTIONS

25. Should ensure a plural and diverse political environment by strengthening the mandates of relevant arts and culture institutions and entities to ensure and maintain their independence, including transparency in all decision making (including programmatic, operational, funding and recruitment of senior positions and maintaining checks and balances on any appointment of individuals which appears to be based on their political, religious or corporate affiliation) ensuring that these bodies are overseen by independent cultural institutions and entities.
26. Should recall the 2013 recommendations of the Special Rapporteur in the field of cultural rights, in which she recommends that "States and other stakeholders assess and address more comprehensively restrictions to artistic freedoms imposed by corporations, as well as the impact on artistic freedoms of aggressive market strategies and situations of monopolies or quasi-monopolies in the area of media and culture. The support provided to cultural industries should be revisited from the perspective of the right to artistic freedom."
27. Must ensure that measures to protect artists and cultural workers from precarious working conditions and that the nature of the gig economy does not prevent workers from continuing to work in the sector.
28. Should carefully consider the implications of any new state fiscal measures, policies or wider reforms targeted at the cultural and arts sector. States to additionally ensure that any changes to governmental fiscal policy, including tax regulations, industry subsidies or grants etc. designed to fund projects emerging from the cultural and arts sector, are carried out only after transparent, informed consultations with

the sector. Changes in state policy (including fiscal) should not be used as a vehicle for undermining freedom of expression or artistic expression, specifically that belonging to the LGBTI community or those advocating for women’s rights.

29. Should consult with civil society organisations and other relevant stakeholders (including artists focused on expression containing LGBTI, feminist themes etc.) working in the field of freedom of expression and artistic freedom—through transparent, enabling and fully informed processes—before drafting and submitting their Quadrennial Periodic Reports (QPR) submissions to UNESCO.
30. Should publish cultural policies and ensure that these are easily accessible.
31. Should establish a hotline centre in cooperation with relevant national human rights bodies, where artists can report unlawful restrictions of artistic freedom of expression. This centre should have the mandate to examine complaints and the mandatory power to refer the cases to relevant agencies for legal and other appropriate actions. The number and nature of these complaints should be made public for further policy analysis and development.

rights, artistic expression, women’s rights etc. Freemuse reiterates the call of the UN Special Rapporteur in which he stipulates that “companies must embark on radically different approaches to transparency at all stages of their operations, from rule-making to implementation and development of “case law” framing the interpretation of private rules,” and open themselves up to public accountability, and “make the development of industry-wide accountability mechanisms (such as a social media council) a top priority.”

34. Must unequivocally and publicly condemn online attacks against women and women artists (including sexual and gender-based violence and abuse of women) in which women and women artists who engage in public debate are particularly targeted for their online expression. Freemuse calls on social media platforms to build on a conceptual understanding in its approach in dealing with gender violence, which is based on the premise that online violence is an extension of offline violence. In this context, companies should allocate a sufficient operational budget which allows them to adequately respond to the nature, frequency and scale of these gender specific threats responsibly, including training and equipping moderators with operational guidance in line with international standards governing violence against women.

SOCIAL MEDIA PLATFORMS

32. “Companies should recognize that the authoritative global standard for ensuring freedom of expression on their platforms is human rights law, not the varying laws of States or their own private interests,” as per the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression’s 2018 call.
33. Must revise their community guidelines to ensure they are in line with international human rights standards governing freedom of expression and artistic expression, and in extensive consultations with civil society organisations and experts in the field of digital

UNITED NATIONS AND APPROPRIATE MECHANISMS

35. UN and relevant international organisations should include freedom of artistic expression in all relevant debates, mechanisms and formulations focusing on freedom of expression.
36. “The UN Counter-Terrorism Committee and its Executive Directorate must engage more proactively with Governments on the way

in which national implementing measures may breach international human rights law, particularly measures that affect civil society, including the definition of terrorism and the criminalisation of legitimate expression and opinion,” as per the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism’s submission to the UN Human Rights Council in March 2019. This should be further extended to include legitimate forms of artistic expression.

37. Should provide technical assistance where legal frameworks governing freedom of expression and artistic expression need strengthening to ensure member states are able to bring their legislation in line with relevant international standards and in cooperation with relevant implementing bodies including UNESCO and regional inter-governmental organisations.
38. The Council of Europe, Organisation for Security and Cooperation and UNESCO should create platforms for dialogue and exchange among Member States on good practise relating to the promotion and protection of artistic freedom. These exchanges should be based on solid research analysis and findings—compiled by independent civil society organisations—and be used to assist member states to implement sections of the ICCPR related to freedom of artistic expression as a matter of priority. These platforms should allow member states to exchange good practises, premising its approach on the need for cultural diversity and plurality to fully understand the differing nature of artistic expression, encouraging them to embrace tolerance particularly in relation to controversial artforms such as political satire, political cartoons etc.
39. UNESCO should support and ensure that states party to the 2005 Convention on the Promotion and Protection of the Diversity of Cultural Expressions report the policy, environment and practices of violations of artistic freedom committed by both states and non-state actors. UNESCO and the Convention Inter-governmental Committee should formally accept information and complementary reports from civil society in addition to states’ reports and make available enough time and platforms for meaningful exchanges with civil society organisation. UNESCO should increasingly play a leadership role in driving freedom of artistic and cultural expressions forward by illustrating its resources and programmatic

commitments to artistic freedom in connection with other international human rights bodies and mechanisms.

CULTURAL ORGANISATIONS

40. Should ensure that their funding strategies are based on core ethical principles, guided by transparency and accountability—in which there are clear funding criteria applied consistently to all potential sponsors. In drafting these policies and strategies, cultural organisations should institute diverse decision-making panels to assess all potential sponsors. Policies should clearly ensure that funders (including private sponsors) are not able to steer internal policies or interfere with artistic freedoms (including content or messaging) of individual projects.
41. Should introduce sectoral checks and balances to ensure that cultural organisations remain accountable in which forms of independent peer review engagement is duly encouraged in conformity with transparent terms of reference and rules of procedure.
42. Should ensure that national cultural bodies regulate and put in place transparent accountability mechanisms to govern syndicates and professional artist organisations so that they neither restrict artistic freedom nor punish artists arbitrarily. National cultural institutions should ensure that these bodies enhance their transparency and ensure access to information on matters relating to the recruitment of individuals for senior positions, funding, as well as decision making relating to programs and operations. 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.

CIVIL SOCIETY BODIES:

43. Should continue to monitor, document and raise awareness of the impact of antiterrorism and national security measures and other undue restrictions in laws and practices in a systematic manner and strengthen engagement with the global and regional counterterrorism architecture, including the UN and other relevant agencies traditionally seen as dealing with security-related issues that work on antiterrorism.
44. Should strengthen their engagement with relevant authorities at international, regional and national level to expose illegitimate restrictions on artistic freedom.

ENDNOTES:

CHAPTER 2

▶ GLOBAL TRENDS

Nationalism grows at the cost of free expression

1. 'UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein Highlights Human Rights Concerns around the World in an Address to the 36th Session of the UN Human Rights Council in Geneva, 11 September 2017', The United Nations Office at Geneva, 11/9/2017., [https://www.unog.ch/unog/website/news_media.nsf/\(httpNewsBy-Year_en\)/D0BF0EABE559E1ADC12581980045720E?OpenDocument](https://www.unog.ch/unog/website/news_media.nsf/(httpNewsBy-Year_en)/D0BF0EABE559E1ADC12581980045720E?OpenDocument), (accessed 29 February 2020).
2. Freemuse does not intend to define populism within this document but draws on general understandings of how populism is defined, in which leaders who appeal to ordinary people and view the old elites as their opponents as self-serving and undemocratic. In Hungary, Orban has clearly iterated that the main task of the new cultural elite is to serve the "government of national affairs" and publicly represent its system of values with only elected politicians mandated to determine these values.
3. In her fourth Quarterly Activity Report to the Council of Europe, the Commissioner for Human Rights Dunja Mijatovic noted how counterterrorism legislation has the potential to become a dangerous tool in the hands of states, increasing the "risk of misuse either for political or for what could be called 'populist' reasons, to send a signal to the population that the authorities are strong on the counterterrorism front and are doing their utmost to prevent terrorist attacks". For further information see: <https://rm.coe.int/4th-quarterly-activity-report-2018-by-dunja-mijatovic-council-of-europ/168091f144>, (accessed 29 February 2020).
4. The introduction of regulatory changes, increased pressure on funding, including the abolition of TAO, the corporate tax system which enabled a steady and reliable source of income for theatre companies and its subsequent replacement with a politicised central funding system, already signalled a deteriorating climate for artistic expression in Hungary. The state reconfiguration of parallel cultural institutions bestowed and favoured with disproportionate levels of funding has underlined this deterioration further.
5. In its report, *The State of Artistic Freedom 2019*, Freemuse documents the incremental changes introduced by the government undermining freedom of expression (including the centralisation of power over the media) as well the measures taken to limit the right to artistic expression.
6. In his annual and seminal summer addresses, President Orban has repeatedly highlighted the need for ensuring that the Constitution serves the national interests. This approach has seen the alignment of the executive, legislative and judicial powers, prompting the Council of the European Union to trigger proceedings against Hungary, under a new sanction mechanism (Article 7 of the Amsterdam Treaty) which protects fundamental values under Article 2 of the Treaty. Under this mechanism, the EU are mandated to impose sanctions where it finds that Member States are charged with a "serious and persistent breach" of EU values including "respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities."
7. For further information see: <https://www.touteleurope.eu/actualite/qui-est-viktor-orban-premier-ministre-hongrois-et-champion-de-la-democratie-iliberale.html> and <https://www.calvertjournal.com/articles/show/10626/orban-hungary-culture-war-budapest>
8. <https://budapestbeacon.com/full-text-of-viktor-orbans-speech-at-baile-tusnad-tusnadurdo-of-26-july-2014/> Last accessed 24 February 2020
9. For further information see: <https://www.kormany.hu/en/the-prime-minister/news/national-cultural-council-formed>, (accessed 24 February).
10. In an interview given to the Daily News Hungary in December 2019, Attila Vidnyánszky, Director of Budapest's National Theatre, commented on proposed theatre funding legislation, reporting that 80% of theatre funding comes directly from the Human Resources Ministry. At the time of writing, it remains unclear if the December 2019-proposed changes on operational grants to independent theatres have been approved. Read more at: <https://dailynewshungary.com/new-hungarian-theatre-bill-to-address-decade-long-problems-democratically/>, (accessed 26 February 2020).
11. For further information see: <https://www.nytimes.com/2019/12/13/arts/hungary-theater-orban.html>
12. For further information see: O. Hálózat, Hungary Turns its Back on Europe, Dismantling Culture, Education, Science and the Media in Hungary 2010 – 2019, <https://hungarianspectrum.org/tag/hungarian-network-of-academics/>, p. 58
13. For further information see: <https://hungarytoday.hu/ruling-parties-to-change-culture-bill-after-harassment-case-actors-protests-against-kulturkampf/> (accessed 26 February 2020)
14. Under Article 4 of the ICCPR, a state of emergency, which allows a government to 'derogate' or depart from its normal obligations may be declared, "[i]n time of public emergency which threatens the life of the nation" and only "to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law".
15. In France, for example, the government introduced an antiterror bill in 2017 which essentially moved emergency powers enacted after the 2015 terrorist attacks into ordinary law. For further information see, 'France's permanent state of emergency', Amnesty International, 26 September 2017, <https://www.amnesty.org/en/latest/news/2017/09/a-permanent-state-of-emergency-in-france/>, (accessed 4 April 2020); 'France: Don't 'Normalize' Emergency Powers', Human Rights Watch, 27 June 2017, <https://www.hrw.org/news/2017/06/27/france-dont-normalize-emergency-powers>, (accessed 4 April 2020)
16. Over 50 laws of "indirect incitement" have been enacted since 2001, imposing excessive and unwarranted restrictions on freedom of expression. For more information see: 'In the Name of Security', Human Rights Watch, pp. 41-6.
17. Article 19 (3) of the ICCPR, whilst guaranteeing freedom of expression, allows for certain restrictions where necessary and provided by law. These restrictions must also be understood in terms of an exceptional or existential endangerment and limitations must be minimal, proportional and necessary.
18. Expressing serious concern about the use of "glorification of terrorism" clauses, the Commissioner for Human Rights at the Council of Europe, Dunja Mijatovic, highlighted how the number of people sentenced for the apology of terrorism in France have increased from 3 in 2014 to 306 in 2016. These concerns materialized once again in December 2018 when the EU outlined its proposed EU Regulation to prevent the dissemination of extreme terrorist content principle of legality by framing imprecise thresholds for what could constitute acts thought to glorify or apologise terror.
19. For further information see: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/057/59/PDF/G1905759.pdf?OpenElement> A/HRC/40/52, para. 37.
20. https://www.lexpress.fr/actualite/societe/la-menace-terroriste_921204.html
21. At the end of May 2013, Turkey witnessed mass peaceful demonstrations against the development of Gezi Park. As protests gathered strength, the government responded with forces including indiscriminate use of tear gas to disperse the crowd (which reportedly resulted in the death of 14-year-old Berkin Elvan who was hit in the head by a canister). In a speech given in November 2018, President Erdogan remarked that anybody supporting the Gezi Park protests was a supporter of terrorist groups. In 2020, those accused of organising the protest were acquitted of charges of "attempting to overthrow the government wholly or partially preventing its functioning". For

more information see: <https://www.aa.com.tr/en/todays-headlines/praising-gezi-park-protests-is-supporting-terrorism/1317758> and <https://ahvalnews.com/singer-alpay/veteran-singer-under-investigation-dedicating-song-youths-killed-turkish-authorities>, [accessed 1 March 2020].

22. 'Musician Tunç leaves Turkey: 'I began a hard journey'', *bianet*, 5 March 2019, <https://bianet.org/english/human-rights/206096-musician-tunc-leaves-turkey-i-began-a-hard-journey>, [accessed 4 April 2020].
23. 'Deadpool Comic Book Censored in Russia over 'Nazi Propaganda', *The Moscow Times*, 15 January 2019, <https://www.themoscowtimes.com/2019/01/15/deadpool-comic-censored-in-russia-over-nazi-propaganda-a64145>, [accessed 4 April 2020].
24. Last.fm site blocked for "extremist" song, *svoboda*, 2 May 2019, <https://www.svoboda.org/a/29917028.html>, [accessed 4 April 2020].
25. In her interview with *Freemuse*, ethnomusicologist Rachel Harris, who lectures at the School of African and Asian Studies in London, and has published extensively on the subject, talks about how Uyghur culture and religion inside and outside the camps has been systematically targeted by the state. For further information see: <https://www.theguardian.com/commentisfree/2019/apr/07/bulldozing-mosques-china-war-uyghur-culture-xinjiang> [accessed 10 March 2020].
26. 'Cultural Genocide in Xinjiang: How China Targets Uyghur Artists, Academics, and Writers', *The Globe Post*, 17 January 2019, <https://theglobepost.com/2019/01/17/cultural-genocide-xinjiang/>, [accessed 10 March 2020].
27. For further information see: <https://theintercept.com/2019/12/29/why-dont-we-care-about-chinas-uyghur-muslims/> [accessed 10 March 2020].
28. In April 2019, media outlets and human rights organisations reported on how the USA government failed to nominate an official representative to The Committee on the Elimination of Racial Discrimination—a UN body mandated to monitor the implementation of the Convention on the Elimination of all Forms of Racial Discrimination—compounding ongoing concerns about the rampant use of racist language by the US President. For further information see: <https://www.hrw.org/news/2019/04/16/us-does-not-nominate-representative-critical-rights-body>, [accessed 1 March 2020].
29. 'Supreme Court upholds travel ban', *CNN*, <https://edition.cnn.com/2018/06/26/politics/travel-ban-supreme-court/index.html>, [accessed 12 March 2020].
30. In January 2020, the travel ban was extended to six other countries: Nigeria, Eritrea, Kyrgyzstan, Myanmar, Sudan, and Tanzania. For further information see: <https://www.mayerbrown.com/en/perspectives-events/publications/2020/01/president-trump-extends-travel-ban-to-six-countries> and <https://edition.cnn.com/2019/10/31/politics/travel-ban-more-countries/index.html>, [accessed 12 March 2020].
31. H. Bishara, 'Iraqi Artists Face Travel Obstacles to Visit Gulf Wars Exhibition at MoMA PS', *Hyperallergic*, 7 November 2019, <https://hyperallergic.com/527205/iraqi-artists-face-travel-obstacles-to-visit-gulf-wars-exhibition-at-moma-ps1/>, [accessed 12 March 2020].

Religious values and institutionalisation

1. The former UN Special Rapporteur in the field of cultural rights Fari-da Shaheed, in her 2013 report on artistic freedom, highlights how artists have been accused of "blasphemy" or "religious defamation", insulting "religious feelings" or inciting "religious hatred". *Freemuse* has observed how blasphemy and other related laws which prohibit insult or hurting the religious feelings of others have commonly been interpreted in a manner by the courts which inevitably restricts the scope of artistic expression, limiting its ability to broach, engage or touch upon issues relating to religion. For further information see: *A/ HRC/23/34*, para. 47.
2. The takeover of India's top research, educational and cultural institutions (and undermining of the media and NGOs) has been progressing since 2014. Observers have noted how BJP-appointed officials, head-

ing these research, educational and cultural bodies, have reinterpreted India's history according to Hindu mythology. This reinterpretation has included a demonisation of minorities and an extolling of patriarchal values, particularly in educational textbooks which are distributed amongst secondary schools. For further information see: <https://www.firstpost.com/politics/righting-india-modi-will-post-rss-men-lead-top-research-cultural-bodies-1602761.html>; <https://www.democracywithoutborders.org/8686/v-dem-a-third-wave-of-autocratization-now-affects-24-countries/>, [last accessed 8 March 2020].

3. Acts of direct censorship of artwork are a common phenomenon in India. In the area of film, the Central Board of Film Certification (CBFC) is the key regulatory film body and is known to frequently order directors to remove offensive content, including sex, nudity or any material with dissident themes under The Cinematograph Act, 1952 and Rules. In addition to state acts of direct censorship, however, as journalist for the daily newspaper, *The Hindu*, Namrata Joshi points out, cinema in India has a long history of "falling prey to mobocracy aka extraconstitutional or extra-legal forms of censorship". Religious groups are also known to have played a part in calling for the censorship of artwork under all governments. However, this has been paid a lack of due attention as all governments and political parties have kowtowed to it.
4. Anubha Yadav, *Freemuse Interview*, 8 March 2020.
5. Namrata Joshi, *Freemuse Interview*, 5 February 2020. In an article featured in *The Hindu*, she further highlights how Bollywood producers and directors have capitulated to public pressure (from Hindu right-wing groups) to ensure that no Pakistani actors are given even minor roles in their roles. For further information about the nature and impact of the ongoing tensions between Pakistan and India on artistic freedom and the cultural landscape, see page xx. For Namrata Joshi's piece see: 'A New Censorship', *The Hindu*, October 20 2016, <https://www.thehindu.com/opinion/op-ed/A-new-censorship/article16076760.ece> [accessed 9 March 2020]; 'Mission Mangal' review: The magnificent MOM', *The Hindu*, 16 August 2020, <https://www.thehindu.com/entertainment/reviews/mission-mangal-review-the-magnificent-mom/article29099495.ece>, [accessed 9 March 2020].
6. The Citizenship Amendment Act (enacted on 11 December 2019 -) fast-tracks the naturalisation of some persecuted religious minorities who immigrated illegally from Pakistan, Bangladesh and Afghanistan, but excludes Muslims. Many fear that it will be used in conjunction with the recently introduced and problematic National Register of Citizens. For further information see: <https://thewire.in/communalism/caa-nrc-bjp-modi-shah>
7. In a move rarely witnessed in India's history, the introduction of the CAA prompted the High Commissioner for Human Rights (OHCHR) to announce that it would be filing an application in the Indian Supreme Court, challenging the (CAA) on the grounds of its "fundamentally discriminatory" nature that "appears to undermine India's commitment to equality before the law, as enshrined in its Constitution". New citizenship law in India 'fundamentally discriminatory', *UN News*, 13 December 2019, <https://news.un.org/en/story/2019/12/1053511>, [accessed 5 March 2020].
8. For further information see <https://www.indiatoday.in/india/story/dont-communalise-iit-kanpur-students-respond-to-professor-who-accused-them-chanting-anti-india-slogans-1630553-2019-12-22>, [accessed 5 March 2020].
9. Following the controversy, commentators quickly pointed out the irony, criticising how Faiz had penned *Hum Dekhenge*, in 1979 against the ruling regime of Zia-ul-Haq in Pakistan and its authoritarian style of functioning. For further information see: <https://scroll.in/latest/948622/never-underestimate-the-power-of-faiz-poets-daughter-responds-to-iit-kanpur-controversy>, [accessed 5 March 2020].
10. Creative resistance has emerged as the key form of expression in which protest songs, murals, street-art, as well as poetry (also witnessed during the pro-Independence movement) have all become crucial to the ongoing political struggle against the controversial CAA. Academic Dr Sumangala Damodaran documents the creative nature of the anti-CAA protests and the use of artistic expression as part of these protests. For further information see: <https://thewire.in/culture/yeh-gulab-nahin-inqilab-hai-the-tradition-of-protest-music-in-contemporary-india>, [accessed 8 March 2020].

11. The destruction of the mosque by members of the Rashtriya Swayamsevak Sangh (or R.S.S.), a violent right-wing organisation that promotes Hindu supremacy, as well as the members of the Bajrang Dal who claimed that the mosque was built on the birthplace of a Hindu deity Rama, is clearly documented by human rights groups. For further information see: <https://www.newyorker.com/news/on-religion/the-violent-toll-of-hindu-nationalism-in-india>, [accessed 9 March 2020].
12. For further information see: <https://scroll.in/latest/948622/never-underestimate-the-power-of-faiz-poets-daughter-responds-to-iit-kanpur-controversy>, [accessed 5 March 2020].
13. For further information see: <https://thewire.in/culture/yeh-gulab-nahin-inquilab-hai-the-tradition-of-protest-music-in-contemporary-india>, [accessed 8 March 2020].
14. Dr. Sumangala Damodaran, *Freemuse Interview*, 6 March 2020.
15. Allegations of a deliberate government strategy to undermine fundamental rights, including freedom of expression, have long been reported on by the media. For further information see <https://theintercept.com/2018/10/20/in-bolsonaros-new-brazil-far-right-evangelical-billionaire-edir-macedos-media-empire-is-being-exploited-to-investigate-journalists-including-the-intercept/>, [accessed 9 March 2020].
16. For further information see: <https://twitter.com/jairbolsonaro/status/1228795809803665415>, [accessed 31 March 2020].
17. 'The government is strangling cinema: Brazil film industry fights for survival', *The Guardian*, 9 December 2019, <https://www.theguardian.com/world/2019/dec/09/brazil-rio-international-film-festival-bolsonaro-fight-survival>, [accessed 9 March 2020].
18. The Freemuse country entry on Brazil in this report, as well as international and domestic media, continue to report on violations of artistic expression. For further information see: <https://www.theguardian.com/artanddesign/2018/nov/07/brazil-artists-death-threats-censorship-intimidation-jair-bolsonaro>, [accessed 9 March 2020].
19. A key opinion poll administered by Ibope [Brazilian Institute of Public Opinion and Statistics] has demonstrated that President Bolsonaro's strategy of publicly undermining the role of human rights standards and approaches has catalysed public opinion towards a more conservative narrative in public opinion. For example, amongst those surveyed, support for the death penalty rose from 31 per cent to 50 per cent. For further information see: 'How Brazil swayed towards conservative values under Bolsonaro', *Financial Times*, 13 February 2020, <https://www.ft.com/content/0aeb9c84-4364-11ea-a43a-c4b328d9061c>, [accessed 10 March 2020].
20. For further information see: <https://www.theguardian.com/world/2018/dec/06/outcry-over-bolsonaros-plan-to-put-conservative-in-charge-of-new-family-and-women-ministry>, [accessed 6 March 2020].
21. At the end of 2019, artists and festival directors spoke out about how the cuts to public funding were essentially strangling film production, which would essentially in the longer term mean a decline in the number of Brazilian movies being produced. "The government is strangling cinema: Brazil film industry fights for survival", *The Guardian*, 9 December 2019, <https://www.theguardian.com/world/2019/dec/09/brazil-rio-international-film-festival-bolsonaro-fight-survival>, [accessed 9 March 2020].
22. For further information see: <https://cruxnow.com/church-in-the-americas/2019/07/brazilian-archbishop-forces-cancellation-of-disrespectful-theater-production/>
23. Nataly Callai, *Freemuse interview*, 6 January 2020.
24. In its 2019 report, *Security, Creativity, Tolerance and their Co-existence: The New European Agenda on Freedom of Artistic Expression*, Freemuse notes how, "Attempts to restrict artistic expression in Poland have been paralleled by the government's wider agenda to diminish freedom of expression. This is illustrated by its relentless attempts to inject political propaganda into the messages carried by the media and the introduction of regulatory changes to increase its control of the public service media. There have similarly been concerted attempts to restrict the independent functioning of the judiciary, as well as various national institutions, as part of the government's efforts to muzzle "unpatriotic" views." For further information see: <https://freemuse.org/wp-content/uploads/2020/01/SECURITY-CREATIVITY-TOLERANCE-AND-THEIR-CO-EXISTENCE.pdf> In P37. In February 2019, Human Rights Watch issued its report documenting how following the Law and Justice Party electoral victory in 2015, women's rights organisations and activists (some of whom are also known to advocate for LGBTI rights) have faced targeted, "smear campaigns, public rhetoric, systematic defunding." For further information see: <https://www.hrw.org/news/2019/02/06/poland-womens-rights-activists-targeted>, [accessed 1 April 2020].
25. Elżbieta Podleśna, *Freemuse interview*, 14 March 2020.
26. For further information see: <https://twitter.com/jbrudzinski/status/1125351071692533760>, [accessed 11 July 2019].
27. For further information see: https://www.vice.com/en_uk/article/gyzgem/polands-populist-government-has-declared-war-on-the-lgbtq-community?utm_source=stylizedembed_vice.com&utm_campaign=9kezez&site=vice, [accessed 10 March 2020].
28. In July 2019, the District Court of Warsaw ruled that the distribution of "LGBTI free" stickers by news daily, *Gazeta Polska*, a pro government newspaper, would need to be immediately suspended. However, despite this ruling, the newspaper reworded the discriminatory language within the stickers to comply with relevant laws and regulations, instead printing them with the wording "LGBT Ideology-Free Zone." For further information see: <https://oko.press/sad-nakazal-wstrzymanie-dystrybucji-naklejek-gazety-polskiej-z-haslem-strefa-wolna-od-lgbt/>, [accessed 10 March 2020].
29. The absence of any documentation or monitoring by the government in relation to hate crimes against LGBTI communities in Poland compounds the inability of human rights and LGBTI activists and others from quantitatively being able to assess the gravity of the situation. However, human rights defenders who have been observing and reporting on hate crimes have noted of an increasing number of cases which are being reported to them.
30. For further information see: <https://www.dw.com/en/polish-conservatives-win-vote-but-lose-senate-majority/a-50826643>, [accessed 12 March 2020].
31. In its 2019, in its report *Security, Creativity, Tolerance and their Co-existence: The New European Agenda on Freedom of Artistic Expression*, Freemuse highlighted how the influence of the Catholic Church has been increasingly entrenched over previous years, in which the "religious components of school curriculums have been decided by authorities of a church or religious association, and the programmes and textbooks used in religious education are first submitted to the Minister of Education for approval before being introduced at the schools he ruling party." Recent changes which criminalise sex education signal that the onslaught on sex education, or anything found to diverge with Catholic norms, will only be embedded further in both law and also policy and practise. For further information see: K. Heland-Kurzak, 'Religious Structure of Child Education Policy in Germany, Poland and UK', *International Journal of Information and Education Technology*, Vol. 6, No. 12, December 2016, p. 941; <https://www.dw.com/en/poland-new-legislation-treats-sex-education-as-pedophilia/a-50853031>, [accessed 12 March 2020].
32. This law undermines the right to access health care, including reproductive healthcare information, which is a human right under the Convention on the Elimination of All Forms of Discrimination against Women and other international treaties which Poland has ratified. For further information see: <https://www.ohchr.org/Documents/Publications/Factsheet31.pdf>
33. On 14 November 2019, Members of the European Parliament adopted a resolution condemning the criminalisation of sex education in Poland. For further information see: <https://www.europarl.europa.eu/news/en/press-room/20191111IPR66217/meps-condemn-criminalisation-of-sex-education-in-poland>, [accessed 12 March 2020].
34. The influence of the Catholic Church in Spain has decreased since 1978, after the adoption of the new Constitution in the aftermath of the death of General Francisco Franco, but it still has considerable social impact. Commentators observing the political environment in

Spain had formerly believed that given the association that religious institutions and Catholicism has with the Franco regime, that it would ward voters away from the VOX party. However, this theory has been confounded by the VOX's recent electoral victory.

35. 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.
36. The painting *Maculadas sin Remedio* was only on show for a few days as part of an exhibition *Maculadas sin Remedio* at the Galería de Presidencia del Palacio de la Merced (Cordoba), when demands for its removal were made and it was vandalised by a private individual.
37. For further information see: <https://www.ft.com/content/3f3aef74-04b4-11ea-a984-fbbacad9e7dd>, (accessed 9 March 2020).
38. G. Hartmann, 'Iranian Band Sentenced to 14+ Years for Playing Metal', *Loudwire*, <https://loudwire.com/iran-confess-sentenced-prison-metal/>, (accessed 9 March).

Limitations still imposed on LGBTI artistic expression

1. Goran Miletic, Civil Rights Defenders Europe Director, *Freemuse interview*, 1 August 2019.
2. Federal Law No. 135-FZ of 2013, 29 June 2013. Propaganda of non-traditional sexual relationships among minors, expressed in the dissemination of information aimed at forming non-traditional sexual attitudes among minors, attractiveness of non-traditional sexual relationships, distorted image of social equality of traditional and non-traditional sexual relationships, or the forced imposition of information of non-traditional sexual relationships, which can attract interest to such relationship.
3. 'Russia: Teen theatre artists questioned under 'gay propaganda' law', *Freemuse*, 25 March 2019, <https://freemuse.org/news/russia-theatre-artists-questioned-under-gay-propaganda-law-freemuse/>, (accessed on 16 January 2020).
4. 'Russian Activist Faces Unfounded Pornography Charges', *Human Rights Watch*, 3 December 2019, <https://www.hrw.org/news/2019/12/03/russian-activist-faces-unfounded-pornography-charges>, (accessed on 16 January 2020).
5. Ibid.
6. 'Russia: Feminist activist fined for "gay propaganda" and facing criminal "pornography" charges', *Amnesty International*, 11 December 2019, <https://www.amnesty.org/en/latest/news/2019/12/russia-feminist-activist-fined-for-gay-propaganda-and-facing-criminal-pornography-charges/>, (accessed on 16 January 2020).
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8. 'Chinese broadcaster censors Rami Malek Oscars speech', *BBC*, 26 February 2019, <https://www.bbc.com/news/blogs-trending-47370948>, (accessed on 16 January 2020).
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10. 'Russia's Film Distributor Censors Gay Scenes Out of Rocketman', *Human Rights Watch*, 3 June 2019, <https://www.hrw.org/news/2019/06/03/russias-film-distributor-censors-gay-scenes-out-rocketman>, (accessed on 16 January 2020).
11. 'We don't need a nanny state': Malaysia censoring Rocketman gay scenes prompts pushback from fans of Elton John biopic', *South China Morning Post*, 1 August 2019, <https://www.scmp.com/lifestyle/entertainment/article/3020994/we-dont-need-nanny-state-malaysia-censoring-rocketman-gay>, (accessed on 16 January 2020).
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content editing ad 'Delta Shows Rocketman 'Stripped' of Gay Scenes, Including a Kiss', *Advocate*, 30 October 2019, https://www.advocate.com/film/2019/10/30/delta-shows-rocketman-stripped-gay-scenes-including-kiss?utm_source=facebook&utm_medium=social&utm_campaign=film, (accessed on 16 January 2020).

13. 'Olivia Wilde Responds to Airline Censorship of Lesbian Sex Scene in 'Booksmart': 'My Heart Just Broke'', *Variety*, 28 October 2019, <https://variety.com/2019/film/news/booksmart-airline-censorship-olivia-wilde-kaitlyn-dever-beanie-feldstein-1203385951/>, (accessed on 16 January 2020).
14. 'Delta Restoring Same-Sex Love Scenes to 'Booksmart', 'Rocketman'', *Variety*, 1 November 2019, <https://variety.com/2019/film/news/delta-same-sex-love-scenes-booksmart-rocketman-1203390882/>, (accessed on 16 January 2020).
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Suppressing artistic freedom on the grounds of ongoing and past conflicts

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Zimbabwe

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142. It is unclear which mechanisms were used by the Broadcasting Authority of Zimbabwe to determine that the song was offensive, and how the artist was told of the ban.
143. In the Broadcasting Authority of Zimbabwe's official page it says that their mandate is to "To protect the interests of consumers, and children from harmful material, in the delivery and reception of broadcasting services and to put into place mechanisms for handling complaints" but how this harmful material is determined by the regulatory body remains undefined: Broadcasting Authority of Zimbabwe, 'Vision, Mission & Values', <https://baz.co.zw/about-baz/our-vision-mission-and-values/> (accessed 20 March 2020).
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148. According to the Act, the "Minister" means the Minister of State for Information and Publicity in the President's Office or any other Minister to whom the President may, from time to time, assign the administration of this Act". For more information: <https://www.wipo.int/edocs/lexdocs/laws/en/zw/zw036en.pdf>
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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 March 2020.

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.

“ Civic space is shrinking and under sustained pressure in many parts of the world. The prevention and countering of violent extremism increasingly functions as a device to silence, limit the scope of and target civil society actors, when, paradoxically, advocacy for human rights is construed by the State as a form of “extremism”, giving States the leeway – enabled by the lack of a globally agreed definition on what constitutes violent extremism – to target civil society actors and human rights defenders as “extremists”. ”

REPORT OF THE SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS WHILE COUNTERING TERRORISM, *HUMAN RIGHTS IMPACT OF POLICIES AND PRACTICES AIMED AT PREVENTING AND COUNTERING VIOLENT EXTREMISM*, A/HRC/43/46, 2020, P. 16

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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