

THE STATE OF ARTISTIC FREEDOM 2021



**FREEMUSE**  
DEFENDING ARTISTIC FREEDOM

Freemuse ([freemuse.org](https://freemuse.org)) is an independent international non-governmental organisation advocating for freedom of artistic expression and cultural diversity. Freemuse has United Nations Special Consultative Status to the Economic and Social Council (UN-ECOSOC) and Consultative Status with UNESCO.

Freemuse operates within an international human rights and legal framework which upholds the principles of accountability, participation, equality, non-discrimination and cultural diversity. We document violations of artistic freedom and leverage evidence-based advocacy at international, regional and national levels for better protection of all people, including those at risk. We promote safe and enabling environments for artistic creativity and recognise the value that art and culture bring to society. Working with artists, art and cultural organisations, activists and partners in the global south and north, we campaign for and support individual artists with a focus on artists targeted for their gender, race or sexual orientation. We initiate, grow and support locally owned networks of artists and cultural workers so their voices can be heard and their capacity to monitor and defend artistic freedom is strengthened.

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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 February 2021.

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

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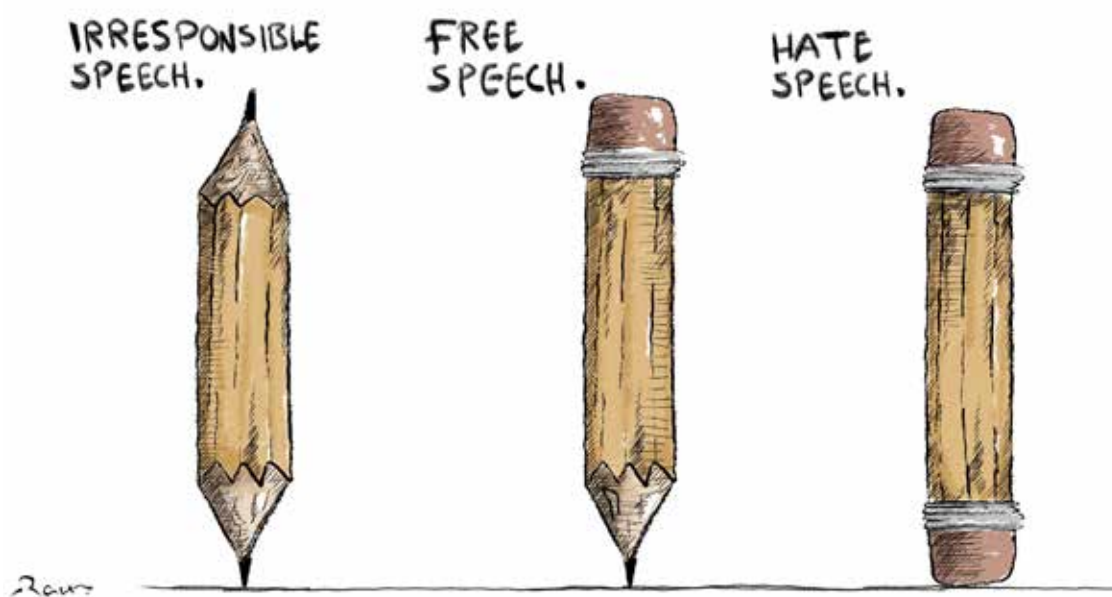


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While we must be separated by physical distancing, arts and culture can still bring us together safely and allow us to maintain and even strengthen our connections with one another when we need them the most. I thank all the artists and cultural practitioners around the world who are making our lives better and strengthening us through their work during this challenging season. I pledge that we will stand with them now as their livelihoods are massively threatened and their abilities to express themselves are limited, and, we will stand with them going forward, to work together to preserve and protect and rebuild cultural life, and the institutions and spaces which enable their work, in accordance with the dictates of public health. Indeed, arts and culture are core components of public health and vital to human well-being.

Karima Bennoune, UN Special Rapporteur in the field of cultural rights, Artistic Freedom Seminar at 2020 Oslo World Festival, 26 October 2020.



Rafat (Jordan). Credit: Cartooning for Peace

# CONTENTS

EXECUTIVE SUMMARY	6
CHAPTER 1: THE VISUAL STORY	9
INTRODUCTION	28
CHAPTER 2: GLOBAL TRENDS	29
Fighting the ‘disinfodemic’: Artistic expression during the COVID-19 pandemic	31
State-sponsored silencing of political dissent	41
Silencing artists on the grounds of fighting terrorism, blasphemy and indecency	49
Limitations to artistic expression in the digital space	57
Homophobic actions against artistic expression	65
Targeting women’s artistic expression and gender inequality in the cultural sector	73
Racial discrimination and artistic expression	81
CHAPTER 3: COUNTRIES OF CONCERN	88
BANGLADESH	89
BELARUS	91
BRAZIL	93
CHINA	96
CUBA	98
EGYPT	101
INDIA	104
IRAN	107
KENYA	110
KUWAIT	112
NIGERIA	115
RUSSIA	118
TURKEY	121
UGANDA	124
USA	127
RECOMMENDATIONS	130
ENDNOTES	135

# EXECUTIVE SUMMARY

In 2020, the world faced the COVID-19 pandemic, an unprecedented health crisis described by the International Labour Organisation as “the worst global crisis since the World War II”.<sup>1</sup> Among the first measures imposed by governments worldwide to slow down the spread of COVID-19 were almost immediate restrictions on freedom of movement which placed most of the world’s population under strict lockdown. These restrictions automatically resulted in a total shut down of arts and culture spaces and stopped cultural activities organised in physical spaces.

Deprived of the opportunity to fully enjoy their cultural rights, people all around the world found themselves locked in their homes, and often reached to books, music, films and other art forms to organise their lives in accordance with the ‘new normal’. Many artists and representatives of cultural institutions almost instantly felt the urge to stage online concerts, make theatre plays and films available online, and organised digital book readings or virtual museum and gallery exhibitions. They offered their work for massive consumption free of charge, despite being themselves disproportionately affected by the pandemic. Countless artists and cultural workers lost their jobs, their projects were cancelled, and engagements were postponed indefinitely, exposing them to extraordinary economic uncertainty.

However, oppressing artists’ voices has not ceased with restrictions on cultural events imposed worldwide following the outbreak of the COVID-19 pandemic. On the contrary, to some extent, it intensified. Freemuse’s research shows that while in this limbo, artists are additionally subject to censorship, face criminal offences and imprisonment in overcrowded prisons exposed to high risk of infections, and in other ways have their voices stifled.

In the *State of Artistic Freedom* report—a research publication produced annually—Freemuse provides an analytical examination of violations to the right to freedom of artistic expression documented through 2020 and present some of the most prevailing restrictions. This report is based on the analyses of 978 incidents where this right was violated, documented in 89 countries and online. In addition to statistical data, Freemuse also utilises qualitative interviews with 70 artists and relevant experts, providing personal experiences, reflections and insights about the limitations put on artistic

freedom. Aiming to illustrate varying problems and obstacles artists face in different parts of the world, Freemuse also provides analysis of the state of artistic freedoms in 15 countries: Bangladesh, Belarus, Brazil, China, Cuba, Egypt, India, Iran, Kenya, Kuwait, Nigeria, Russia, Turkey, Uganda, and the United States of America.

The report demonstrates that although artistic expression has been under attack by different actors (including political and religious groups, social media platforms and private individuals), different government authorities instigated violations in 60 percent of documented cases. This data illustrates that governments and state-funded bodies remain the biggest threat to artistic expression, as well as that nationalist and populist authorities stay determined to silence varying ways of voicing political dissent.

In 2020, Freemuse monitored a record number of cases where artists faced legal consequences because of their peaceful expressions—artistic or otherwise. At least 322 artists were arbitrarily detained, prosecuted or sentenced to prison terms, primarily on political grounds. Mainly, people were sanctioned for expressions deemed critical of public authorities or insulting of state officials and national symbols, as well as for staging and participating in anti-government protests and criticising the authorities’ responses to the COVID-19 pandemic.

Apart from Belarus, where dozens of artists were detained and sentenced to administrative prison terms in the context of nationwide demonstrations following presidential elections held in August, artists who took part in anti-government protests in Nigeria and Thailand were also subject to arbitrary arrests. The elections in Uganda resulted in repeated human rights violations of the musician-turned-politician Bobi Wine, who was running as a key opponent to the long-standing President Yoweri Museveni. Repercussions were experienced also by artists perceived as Bobi Wine’s supporters. In Cuba, at least 21 artists were arrested, many on multiple occasions, on grounds of opposing the government and its disproportional interference in an independent cultural sector. In South Africa, 32 artists and cultural and entertainment industry workers have been prosecuted for staging a protest of COVID-19 restrictions on public gatherings, in which they say severely crippled their livelihoods.

Artists around the world continue to face severe infringements on their human right to free expression also through censorship, attacks on their physical integrity, threats and harassment, administrative and legal fines, suspensions from cultural professional bodies, or damages and destruction of their works. Apart for political dissent, they are subject to undue repercussions for expressions characterised as 'misinformation' about the COVID-19 pandemic, 'likely to cause panic' during a health crisis. Through stifling malcontent conveyed by artists, authorities often weaponise the pandemic against freedom of expression, which results in a widespread deterioration of core democratic principles and the rise of authoritarianism.

Freemuse's findings also show that national prosecution and judiciary bodies continue to misuse public order and public morality to impede the right to freedom of artistic expression. At least 33 artists were detained, prosecuted, and imprisoned on terrorism-related offences which are primarily used to oppress opposing and minority voices. Three artists died in Turkey and Egypt while being accused of 'membership in a terrorist organisation' or 'spreading terrorist propaganda'. Another 17 legal cases were initiated against artists whose artworks, public speeches or social media posts, were deemed indecent from the perspective of public morality.

Although human rights organisations continuously argue that the concept of 'defamation of religion' has been opened to abuse due to lack of its objective definition at the international level,<sup>2</sup> blasphemy laws are still disproportionately used against artists. Among 40 artists facing legal consequences for 'hurting religious sentiments' is Nigerian gospel singer Yahaya Sharif-Aminu, who was sentenced to death by hanging for sharing a song deemed blasphemous of the Prophet Mohammad on WhatsApp. The murder of the French teacher Samuel Paty over the use of the Charlie Hebdo' cartoon of the Prophet Mohammad in a classroom exemplifies that alleged insults to religion still pose an extreme threat to human life.

Finally, this report illustrates that gender, sexual and racial discrimination are widely practiced in many societies targeting artists because of their personal identity, or artworks tackling these issues. Whilst in some societies, women artists remain restricted from fully participating in cultural life. In others, they face violence and censorship because of their work which is focused on reproductive rights, gender-based violence and other feminist issues. LGBTI artists and those producing art representative of sexual orientation, gender identity and expression have their voices systematically curtailed in countries where homosexuality and its promotion are criminalised. Further, they also face censorship and violence in countries with no legal obstacles imposed on LGBTI expression.



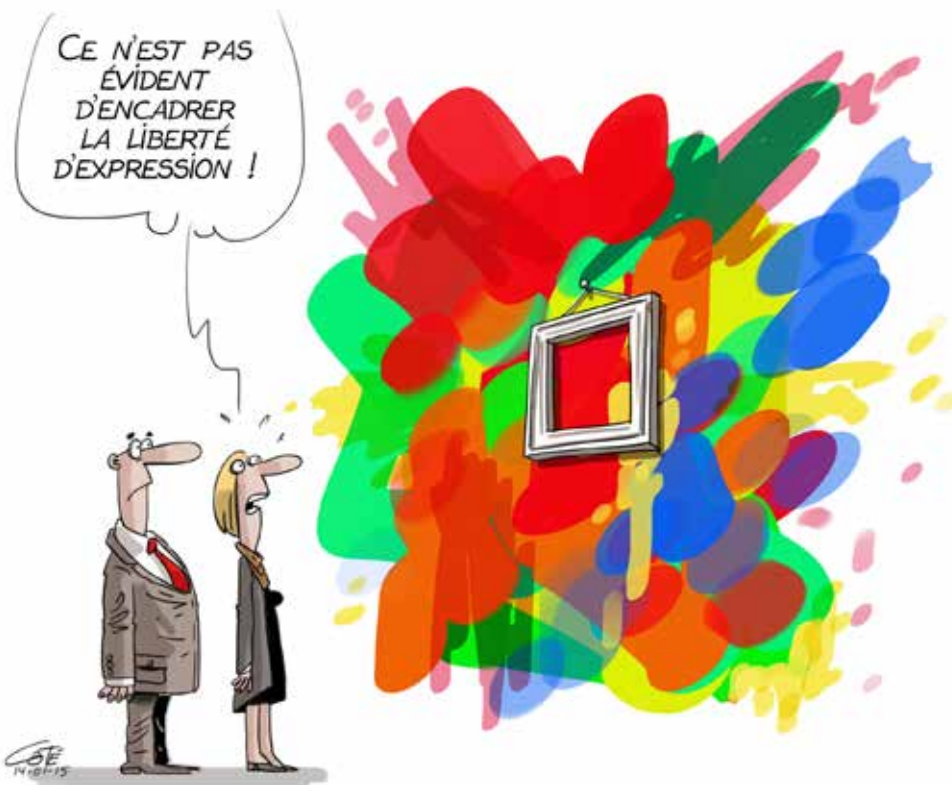
Falco (Cuba). Credit: Cartooning for Peace

The killing of African Americans Breonna Taylor and George Floyd at the hands of the USA police and the massive Black Lives Matter protests of perpetual racial discrimination staged worldwide inspired enriching debates within the cultural sector about the way racism has been portrayed through artwork. Contrary to this, many films and books are censored, and statues and monuments damaged, destroyed, and removed from public spaces because of their racial insensitivity. In response, Black and other minority artists and artworks reflecting on or depicting police brutality and systematic racial discrimination face violent pushback.

“

Bringing people together, inspiring, soothing, and sharing: these are the powers of art, the importance of which has been made emphatically obvious during the COVID-19 pandemic. With hundreds of thousands of people directly affected by the virus and billions more either in lockdown or battling the pandemic on the front lines, this first celebration of World Art Day is a timely reminder that art has the power to unite and connect in times of crisis. Art-related initiatives have been flourishing for several months. **Amateur and professional artists are tapping into the infinite resource of creativity to relay health guidelines and share messages of hope.**

Audrey Azoulay, Director-General of UNESCO, Letter on the occasion of World Art Day, 15 April 2020.



Côté (Canada). Credit: Cartooning for Peace





CHAPTER 1: THE VISUAL STORY

# ARTISTIC FREEDOM IN 2020 THE BIG PICTURE



Freemuse registered 978 acts of violations of artistic freedom in 2020 in 89 countries and online spaces. Oppressing artists' voices has not stopped with the restrictions on cultural events imposed worldwide following the outbreak of the COVID-19 pandemic. On the contrary, to some extent, it has intensified.

### **ABDUCTED**

3 artists abducted in 2 countries  
(2 in Cuba and 1 in Iraq)

### **ATTACKED**

20 artists and events attacked in 15 countries

### **PERSECUTED**

96 acts of persecution in 32 countries

### **THREATENED/HARASSED**

103 artists threatened/harassed in 31 countries and online

### **ART DESTROYED/DAMAGED**

93 destroyed artworks and venues in 33 countries

### **TRAVEL BAN**

14 travel bans in 8 countries

### **SANCTIONED/FINED**

12 artists sanctioned/finned in 3 countries

### **BLANKET BAN**

9 blanket bans in 7 countries

### **CENSORED**

289 acts of censorship in 52 countries and online

# ART FORMS SUPPRESSED IN 2020

238 documented cases in 53 countries and online

**24% VISUAL ART**

236 documented cases in 57 countries and online

**24% MUSIC**

225 documented cases in 46 countries and online

**23% FILM**

119 documented cases in 36 countries and online

**12% LITERATURE**

89 documented cases in 21 countries and online

**9% THEATRE**

60 documented cases in 8 countries and online

**6% MULTIPLE  
FORMS of ART**

**DANCE**

8 documented cases in 4 countries and online

**CULTURAL HERITAGE**

2 documented cases in 2 countries



# VIOLATIONS BY REGION

In 2020, illegitimate restrictions of artistic freedom took place in all regions both in the Global North and South.



# ARTISTS IMPRISONED IN 2020

82

Artists known to be imprisoned  
in 2020 in **20** countries

- Sudan – 11
- Iran – 8
- Myanmar – 7
- Belarus – 7
- China – 7
- Turkey – 7
- Egypt – 6
- Russia – 6

Morocco – 4 | Cambodia – 3 | Algeria – 2 | Côte D'Ivoire – 2 | Cuba – 2 | Guinea – 2 | Kuwait – 2 | Spain – 2  
France – 1 | Nigeria – 1 | Tunisia – 1 | Saudi Arabia – 1

Reasons for imprisonment:

**74% criticising government policies  
and practices**

**20% women and artists creating  
women-themed artworks**

Imprisoned artists work in the fields of

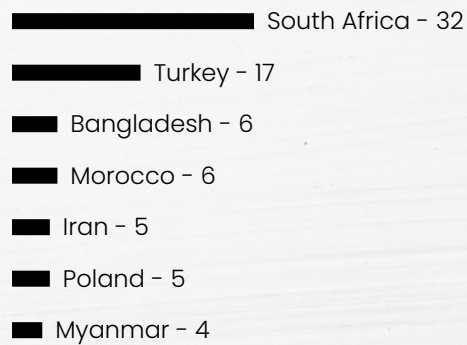
- Theatre 32%**
- Music 30%
- Literature 17%
- Film 15%
- Visual art 5%
- Dance 1%

Imprisoned artists by regions

- Middle East & North Africa 44%**
- Europe 22%
- Asia & Pacific 21%
- Africa 6%
- North & South America 2%

# ARTISTS PROSECUTED IN 2020

107  
in 27 countries



Algeria - 3 | China - 3 | Palestine - 3 | Egypt - 2 | India - 2 | Lebanon - 2 | Somaliland - 2 | Sri Lanka - 2  
Cuba - 1 | Dominican Republic - 1 | France - 1 | Hong Kong - 1 | Israel - 1 | Jordan - 1 | Malaysia - 1 | Pakistan - 1  
Russia - 1 | Thailand - 1 | Tunisia - 1 | Uganda - 1 | Zimbabwe - 1

45%

of artists were prosecuted related to artistic expressions relating to COVID-19.

For criticising the way authorities handled the pandemic

Sharing 'misinformation' likely to cause panic

Participating in protests deemed unlawful

**30% Politics**

**20% Religion**

**12% Counterterrorism**

Prosecuted artists work in the fields of

**31% Multiple artistic fields**

24% Music

15% Visual art

12% Film

11% Literature

6% Theatre

1% Dance

Prosecuted artists by region

**Africa 34%**

Europe 22%

Middle East & North Africa 22%

Asia & Pacific 20%

North & South America 2%

# ARTISTS DETAINED IN 2020

133 artists in 26 countries



## The main rationale for detaining artists

Politics 71%  
Minorities 11%  
LGBTI 10%  
Counter-terrorism 10%  
Religion 10%  
COVID-19 10%

## Detained artists were

Musicians 39%  
Visual artists 18%  
Writers and poets 18%  
Filmmakers 15%

## Artists detained by region

Europe 32%  
Middle East & North Africa 20%  
North & South America 18%  
Asia & Pacific 18%  
Africa 6%





# VISUAL ARTS IN 2020

While other cultural activities were restricted, visual artists used the online space to criticise authorities' response to the pandemic. Huge number of statues and monuments was destroyed during Black Life Matters protests worldwide.

238 cases in 53 countries

## VISUAL ARTISTS SUFFERED

visual artist Raman Bandarenka **died** in custody in Belarus following his beating at a protest.

high-school teacher Samuel Paty was **beheaded** in France for using a Prophet Muhammad cartoon in his classroom.

arts curator Hella Mewis was **abducted** in Iraq

4 - Imprisoned, 16 - Prosecuted, 24 - Detained  
19 - Threatened/harassed, 14 - Persecuted,  
5 - Attacked, 2 - Travel bans, 2 - Blanket ban,  
1 - Sanctioned/fined

**35%** of all violations against visual art constituted destroyed and damaged artworks and venues.

**56%** of attacks on monuments and sculptures were registered in  
USA - 27, France - 12, UK - 8

In **27%** of cases, visual artists, mainly cartoonists and illustrators, were subject to censorship

## Violations against visual arts by regions:

North & South America 38%

Europe 32%

Asia & Pacific 12%

Middle East & North Africa 10%

Online 6%

Africa 1%

Cases were related to:

Politics	Racism	Racism	Religion	COVID-19	Indecency
34%	30%	25%	21%	11%	10%

# MUSIC IN 2020

236 | 6

236 cases in 57 countries

6 countries account for 41% of all registered illegitimate restrictions to music in 2020:

Turkey – 32, Russia – 15, France – 14, Egypt – 13, Mexico – 12, Cuba – 10

## Musicians KILLED

10 members of the band Sensación Musical and accordionist Gabino Ayala were killed in violence related to narco-cartels in Mexico.

1 Oromo musician Hachalu Hundessa was killed in Ethiopia, sparking unrest in which more than 100 people died.

## Musicians ABDUCTED

1 rapper Maykel Osorbo was abducted in Cuba and held captive overnight.

## Violations aimed at silencing musicians



- 21 Threatened/harassed in 12 countries and online
- 8 Travel bans in 5 countries
- 8 Attacked in 7 countries
- 6 Sanctioned/fined in 1 country
- 3 Venues were destroyed/damaged in 2 countries
- 2 Blanket bans in 2 countries
- 46 Acts of censorship in 21 countries and online

## Rationale for restrictions

- Politics 44%
- Religion 12%
- Counterterrorism 10%
- Indecency 10%
- LGBTI 10%
- Minorities 10%

## Restriction of musicians by region

- Europe 34%
- Middle East & North Africa 19%
- North & South America 18%
- Africa 13%
- Asia & Pacific 9%
- Online 7%

# FILM IN 2020

# ONLINE

The most censored art form through 2020 -

# 225

# 42%

cases of restriction in **46** countries and online

# 1

**actor** Ahmed Hakim was **killed**

in Iraq after appearing in a TV show in which he criticised the authorities.

**At least 107 times**

artistic community, government-financed institutions, private entities **censored** movies, TV series, cartoons and animation films.

# 12

**Imprisoned** in Belarus, Egypt, Iran, Morocco, Myanmar, Russia, Turkey

**Main motivations** for censoring films and filmmakers

**30% Politics**

21% Indecency

17% LGBTI

16% Women

15% Minorities

14% Religion

12% Racism, including 10% in the context of Black Lives Matter protests

# 13

**Prosecuted** in Bangladesh, China, Egypt, Hong Kong China, India, Iran, Israel, Lebanon, Malaysia, Turkey

**Targeting films by region**

**27% Middle East & North Africa**

23% Asia & Pacific

16% Online

16% Europe

12% North & South America

6% Africa

# 20

**Detained** in Cuba, Egypt, India, Israel, Kuwait, Lebanon, Morocco, Nepal, Tanzania, Uganda

**23 Persecuted, 24 Threatened/harassed, 5 Attacked, 2 travel bans, 1 artist fined, 1 film set destroyed, 1 Blanket ban**

# COVID-19 AND ARTISTIC FREEDOM

70%

of violations committed in the context of COVID-19 were in the Global South and 30% in Global North

Governmental bodies are responsible for 76% of registered violations

## Attacks on artists in the time of the pandemic

**4 Imprisoned** in 3 countries  
Algeria, Morocco, Tunisia

**48 Prosecuted** in 9 countries  
(Algeria, Bangladesh, Morocco, Myanmar, Palestine, South Africa, Thailand, Uganda, Zimbabwe)

**13 Detained** in 10 countries  
Argentina, China, Cuba, Egypt, Iran, Morocco, Nepal, Philippines, Russia, Uganda

**14 Censored** in 8 countries and online  
Taiwan, France, Hong Kong SAR, India, Poland, UK, USA and online

**11 Threatened/harassed** in 6 countries and online  
Argentina, Chile, China, Serbia, Uganda, USA and online

**8 Persecuted** in 8 countries  
Argentina, Belgium, Cuba, France, Lebanon, Slovenia, Tunisia, UK

**5 Attacked** in 2 countries  
France, Germany

**3 Blanket bans** in 2 countries  
India, UK

**2 artists fined** in 1 Poland

**1 exhibition damaged** in the UK

## Artists silenced on the pretext of the pandemic

31% Multiple art forms  
25% Visual art  
19% Music  
9% Literature  
9% Film  
6% Theatre

## Violations by region

33% Africa  
18% Europe  
17% Middle East & North Africa  
14% Asia & Pacific  
12% North & South America  
6% Online

FREEDOM

# MISUSE OF COUNTERTERRORISM MEASURES AGAINST ARTISTIC FREEDOM

43

artists were silenced as results of 'fight against terrorism' in 2020

Bangladesh, Egypt, Jordan, Saudi Arabia, Serbia, Spain, USA, Turkey

In Turkey, **Grup Yorum members, Helin Bölek and İbrahim Gökçek**, who were under trial on terrorism charges passed, away during death fasts.

In Egypt, **filmmaker Shady Habash** died in prison where he spent more than two years waiting for a trial for alleged membership in a terrorist organisation.

75%

of all cases were documented in Turkey

Detained 11, Prosecuted 9, Imprisoned 5, Travel ban 3, Persecuted 2

In 52% of documented cases, **musicians** were affected.

In 30% of cases, artists with minority background were targeted.

In 49% of cases, artists were targeted for **opposing government policies**.

Forms of violations:

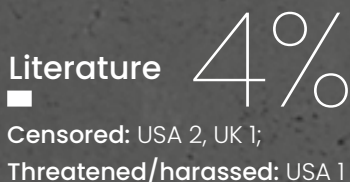
7 Imprisonment (Spain, Turkey)	3 Persecution (Serbia, Turkey)
13 Prosecution (Bangladesh, Egypt, Jordan, Turkey)	3 Travel bans (Turkey)
13 Detention (Egypt, Turkey)	2 Threatened/harassed (Saudi Arabia, Turkey)
	1 Blanket ban (Egypt) and 1 Censorship (USA)

# RACISM



In the year when African Americans Breonna Taylor and George Floyd were killed in the USA and Black Lives Matters protests sparked worldwide, artists and artwork were alarmingly targeted under the pretext of racism.

## Artists and artworks under attack



**82%** of all cases documented in the context of the fight against racism occurred in **Global North**

**45%** of all cases were registered in the USA

**71%** of cases occurred in the context of the Black Lives Matter protests

In **48%** of cases, monuments, statues, and murals were attacked by unknown private individuals

**40%** of all acts of violations happened in the **public space**

At least **34 statues and busts** were destroyed because of their representation of **colonial and racial history**.

## Violations by region

**48%** North & South America  
**29%** Europe  
**11%** Online  
**11%** Asia & Pacific

# RELIGION

79%

of attacks on artists on the pretext of insulting religion were in Global South

62%

of cases documented were perpetrated by governments

62%

of cases of prosecution in name of religion were related to music

## Artists and artworks were oppressed

1 Killed  
in France

8 Imprisoned  
in China, Egypt, Iran, Morocco, Nigeria, Saudi Arabia, Tunisia

21 Prosecuted  
in Algeria, Bangladesh, India, Iran, Israel, Morocco, Myanmar, Pakistan, Sri Lanka

11 Detained  
in Bangladesh, Egypt, India, Iran, Lebanon, Morocco

24 Persecuted  
in Belgium, Brazil, Egypt, India, Kuwait, Lebanon, Nigeria, Pakistan, Saudi Arabia, Serbia, Turkey

12 Threatened/harassed  
in Egypt, India, Iraq, Netherlands, Online, Pakistan

6 Destroyed  
artworks and venue in Bangladesh, France, India, Nicaragua, Pakistan, Peru

25 cases of censorship  
in Bangladesh, Brazil, Egypt, India, Morocco, Pakistan, Turkey, USA and online

## Art forms restricted in the name of religion

30% Visual Art, 25% Film, 25% Music, 12% Literature, 7% Theatre

## Places of attacks under religious rationale

37% Middle East & North Africa  
33% Asia & Pacific  
12% Europe  
8% North & South America  
7% Online  
3% Africa

# WOMEN

# GIRLS

Women artists and artworks centring on women-related issues were targeted in **68% Global South**, 17% Global North, 15% Online

In **53%** of cases, **government authorities** were responsible for violations

## Main rationales used to silence women artists and artworks

Indecency	Politics	Religion
<b>42%</b>	<b>27%</b>	<b>16%</b>

**16 women artists were imprisoned:** 11 in Sudan, 3 in Iran, 2 in Egypt

**4 women artists prosecuted:** Bangladesh, Iran

**14 women persecuted:** Chile, Egypt, France, Kuwait, Lebanon, Nigeria, Saudi Arabia, Turkey, UK

**12 Threatened/harassed:** Brazil, Egypt, India, Online, United Arab Emirates

**5 Destroyed/damaged:** Argentina, Israel, Lebanon, Mexico, Peru

**4 Detained:** Congo, Egypt, Kuwait

**3 Attacked:** Afghanistan, Austria, Poland

**33 acts of censorship:** Algeria, Argentina, Brazil, France, India, Italy, Kuwait, Mexico, New Zealand, Nigeria, Online, Pakistan, Paraguay, Saudi Arabia, Turkey, USA

## Affected art forms

40% Film, 17% Visual art, 15% Music, 13% Theatre, 8% literature, Dance 5%

## Violations by region

**Middle East & North Africa 38%**  
North & South America 18%,  
Online 15%,  
Asia & Pacific 13%.  
Europe 13%,  
Africa 3%



# LGBTI

98 registered cases in 28 countries and online

Countries with no law  
criminalising homosexuality

52% of violations in 14 countries  
and online

Main violator:  
25% Government authorities  
25% Private entities

Main violations:  
41% Censored  
(71% of acts of censorship targeted film)  
27% Threatened/harassed  
by private or unknown individuals

Countries where homosexuality  
or its promotion is criminalised

48% of violations in 14 countries  
and online

Main violator:  
91% Government authorities

Main violations:  
53% Censored  
(in 45% of cases, content was  
censored by state-funded bodies)  
28% Detained in Russia

1 **Dancer killed** in South Africa

3 **Imprisoned** in China, Morocco, Russia

13 **Detained** in Russia

7 **Prosecuted** in Poland, Russia, Sri Lanka

4 **Attacked** in Argentina, Brazil, France, USA

3 **Sanctioned/fined** in Russia

5 **Persecuted** in Australia, Turkey, Uganda

1 **Blanket ban** in Australia

14 **Threatened/harassed** in Bosnia and Herzegovina, Brazil, France, Online, Serbia, South Africa

1 **destroyed/damaged** in Poland

46 **Censored**

Art forms which were violated

41% Film, 23% Music, 17% Theatre, 9% Visual art, 5% Literature, 4% Multiple, 1% Dance

Attacks again LGBTI artists and artworks happened in:

42% Europe in 7 countries

35% of all cases were documented in Poland, Russia, and Turkey

18% Middle East & North Africa in 8 countries and online

12% North & South America in 5 countries

11% Africa in 3 countries

9% Asia & Pacific in 5 countries

8% Online

58% of violations  
committed by governmental bodies

# DIGITAL

In 2020, Freemuse registered **212 acts of violations** which occurred in the **digital space** or were related to **artists' activities online**. This is **22%** of all documented cases.

Main rationales for violations were

Politics	Indecency	Religion	LGBTI	COVID-19	Minorities	Women
30%	20%	18%	15%	14%	12%	11%

**Affected art forms: 37% Film, 20% Visual art, 19% Music, 13% Theatre, 7% Literature**

## The main violations:

### Detained, prosecuted and imprisoned –

67 artists faced legal consequences because of social media posts or artistic activity on the Internet

32%

### Censorship –

at least 81 acts of censorship by social media and film streaming platforms

38%

### Threatened/harassed –

at least 58 situations where artists were threatened online

27%

### Rationale for restrictions

43% Politics, 31% Religion, 30% COVID-19, 22% Defamation, 10% Counterterrorism, 7% Indecency, 7% Use of state symbols

## 19 artists were imprisoned for online activities:

**8 Theatre artists** in Myanmar (6), Kuwait and Turkey  
**4 Filmmakers** in Egypt, Iran, Morocco, Myanmar  
**3 Musicians** in Algeria, Morocco, and Nigeria  
**2 Visual artists** in Morocco and Tunisia  
**1 Dancer** in Egypt  
**Literary artist** in China

## 29 artists were prosecuted for online activities:

**11 Musicians** in Morocco (6), Bangladesh (2), Turkey (2) and Egypt 1  
**7 Visual artists** in Bangladesh 2 and one each in Algeria, India, Jordan, Poland, and Thailand  
**4 Theatre artists** in Algeria 2, and one each in Russia and Turkey;  
**4 Filmmakers** in India, Israel and Malaysia and Turkey  
**3 Literary artists** in Israel, Sri Lanka and Turkey

## 19 artists were detained in 13 countries

India 4, Kuwait 2, Morocco 2, Iran 2, Argentina 1, Bangladesh 1, China 1, Cuba 1, Egypt 1, Israel 1, Lebanon 1, Philippines 1, Tanzania 1

# CENSORSHIP IN 2020

289

cases of censorship affecting 469 artists, artworks, events, venues

## Art was censored on multiple occasions in

72 in Social media and digital streaming platforms

44 – USA

16 – Turkey

13 – Oman

12 – India

10 – Australia

44% of cases

were committed by **GOVERNMENT AUTHORITIES**

## Art forms under pressure:

Film 42%  
Visual art 22%  
Music 16%  
Literature 15%  
Theatre 4%  
Multiple 1%

## Main issues related with censoring art:

Politics – 17%  
Indecency – 15%  
Minorities – 10%  
LGBTI – 9%  
Racism – 8%  
Women – 7%  
Religion – 6%

## Censorship by region

North & South America 24%  
Online 22%  
Middle East & North Africa 18%  
Europe 17%  
Asia & Pacific 16%  
Africa 3%

# INTRODUCTION

Finding it essential that violations of the human right to freedom of artistic expression is continuously exposed, Freemuse publishes the *State of Artistic Freedom* report annually. Through this report, Freemuse reflects on contemporary challenges which prevent artists from freely creating and promoting their work in public. Freemuse does this by analysing mechanisms that different actors use to prevent artists from expressing themselves creatively or to punish them for work considered wronged under various pretexts. It also aims to contribute to systematic efforts by civil society organisations to hold governments accountable for their inadequacy to respect, protect and fulfil the right to artistic freedom.

This report presents compelling patterns and trends which curtail artistic expression worldwide. The analysis results from Freemuse's continuous monitoring and documentation of national legal developments relevant to the exercise of freedom of expression and cultural rights, as well as emblematic cases of violation of artistic freedom documented in 2020. Freemuse registered 978 acts of violations in 89 countries and online spaces. To present the recorded cases through the lenses of the national contexts reflecting the broader state of human rights and illustrating the implications these violations have on artists themselves, Freemuse conducted 70 interviews with artists, cultural workers and human rights experts.

Freemuse's findings are presented through '*global trends*' and '*countries of concern*'. Global trends chapters provide a broader insight into the political landscapes which demonstrate serious disregard to international human rights law in different countries. They offer an overview of systematic obstacles artists face worldwide by analysing thematic areas in which artistic freedom is curtailed. In 2020, expressing political dissent was the most frequent rationale under which artists faced violence, harassment, legal consequences, censorship, and other repercussions. The COVID-19 pandemic and artists' criticism of the way authorities handled this health crisis also resulted in severe violations of artistic freedom. Many governments tended to misuse notions of protecting public order and public morals to curb expressions on the grounds of fighting terrorism, blasphemy, and indecency. In the year in which most of cultural activities in physical spaces were banned or organised with limited audience members, artists faced various obstacles for activities in digital spaces, including

legal prosecution for online expressions, censorship by social media platforms, and overwhelming digital harassment and violence. Finally, Freemuse documented dozens of cases emblematic of gender, sexual and racial discrimination exercised by those who tended to silence artists.

In this report, Freemuse lists 15 countries of particular concern aiming to illustrate varying problems and obstacles artists face in different parts of the world. These countries are Bangladesh, Belarus, Brazil, China, Cuba, Egypt, India, Iran, Kenya, Kuwait, Nigeria, Russia, Turkey, Uganda, and the United States of America. Although presented problems have also been recorded in many other contexts at a global scale, selected countries have been analysed with regard to the failure of national authorities to uphold their responsibilities under international human rights law. However, whilst freedom of expression, including artistic expression, is under duress in countries where this right has always been contested, it is important to emphasize that Freemuse's research shows that freedom of expression is also challenged in countries normally considered flag-bearers of human rights.

In this report, Freemuse offers several recommendations arguing that their implementation would contribute to combating impunity and creating an enabling environment for artists to exercise their right to freedom of expression. The recommendations highlight the need for the joint work of different international, regional, and national stakeholders to sufficiently address illegitimate legislation and policy measures used to stifle artists' voices found to be inconsistent with international human rights standards.



CHAPTER 2: GLOBAL TRENDS



Cristina (Portugal). Credit: Cartooning for Peace

# FIGHTING A DISINFODEMIC: ARTISTIC EXPRESSION DURING THE COVID-19 PANDEMIC

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*“Given the exceptional nature of the crisis, it is clear States need additional powers to cope. However, if the rule of law is not upheld, then the public health emergency risks becoming a human rights disaster, with negative effects that will long outlast the pandemic itself.”*

MICHELLE BACHELET, UN HIGH COMMISSIONER FOR HUMAN RIGHTS, 27 APRIL 2020.

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On 11 March 2020, the World Health Organization announced that the outbreak of the coronavirus disease known as COVID-19 (first reported in China’s province Wuhan in December 2019) had reached the level of a global pandemic.<sup>1</sup> Authorities in many countries immediately used this crisis as an excuse to invoke emergency regulations that had negative impacts on fundamental rights, including freedom of expression. This trend has had a significant impact on artistic freedoms. Artists were sanctioned for criticising, artistically or otherwise, the way authorities have handled the health emergency and shared information critical for citizens’ understanding of the nature of the pandemic. It is widely accepted that under the threat to public health at this scale, extraordinary measures need to be taken to protect citizens’ wellbeing. However, such measures must prove to be absolutely necessary and proportional and be lifted as soon as the situation allows. Freemuse has documented numerous violations of artistic freedom where authorities misused the pandemic to stifle dissenting voices. This is further exacerbated by the trend of rising authoritarianism worldwide following the COVID-19 outbreak.<sup>2</sup>

Restrictions related to COVID-19 had an immediate impact on the enjoyment of cultural rights and freedom of artistic expression and creativity. In the year when the pandemic skyrocketed unemployment rates, artists were among the first to lose their regular incomes and faced economic uncertainty at alarming levels. At times when restrictions were eased or lifted, cultural events remained subject to restrictions on the number of audience members and other limits on access. While operating in extraordinarily challenging circumstances, artists have faced additional problems, such as censorship, arbitrary detention, and prosecution because of their artistic expressions. Visual artists were disproportionately targeted, constituting one quarter of all violations related to COVID-19 as documented by Freemuse in

2020. While most cultural activities were suspended, many cartoonists faced consequences for their satirical commentaries on the pandemic.

## LEGAL PROSECUTION OF ARTISTS FOR ALLEGED SPREADING OF PANDEMIC ‘DISINFORMATION’

Authorities across the globe have used the COVID-19 pandemic to disproportionately restrict expression and target government critics. At least 65 artists were detained, prosecuted, or imprisoned for being vocal about the way THE pandemic has been handled in their country. They were also prosecuted under defamation and ‘insult’ laws for their expressions, often satirical, where they allegedly mocked or insulted authorities or medical staff for an inadequate response to the pandemic. Others were accused of sharing information likely to cause panic in society.

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*“In other words, the penalisation of disinformation is disproportionate, failing to achieve its goal of tamping down disinformation while instead deterring individuals from sharing what could be valuable information.”*

DAVID KAYE, SPECIAL RAPPOREUR ON THE PROMOTION AND PROTECTION OF FREEDOM OF OPINION AND EXPRESSION, 23 APRIL 2020.

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*“They arrested me to make me an example for others who might criticise their handling of the pandemic.”*

MARIA VICTORIA BELTRAN BAMBI, FREEMUSE INTERVIEW (ONLINE), 16 SEPTEMBER 2020.

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To compound the situation, most artists who were deprived of liberty that Freemuse interviewed spoke about being kept in poor conditions not compliant with COVID-19 safety protocols. The risk of contracting the virus for all detainees is especially high. This practice breaches international human rights standards that require “adequacy of health conditions and health services in places of incarceration.”<sup>3</sup> Some artists were detained without charge, despite the situation requiring the reduction of “the levels of over-population and overcrowding and providing alternative measures to confinement”.<sup>4</sup>

In April, a court in Errachidia in southern Morocco sentenced a young woman to a two-month prison term for posting a TikTok video in which she imitated a law enforcement official forcing people to respect the COVID-19 restrictions, alluding to police brutality in enforcing the lockdown.<sup>5</sup> In the video, she was dressed in a police uniform, while holding a loudspeaker. She was sentenced under the Article 382 of the Penal Code which prohibits “unauthorised public wearing of an official uniform”.<sup>6</sup>

Similarly, on 16 July, a court in the city of Oran sentenced the raï (folk music) singer Cheba Siham Japonia to 18 months in prison and a fine of 120,000 Algerian dinars (around 825 euros) for a video about Algeria’s response to the COVID-19 pandemic. The complaint against her was filed by the University Hospital of Oran after, in which Japonia had taken a video deemed to contain an alleged verbal attack on medical staff. She was prosecuted under several offenses of the Penal Code, for “insulting an official”, “taking unauthorised photographs” and “attacking symbols of the national liberation war”.<sup>7</sup> Citing an increase in attacks on medical staff dealing with COVID-19, the Algerian President announced a new law on 10 July prescribing harsher penalties for assaulting health workers.<sup>8</sup>

On 19 April, authorities in Cebu City in the Philippines arrested artist Maria Victoria Beltran for a satirical Facebook post on the city’s COVID-19 situation. The post, which read “9,000+ new cases (all from Zapatera) of Covid-19 in one day. We are now the epicentre of the whole solar system” referred to the city authorities’ announcement on the high number of registered COVID-19 cases. This literary, visual and film artist, who was accused of “spreading false



*Literary, visual and film artist Maria Victoria Beltran was arrested because of her Facebook post about COVID-19 pandemic. Credit: Ivan Zaldarriaga, courtesy of Maria Victoria Beltran*

information” on social media, told Freemuse that she was released after spending three days in poor conditions—in a prison cell with no daylight, limited food and unsanitary toilet and washing facilities.<sup>9</sup> Charges against Beltran were dropped on 15 September due to lack of evidence.<sup>10</sup> She has filed a complaint against several police officials and the Cebu Mayor for compliance in what she defines as her ‘arbitrary’ arrest.

On 23 March, the Royal Thai Police arrested artist Mr Zen at his gallery in Phuket and brought him before the Bangkok Criminal Court which confirmed the indictment under the Section 14(2) of the Computer

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*“It is the liberty to discuss any matter of public concern without restraint or punishment, except when its restraint is justified to avoid a danger grave and imminent to public safety.”*

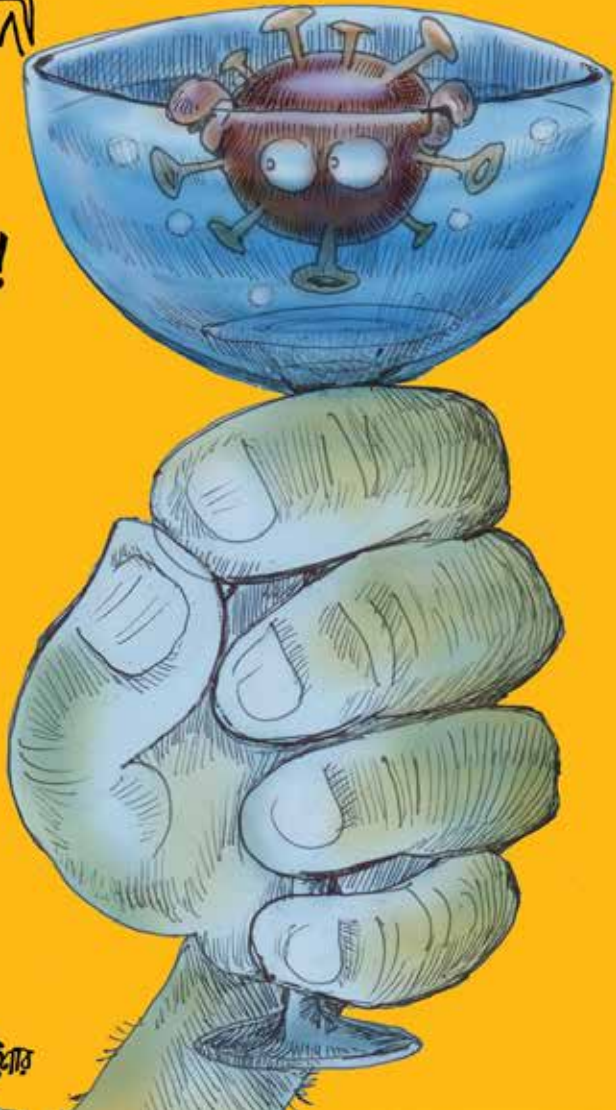
JUDGE YVONNE CABARON ARTIAGA, MUNICIPAL TRIAL COURT IN CEBU CITY BRANCH 3, 15 SEPTEMBER 2020.

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LIFE IN THE TIME OF  
CORONA

অতীতকাল  
চিংড়ি  
কং  
করোনা!!



Bangladeshi cartoonist Ahmed Kishore has been detained since May 2020 because of his cartoons from the series *Life in the time of corona*. Credit: Ahmed Kishore on Facebook

Crime Act for “sharing false information in a manner that is likely to cause panic in the public.”<sup>11</sup> These charges were brought for his Facebook post in which he pointed out to the lack of COVID-19 measures at a Bangkok airport. His trial commenced on 12 May and as of January 2021, was still ongoing.

Sharing social media posts which allegedly led to “confusion, instability and chaos among the people” was also behind the arrest of the Bangladeshi cartoonist Ahmed Kabir Kishore in his home in Dhaka on 5 May. This arrest was triggered by a series of cartoons he shared on his Facebook page “Life in the time of Corona”. Kishore was charged under the three sections of the Digital Security Act: 23 – digital or electronic fraud, Act: 25 – publishing offensive, false, or fear-inducing data-information and Act: 29 – publishing defamatory information. He was denied release on bail on at least three occasions in 2020.<sup>12</sup> As of January 2021, he remains in detention and his trial has not commenced. As a diabetic dependent on insulin, there are additional concerns about his health, which in December caused three UN Special Rapporteurs to call for his release on medical grounds.<sup>13</sup>

Soon after the outbreak of the pandemic, Argentina introduced new “cyber patrols” to identify social media accounts spreading false information.<sup>14</sup> Folk musician Rodrigo Etchudez was briefly arrested on 30 May for a Facebook comment about a doctors’ protests of Santiago del Estero Province authorities over a lack of protection equipment.<sup>15</sup> He was arrested in violation of Penal Code Article 205 (violation of epidemic restrictions) and Article 213 (apology of a crime). On 9 August, he informed Freemuse that the charges had been dropped.<sup>16</sup>

## **PENALTIES FOR ‘VIOLATING’ REGULATIONS MEANT TO SLOW THE SPREAD OF COVID-19**

With the emergence of the pandemic, especially in its first weeks, many governments declared states of emergency and strict lockdown restrictions, which heavily impacted freedom of movement and assembly. However, these measures did not prevent citizens, and among them artists, to protest different political issues, including the governmental response to the pandemic. In many countries, artists took to the streets to raise awareness about the impact of COVID-19 restrictions on their sector and livelihoods. They however suffered consequences for staging these gatherings deemed unlawful, contrary to the principle that public protests should not be subject to blanket bans during a pandemic and that freedom of assembly can be exercised if participants adhere to social distancing rules.<sup>17</sup>

On 2 September, 32 artists and cultural and entertainment industry workers were arrested in Durban, the third most populous city in South Africa for staging a protest of restrictions on public gatherings which they say severely crippled their livelihoods.<sup>18</sup> Law enforcement officers used force to disperse the crowd, after protesters staged a mini-concert and blocked the main entry into Durban. They were calling on the government to ease lockdown restrictions banning gatherings of more than 50 people. The arrests were made on the grounds of an illegal gathering under the National Disaster Management Act, the Illegal Gatherings Act, and Road Traffic Management Act. Although they were released on bail following the day of their arrests, the trial opened on 23 October, and as of January 2021, is still ongoing.

Street musicians protesting restrictions imposed on their performances in Argentina’s Salta Province also faced police brutality. On 3 August, following one such protest, musician Francisco Fernández was shot with paint balls from a police vehicle, while the musician known as Chango was run over by police car.<sup>19</sup> Both sustained minor injuries. This province, where the governor had adopted the Decree 255/20 on 31 March (giving police powers to arrest and detain individuals who disobey COVID-19 restrictions for 60 days), has seen many protests of law-enforcement violence.<sup>20</sup>

Apart from being arrested for protesting the hardships COVID-19 restrictions have brought to the cultural sector, artists also suffered penalties under pandemic laws for staging protests on other issues. For example, in Poland, Michał Frydrych and Paweł Onufry Żukowski, members of the performance group Consortium of Postartistic Practices were fined 100,000 Polish zloty (around 22,400 euros) for allegedly failing to keep the mandatory two-metre distance during an activist action held on 6 May.<sup>21</sup> During the performance, 11 artists passed through Warsaw streets carrying a 14-metre-long letter to the Polish parliament ahead of a debate on whether to hold the country’s presidential elections on 10 May. The message they carried alluded to the 1967 statement by well-known Polish artist Tadeusz Kantor about the lack of freedom of expression in the country.<sup>22</sup> Following a significant public backlash, the Warsaw authorities withdrew the fines.

Similarly, Zimbabwean author Tsitsi Dangarembga was arrested on 31 July for violating a ban on gatherings by participating in anti-corruption protests held in Harare.<sup>23</sup> Released the following day, the writer, who was nominated for the prestigious UK 2020 Booker Prize, was ordered to appear in court later in September and court hearings continued through the rest of 2020. Argentina’s Specialised Cybercrime Prosecution Unit filed a complaint against the actor Juan Acosta for “violating measures to prevent spread of pandemic”, by inviting people via Twitter to participate in anti-

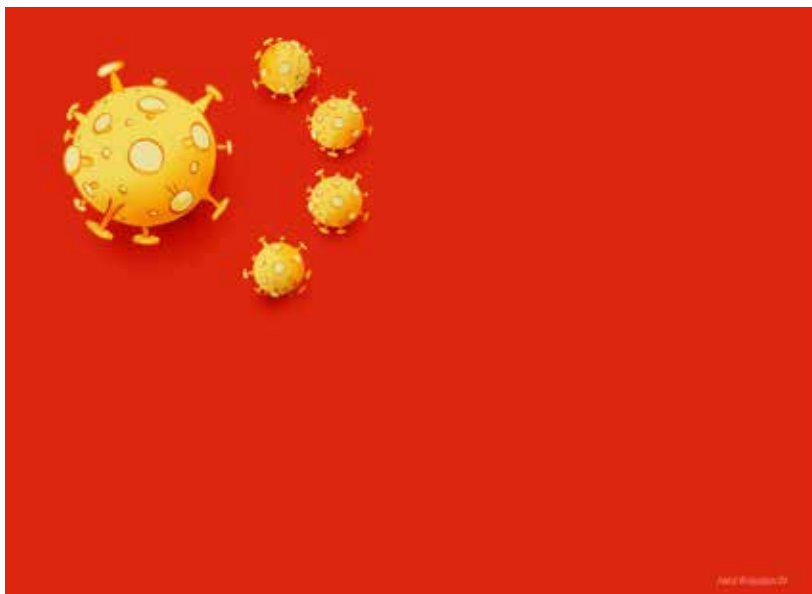
government protests.<sup>24</sup> On 20 June, (Argentina's Flag Day) Acosta urged people to stand in squares across the country with flags in defence of constitutional freedoms. This complaint was dismissed on 1 July.

Authorities used pandemic regulations as an excuse to sanction artists who are deemed critical of their governments in other ways. Jovana Popović, a 24-year-old musician known for her performances at anti-government protests held in Serbia in 2019, was arrested on 24 March at her boyfriend's house for allegedly breaking isolation rules. Popović argued that she was not ordered to enter isolation because ten days earlier, when she returned from Montenegro, there were no currently registered COVID-19 cases in the country, nor had the state of emergency been declared in Serbia.<sup>25</sup> However, the authorities argued that she broke confinement rules, and kept Popović detained for three weeks.

## COVID-19-THEMED VISUAL ARTWORKS UNDER ATTACK

As the first news of the 'coronavirus' broke, there were systematic attempts by different actors to suppress criticism of government dealings of the health crisis expressed through art. Cartoonists were particularly targeted in the early stages of the pandemic. Associations advocating for cartoonists' rights registered a significant increase in the number of incidents targeting this satirical art form.<sup>26</sup> Chinese authorities seemed especially keen to monitor the work of cartoonists across the globe, characterising any criticism of China's handling of the COVID-19 situation as an insult to China and the Chinese people. Pressure on artists to apologise for 'offending China' was usually followed by orchestrated campaigns against them by Chinese users on social media.

After the Danish daily Jyllands-Posten published a cartoon on 27 January by Niels Bo Bojesen depicting the Chinese flag with its five yellow stars replaced with coronavirus particles, the newspaper reported that it received a phone call from China's embassy in Denmark demanding an apology. The



Niels Bo Jesen's cartoon published in Danish daily Jyllands-Posten.  
Credit: Niels Bo Bojesen

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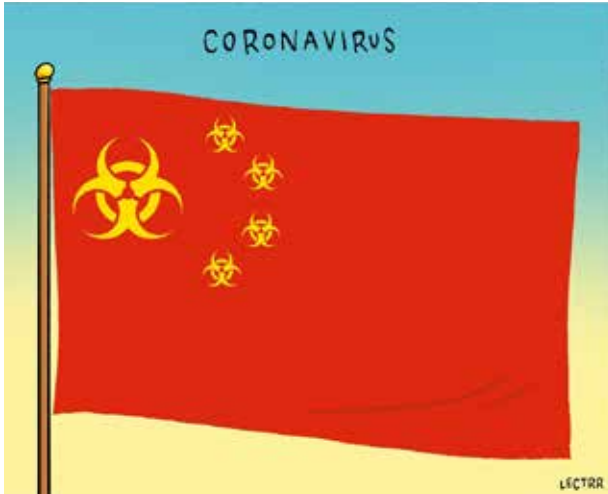
*"To get the political backing from the highest level was of great help, but also international writers and cartoonists groups showed tremendous solidarity and interest. It became obvious to me that this was what you could describe as 'cartoon crisis version 2.0'. The rejections of these totalitarian demands were prompt and efficient."*

NIELS BO BOJESSEN, FREEMUSE INTERVIEW (ONLINE), 16 DECEMBER 2020.

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cartoonist told Freemuse that this call was followed by thousands of threats and criticism he received from multiple sources worldwide.<sup>27</sup> Although the Chinese authorities requested that both he and Denmark apologise for "hurting the feelings of Chinese people", the Danish Prime Minister Mette Frederiksen defended Bojesen, Jyllands-Posten, and artistic freedom.<sup>28</sup>

Similarly, on 4 February, the Chinese embassy in Belgium made a telephone call to the Flemish media outlet De Standaard and requested that the Editor-in-Chief present himself at the embassy, because of a Steven Degryse Lectr cartoon depicting the Chinese flag with stars replaced with biohazard symbols which the newspaper had published on 23 January.<sup>29</sup> In addition, the Association of Chinese Enterprises in Belgium and Luxembourg threatened to file an official complaint against the cartoonist demanding that the author and the newspaper apologise to the Chinese people.<sup>30</sup> Both the cartoonist and the Editor-in-Chief declined to apologise, citing their right to freedom of expression.



Steven Degryse LECTR's cartoon published in the Belgium newspaper De Standaard. Credit: LECTR

*"This was not the first time that I receive threats or pressure, and the De Standaard was very supportive, as it always has been. I got daily calls by the editor in chief to see how things were going and they took over the entire communication to the outside world, which is a very comforting way to handle things. They totally made sure they had my back."*

STEVEN DEGRYSE LECTR, FREEMUSE INTERVIEW (ONLINE), 9 DECEMBER 2020.

Lectrr told Freemuse that he had received many threats from different Instagram users, some from fake accounts, but that the pressure on him had eventually died out.<sup>31</sup>

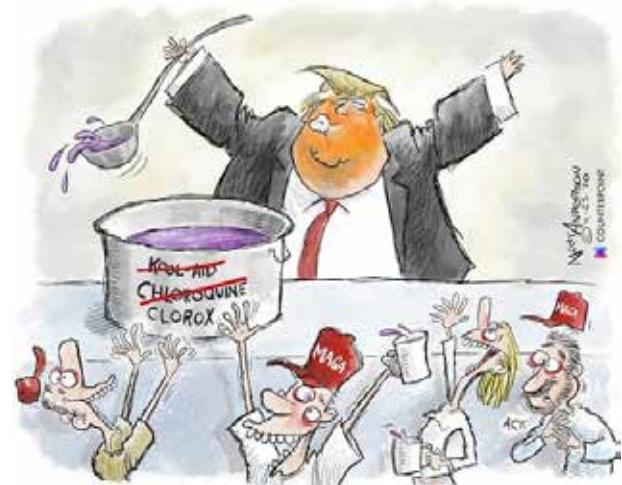
Polish illustrator Greta Samuel was another victim of Chinese orchestrated online trolling, which started in May after she published an illustration referring to COVID-19 and communist China on a popular artists' portal "Behance" and on her website.<sup>32</sup> The threats were directed against her and her mother. In addition, she claims that the London-based company Culture Trip, where Samuel works, threatened to dismiss her over her refusal to remove the cartoon from her website. The disciplinary proceedings were eventually suspended.

Other states also took measures against artists questioning measures aimed at preventing the

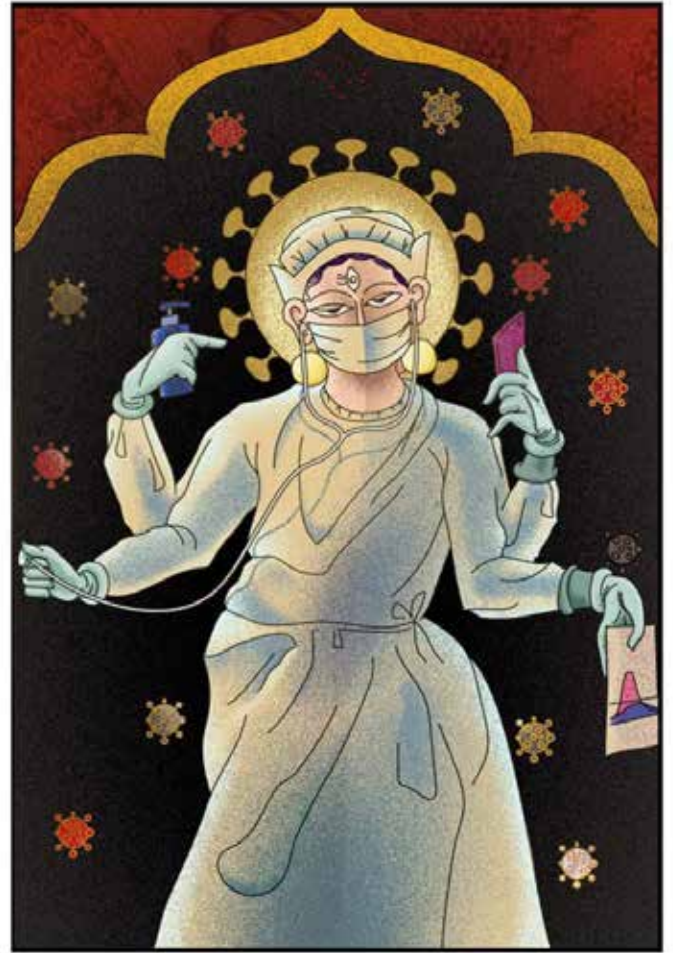
spread of COVID-19. On 23 March, Belgian artist Maxime Matthys was approached by police at the centre of the French city of Rennes during his street performance titled *Go out covered*, through which he questioned confinement in the context of the COVID-19 pandemic. The police asked him to take off his costume which was created out of permissions papers French citizens needed to leave their homes. They demanded that he destroy it before letting him go home.<sup>33</sup>

In May, the then-US President Donald Trump's campaign requested the removal of the Nick Anderson cartoon *The Trump Cult* from the website of the online retailer Redbubble, calling it 'trademark infringement'.<sup>34</sup> The cartoon, which mocked Trump's suggestion that injecting disinfectant could protect against COVID-19, was briefly removed and then reinstated. In Brazil, Justice Minister André Mendonça publicly asked police and prosecutors to investigate political cartoonist Renato Aroeira on 15 June. Mendonça claimed that Aroeira's cartoon "violates national security", citing Article 26 of the National Security Law 7170/1083 which prescribes four years in prison for defaming the president.<sup>35</sup> The cartoon, depicting President Bolsonaro using a toothbrush to turn a red cross symbol into a swastika, was a direct criticism of Brazil's response to COVID-19.

In addition to incidences of duress for political criticism, Freemuse also documented incidents in which the freedom of expression of visual artists was stifled on religious grounds. On 14 July, Tunisian blogger Emna Chargui was sentenced to six months in prison and a fine of 2,000 dinars (around 650 euros) because of her text *Surate Corona - Corona Verse* which was deemed "offensive of Islam".<sup>36</sup> In her Facebook post from 2 May, she used a verse from the Quran, amending it to encourage people to wash their hands to protect themselves from COVID-19. Chargui received numerous online death and rape threats.



Nick Anderson's cartoon *The Trump Cult*. Credit: Comic Book Legal Defense Fund Twitter



Wanda Hutira's Thank you, doctors! billboards in Romania. Credit: McCann Romania



*Mural of Rhea Lewis. Credit: Photographer Sekai Machache.  
Mask designed in collaboration with Fiona Catherine Powell.*

On 3 April, three street artists from Myitkyina in Myanmar—Zayar Hnaung, Ja Sai, and Naw Htun Aung— were arrested and charged with “insulting religion” after painting a mural intended to raise awareness about the COVID-19 epidemic on a wall in their city.<sup>37</sup> Charges were brought under the Article 295A of the Myanmar Penal Code, which prescribes up to two years in prison for speech which “insults religion or religious beliefs”. The artists were arrested following complaints by Buddhist hardliners who argued that the figure of the Grim Reaper spreading COVID-19 depicted in the mural looked like a Buddhist monk. Under pressure of threats and hate speech artists were subject to, they painted over their mural.

In Bucharest, Romania’s Orthodox Church criticised a billboard campaign *Thank you, doctors!* by the international advertising agency McCann Worldgroup depicting doctors dealing with COVID-19 as religious icons with virus-shaped halos. This was a regional campaign developed in over 30 McCann offices across Europe. The version in Romania was by designer Wanda Hutira who represented medical staff as supernatural beings with extraordinary powers. A church spokesperson called the billboards “a visual abuse of Christian

iconography” and “marked by bad taste fed by ignorance and a hideous ideology that only knows how to caricaturise Christianity”. This led Bucharest officials to request the posters be taken down.<sup>38</sup> McCann stated to Freemuse that they decided to “take down the billboards containing Wanda’s illustrations from the locations where they sparked controversy, while [the] billboards remained in the locations where they were appreciated and supported by the authorities and the public.”<sup>39</sup>

Although Freemuse acknowledges that misinformation can lead to harm to public health during medical crises, in 2020, it shows concern that many artists have been deprived from the opportunity to raise concerns and scrutinise the way authorities handle the pandemic without fear of consequence. Applying blanket bans and vague provisions on restrictions on dissemination of alleged misinformation has been used to suppress criticism and therefore breached international standards governing free speech. Moreover, international human rights norms protect all forms of expression, including that which is not truthful, and that any applications of restrictions on speech that may be untruthful, can only be made after satisfying the principles of necessity and proportionality.<sup>40</sup> The same rule applies to expressions deemed insulting, as international standards require that freedom of expression be guaranteed not only for neutral or affirmative information, but also for those that offend, shock, and disturb.<sup>41</sup> Freemuse further affirms that criminal proceedings against artists should be applied only in cases of severe violations of speech-related regulations. It concurs with the UN High Commissioner on Human Rights who stated that instead of prosecution for information offences, that instead authorities should “employ less intrusive means of combating the spread of misinformation, such as promoting independent fact-checking, education and media literacy.”<sup>42</sup>



Marco De Angelis (Italy). Credit: Cartooning for Peace



# STATE-SPONSORED SILENCING OF POLITICAL DISSENT

Silencing artists for their artwork, expression, and actions deemed critical of the authorities has been the most widespread violation of artistic freedom, as Freemuse research continuously demonstrates. In more than one third of all cases documented in 2020, artists faced censorship, legal actions, and in some cases had their voices suppressed for their criticism. At least three artists died because of their political views in opposition of those in power; 11 were subjected to physical attacks, whilst four were reportedly abducted. In total, 182 politically vocal artists were detained, prosecuted, imprisoned, and fined in 45 countries. Government strategies to stifle political dissident have included persecuting artists for staging, organising, or participating in anti-government protests, or for creating artwork in support of revolutions and uprisings. Legal prosecution of artists on the grounds of insulting state officials or state symbols has also been widely used.

## SYSTEMATIC ATTACKS ON INDEPENDENT ARTISTS IN CUBA

In 2020, Freemuse documented 60 attacks on dissident artists in Cuba. Some of these attacks were against groups of artists, whilst others were against individuals. Cuban authorities prevented artists from organising and participating in public gatherings, prosecuted them for contempt, detained and forcefully took them to secret locations, and prevented them from reporting police brutality (among other human rights violations). Freemuse research shows that the Cuban government used both official law enforcement, as well as secret services, in the suppression of dissent. Members of the San Isidro Movement (*Movimiento San Isidro*—



Cuba. N27 group logo. Credit: Courtesy of

MSI), which advocates for artistic freedom, and an artist-activist group called 27N encountered multiple attacks during the year.

The pressure on the artistic community escalated in late November and December, following the arrest of rapper and MSI member Denis Solis. In response to the arrest, on 27 November more than 300 people protested government control over the cultural sector in front of the Ministry of Culture in Havana. A group of 32 were allowed inside for a five-hour meeting with the Vice-Minister of Culture Fernando Rojas, which has been considered historic as the first-of-its-kind dialogue. The group demanded

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*"I participated in the protests because a battle for art was being fought. And when you have been speaking for 12 years, you really must put words into action. It would be very hypocritical to speak and speak, and then when you have to take an action, you just stay at home."*

OMAR MENA, FREEMUSE INTERVIEW (ONLINE), 23 JANUARY 2021.

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that the government refrain from harassing independent artists and cease its persecution of MSI.<sup>1</sup> MSI members have been under constant pressure since December 2018, when the movement was established to advocate for the repeal of Decree 349 which bans the work of independent artists. Despite the Ministry of Culture's promise that the harassment would stop, it only intensified.<sup>2</sup>

State officials in Cuba used social and traditional media to denounce the November protesters as USA agents. Participants at the meeting with officials and members of what became the 27N group were kept under house arrest and some were briefly detained.<sup>3</sup> The authorities also turned against artists who organised events in support of MSI across Cuba. Several artists were briefly detained on 28 November during protests in the Province of Matanzas, a demonstration organised by heavy metal singer Frank Batista.<sup>4</sup> Similarly,

on 30 November, rapper Omar Mena (known as El Analista) was also arrested while en route to a protest in Santa Clara, the capital of the province Villa Clara.<sup>5</sup>

## REPERCUSSIONS AGAINST ARTISTS PARTICIPATING IN POLITICAL PROTESTS

Despite the COVID-19 pandemic, which has led to restrictions on freedom of movement and assembly, 2020 sparked many protests worldwide. Protesters took to the streets against the authorities' response to the pandemic, as well as to protest issues of governance and socioeconomic troubles. Artists who took part in these protests faced repercussions for their political activities. Hella Mewis, a German arts curator based in Iraq, was abducted on 20 July in front of her office in Baghdad and held captive by unidentified perpetrators for four days, before being freed by state security services.<sup>6</sup> Although Mewis works in TARKIB Baghdad Contemporary Arts Institute on promoting emerging Iraqi artists, it is believed that she was abducted because of her support for anti-government protests, which began in October 2019, and have called for "an end of corruption, unemployment, and poor public services".<sup>7</sup>

On 18 July, youth-led, pro-democracy protests commenced in Thailand, with demonstrators demanding a new constitution; questioning the king's power; and calling on the Prime Minister and Minister of Defence Prayuth Chan-ocha to resign.<sup>8</sup> These protests were met with force and repression. Poet and human rights lawyer Arnon Nampa was arrested several times for participating in the



Thai poet and human rights lawyer Arnon Nampa was charged for sedition following his participation in anti-government protests. Credit: Arnon Nampa on Facebook.

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*"Facilitating participation in peaceful assemblies helps ensure that all people in a society have the opportunity to express opinions which they hold in common with others. As such, freedom of peaceful assembly facilitates dialogue within civil society, and between civil society, political leaders and government."*

OSCE/ODIHR – VENICE COMMISSION, GUIDELINES ON FREEDOM OF PEACEFUL ASSEMBLY, CDL-AD(2010)020, 9 JULY 2010, P.13.

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The entrance to the TARKIB centre in Baghdad where arts curator Hella Mewis was abducted on 20 July. Credit: Hella Mewis on Facebook



Members of the Rap Against Dictatorship at the anti-government protests in Bangkok. Credit: Rap Against Dictatorship

*“Arresting us won’t stop us from participating in the movement. We’ve already proven that with our new song REFORM released in November last year where we’ve raised our voices even louder. Of course, the government’s only response was censorship; they’ve blocked the song’s URL from the Thai domain.”*

RAP AGAINST DICTATORSHIP, FREEMUSE INTERVIEW (ONLINE), 26 JANUARY 2021.

protests, including for delivering a speech on 18 July that called for a repeal of the lèse-majesté laws which legitimise the monarchy’s power. In October, Nampa was charged for sedition under Section 116 of the Criminal Code of Thailand, following his participation in protests on 19 and 20 September.<sup>9</sup> On 28 October, the Court of Appeal denied his request for release on bail. In addition, on 20 August, two Thai rappers were also arrested in Bangkok on the same charges. Dechathorn ‘Hockhacker’ Bamrungmuang, founder of the collective Rap Against Dictatorship and Thanayut Na Ayutthaya, from the rap group *Eleven Finger* were arrested for singing at protests.<sup>10</sup> Both were released on bail. Rap Against Dictatorship members told Freemuse that the case has been handled by the police and the attorney, and that he “does not know what further strategies they have in mind.”<sup>11</sup>

In Algeria, mass protests known as the Revolution of Smiles or Hirak Movement emerged in February 2019, following President Abdelaziz Bouteflika's intention to run for a fifth term. These protests were also met with hostility.<sup>12</sup> On 11 December 2019, cartoonist and painter Abdelhamid 'Nime' Amine was sentenced by a court in Oran, north-western Algeria, to a one-year suspended sentence, including three months in prison. He was prosecuted on charges of "insulting the president of the republic and the chief of staff of the army" through his political cartoons in support of the Hirak Movement.<sup>13</sup> He was released in January 2020, but then summoned to appear before a judge on 9 January when his suspended prison term was confirmed, and there he was ordered to pay a fine of 20,000 Algerian dinars (approximately 123 euros).<sup>14</sup>



Ali Hamra (Syria). Credit: Cartooning for Peace

Another artist known for his support of the Hirak Movement, poet and activist Mohamed Tadjadit was arrested on 23 August in Algiers and accused on national security-related charges.<sup>15</sup> In November, he started a hunger strike over his detention of more than two months without a court hearing.<sup>16</sup> Previously, in March, his sentence to 18 months in prison rendered in November 2019 was reduced to a "one-year suspended sentence with a ban on speaking out".<sup>17</sup> In addition, on 21 September, the Ministry of Communication banned French private television channel M6 from operating in Algeria because it broadcasted a documentary about the Hirak Movement entitled *Algeria, the country of all revolts*.<sup>18</sup>

Freemuse documented several other cases where artists were sanctioned in the context of protests. In Abidjan, known as the economic capital of the Ivory Coast, two Zouglou (a dance style with politically-charged music) performers were sentenced on 3 December to one-year suspended

prison sentences and fined five million West African francs (approximately 7,600 euros) each for criticising the national prosecutor's actions against protesters.<sup>19</sup> During a performance in November, they commented on the prosecutor's alleged bias in bringing charges of violence against protesters who demonstrated after President Ouattara's re-election. Australian filmmaker Kalani Gacon was among six foreigners who were arrested on 13 June during COVID-19 related protests in Nepal's capital Kathmandu. He was charged with "documenting internal affairs" by filming the protests.<sup>20</sup> Although he was released two days later, it was reported that he would be deported and banned from entering Nepal for a two-year period. In the north-western city of Caen, France, on 23 September a court ordered six members of the music group Choeur de l'art mais rouge to pay a 90 euro fine each for playing music on the sidelines of a Yellow Vests demonstration in 2019, which was a reduction from the 135 euros fine they were handed on 6 April 2019.<sup>21</sup>



Poster in support of Mohamed Tadjadit. Credit: Mohamed Tadjadit on Facebook

*Cadenassés...*



Six members of the Myanmar troupe Peacock Generation have been prosecuted in multiple trials because of their satirical performance from 2019 deemed 'insulting of military'. Credit: Screenshot of the Peacock Generation's video on Facebook

## SANCTIONS FOR ALLEGED INSULTS TO THE STATE AND ITS OFFICIALS

One of every seven cases of the violations of artistic freedom documented by Freemuse in 2020 involved an alleged incident of offending or insulting state symbols, a head of state, military and police officers, or representatives of legislative, executive, or judicial powers. The case of the Myanmar Thangyat (satirical poetry) troupe Peacock Generation exemplified the struggle of artists who allegedly insult military personnel through their performances. In 2019 and 2020, six members of the troupe were prosecuted in multiple trials before different local courts under Section 505(a) of the Penal Code for "insulting the military" and Section 66(d) of the Telecommunications Law for "online defamation". These charges are in connection with a video of

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*"The limits of acceptable criticism are ... wider as regards a politician as such than as regards a private individual. Unlike the latter, the former inevitably and knowingly lays himself open to close scrutiny of his every word and deed by both journalists and the public at large, and must consequently display a greater degree of tolerance."*

LINGENS V. AUSTRIA, 1986, PARA. 42

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*"This was a peaceful expression of those young people, their exercise of a fundamental freedom. Their imprisonment is creating a climate of fear intended to suppress any form of dissent. As long as the government and military use penal law and institutions to oppress activists, they are sending a message that Burma is not free."*

BO KYI, JOINT SECRETARY AT THE ASSISTANCE ASSOCIATION FOR POLITICAL PRISONERS, FREEMUSE INTERVIEW (ONLINE), 26 JANUARY 2021.

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their performance from April 2019 which was shared online. During celebrations of Myanmar's traditional new year, Peacock Generation members allegedly poked fun at "military representatives in parliament and their business dealings".<sup>22</sup> Through these trials so far, three group members have accumulated sentences of six-years imprisonment.<sup>23</sup>

In October, Kuwaiti singer Khaled Al-Mulla was sentenced to two years in prison for "insulting the judiciary" through a folk song *Al-Shahadat Al-Mouzawara*, which he sang during a Ramadan television program in 2019.<sup>24</sup> He was, however, offered release with a financial guarantee of 1,000 Kuwait dinars (approximately 2,700 euros) if he pledged good conduct for a period of two years. The Minister of Information suspended the Ramadan Lobby program after Al-Mulla's performance.



Turkish artist Unauthorised has been tried because of his intervention made on a street artwork which was deemed 'insulting of state symbols'. Credit: Unauthorised

*"Since I was released, my life has been divided into six months of prolonged waiting. A court hearing ends; a new 6-month uncertainty begins. Although I want to continue my life, part of me tends to keep myself ready in case I am detained again. Once you are in prison, you start appreciating even the smallest things. But it seems as if this uncertainty tells you not to get used to those things that I appreciate."*

UNAUTHORISED, FREEMUSE INTERVIEW (ONLINE), 7 FEBRUARY 2021.

'Politically problematic' song lyrics also led to the September arrest of Cambodian rappers Kea Sokun and Long Puthera. In the song *"Ipe Your Tears and Continue Your Journey, Khmer Eyes*, the rappers allegedly suggested that Prime Minister Hun Sen's lack of leadership had led to economic decline.<sup>25</sup> On 22 December, the two rappers were convicted before the Siem Reap Provincial Court under Article 495 of the Criminal Code. Sokun was sentenced to 18 months in prison (though ordered to serve one year), whilst Puthera, who apologised for the lyrics he wrote, received a sentence of five months in prison (but served three months and 13 days).<sup>26</sup>

Similarly, in February, Turkish street artist working under the pseudonym Unauthorised, added his own depictions to a wall painting at the Kabataş construction site in Istanbul. Unauthorised asserted that he wanted to draw attention to people who had committed suicide due to economic difficulties and unemployment by showing an individual hanged by the symbol in the Turkish flag to an already existing outdoor wall painting. However, he was charged with "insulting the signs of the state's sovereignty" and "insulting the President" at a trial which began on 7 July.<sup>27</sup> His trial has now been postponed until 25 May 2021. This mural was painted over the day after he finished it.

Freemuse documented dozens of other cases in which artists were censored for their artwork centring on state bodies. In France, under pressure from Minister of the Interior Gerald Darmanin, Italian artist Paolo Cirio's work *Capture* was removed from the Tourcoing Art Centre's *Le Fresnoy* exhibition, which was scheduled to open on 15 October. Although Cirio worked with the Le Fresnoy for a year on his project on banning facial recognition in Europe, his artwork was removed after a tweet on 1 October in which Minister Darmanin threatened the artist with legal action, referring to his project as "a pillory of women and men who risk their lives to

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*“An unbearable pillory of women and men who risk their lives to protect us. I request the deprogramming of the ‘exhibition’ and the removal of the photos from its website, under penalty of seizing by competent courts.”*

GERALD DARMANIN, FRENCH MINISTER OF INTERIOR, TWITTER, 1 OCTOBER 2020.

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Italian visual artist Paolo Cirio promoting his artistic project Capture by putting posters on streets of Paris.  
Credit: Florian Draussin, curtesy of Paolo Cirio

protect us”.<sup>28</sup> The particularly ‘problematic’ part of this artistic project was a website through which Cirio had called on people to use facial recognition software to identify policemen from 1,000 public photos taken during demonstrations in France.<sup>29</sup> The artist told Freemuse that he had to shut down the website a day after it went live because he felt that “he was all alone as a foreign citizen fighting against the French Ministry of Interior with infinite resources to sue him”.<sup>30</sup>

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*“I do not know if I will be able to show this work in France at all, because I don’t know who is going to dare to do that. I’m talking about museums and public institutions, but also private institutions. My feeling is that the police there is not just violent, but they kind of scare people, so private entities might also not want to do this.”*

PAOLO CIRIO, FREEMUSE INTERVIEW, 17 OCTOBER 2020.

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The cases presented in this chapter demonstrate that authorities all over the world can use punitive measures to stifle free expression and prevent peaceful protests. This trend not only runs contrary to international human rights standards, but also hinders the ability to criticise and express one’s opinion, which is an essential aspect of a democratic society. The use of sedition, national security, and defamation laws against critical voices curbs legitimate expression and prevents citizens from discussing and debating issues of importance for society. The abolition of criminal defamation has been broadly advocated for as it has been repeatedly used as a harmful tool to prevent criticism of authorities and their actions.<sup>31</sup> To this end, governments must end any unnecessary or disproportionate legal prosecution of artists for exercising their right to free expression and peaceful assembly.





# SILENCING ARTISTS ON THE GROUNDS OF FIGHTING TERRORISM, BLASPHEMY, AND INDECENCY

Throughout 2020, more than 200 artists were targeted worldwide for allegedly hurting religious sentiments, violating public morality, and on the pretext of inciting and glorifying terrorism. Criminalising speech on these three grounds has been particularly worrying. Whilst international human rights standards allow limitations of freedom of expression on grounds of protecting national security and public morals, if it is proven to be necessary and proportionate, restrictions related to blasphemy can only rarely pass these tests. In 2009, three UN Special Rapporteurs underlined that “the

the Kano State High Court ordered a retrial in the case due to “procedural irregularities”.<sup>2</sup> Whilst this was a welcome development, the musician still faces a severe sentence for sharing on WhatsApp a song deemed insulting of the Prophet Muhammad.

Another impactful human rights violation from 2020 highlights how individuals who perceive some expressions blasphemous may opt for violence. On 16 October, French teacher Samuel Paty was beheaded on a Paris street after showing his students a cartoon depicting the Prophet Muhammad (published in the satirical weekly *Charlie Hebdo*) during a class on freedom of expression. This crime reignited the debate on freedom of expression in the context of depicting the Prophet through cartoons, initiated in 2015 when 12 people were killed and 11 injured in an attack on the *Charlie Hebdo* offices by Islamic extremists. Whilst Islam mainly recognises any attempt to capture the Prophet’s image as an insult, violent responses to Prophet-related drawings spark great

concern about contemporary divisions between secular and radical Islamist views.<sup>3</sup> Kak, President of the Paris-based organisation Cartoonists for Peace, believes that those who inspired and conducted attacks in 2015 and 2020 used cartoons to “generate divisions which serve their own causes”, adding that “in cartoons they just found the trigger to spread fear and violence”.<sup>4</sup>

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*“If you start making a list of sensitive topics all over the world, you will end up drawing nothing. Freedom of expression implies that people must face ideas they do not like. Let’s face it! We’re not going to lock down the Internet.”*

KAK, FREEMUSE INTERVIEW (ONLINE), 14 JANUARY 2021.

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difficulties in providing an objective definition of the term ‘defamation of religions’ at the international level make the whole concept open to abuse”.<sup>1</sup> A further concern is that vaguely worded legislation, particularly as it is connected to anti-terrorism, can be used in a discriminatory way and become a tool to silence dissenting or critical voices.

In 2020, at least 80 artists worldwide faced legal consequences, such as detention, prosecution, and imprisonment under the guise of fighting terrorism, blasphemy, and indecency. National counterterrorism laws were used to sanction government criticism expressed by at least 33 artists, mainly in Turkey and Egypt. Another 17 legal cases were initiated against artists whose artworks, public speeches or social media posts were deemed indecent from the perspective of public morality. Further, at least eight artists were convicted for expressions perceived to insult religion. In one of the most extreme cases, on 10 August, gospel singer Yahaya Sharif-Aminu was sentenced to death by hanging in Nigeria’s northern Kano State which applies Sharia. On 21 January 2021,

## TERRORISM-RELATED CHARGES USED TO SANCTION POLITICAL DISSENT

Freemuse’s research in 2020 once again identified a trend of misusing counterterrorism laws for the illegitimate stifling of political dissent, which has been permeating in some countries over the past five years. The invoking of the 1991 Anti-Terror Law by Turkish authorities has been an alarming problem, particularly following the attempted coup

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*“When you are in exile, you lose everything. A writer’s job is directly related to their mother tongue, but I was plucked away from my mother tongue. I was a writer who used Turkish very well, now I feel like I’m losing that skill. You need to keep hearing the language, otherwise it’s lost... Now I have this sense of paralysis.”*

ASLI ERDOĞAN, FREEMUSE INTERVIEW (ONLINE), 16 DECEMBER 2020.

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d'état in 2016. A poorly defined charge of “terrorist propaganda” and “executive interference in the judiciary” exacerbate this issue.<sup>5</sup> In 2020, at least 25 artists, mainly Kurdish and those deemed dissenting of President Recep Tayyip Erdoğan, faced some legal penalties on allegations of “spreading terrorist propaganda” and “membership in a terrorist organisation”.

The popular leftist music collective Grup Yorum, whose members have been on the Ministry of Interior’s ‘terrorist list’ since February 2018 due to alleged connections with the outlawed Marxist Revolutionary People’s Liberation Party/Front, were disproportionately targeted.<sup>6</sup> Five members started a hunger strike in May 2019 while in prison. The striking was in protest of the frequent raids of their premises, in request of lifting the ban on their concerts and the removal of the band members and their supporters from the government ‘terrorist list’.<sup>7</sup> While released from prison, two members, Helin Bölek and İbrahim Gökçek, died as a result of ‘death fasts’ in April and May 2020 respectively.<sup>8</sup> Through 2020, many other Grup Yorum members were detained on multiple occasions, often following police raids of the İdil Cultural Center, where they rehearse.

Other Turkish artists were prosecuted on terrorism-related charges because of the content of their artworks, social media posts deemed anti-governmental or supportive of the Kurdish cause and for their alleged affiliation with outlawed pro-Kurdish organisations. Award-winning writer Aslı Erdoğan was first arrested on the accusation of “terrorist propaganda” in August 2016, during a police raid of the opposition newspaper Özgür Gündem, where she was a columnist.<sup>9</sup> While she was with the paper, she had written about the Kurdish conflict in Turkey and the Turkish army’s brutal methods in the Kurdish-dominated southeast. Following her release on bail, she fled to Germany where she has been living in exile since 2017. Although she was acquitted in absence in February 2020, her case was reopened in July.<sup>10</sup>

On 18 June, Kurdish singer Azad Bedran was sentenced to three years and nine months in prison before the Diyarbakır Heavy Penal Court. The court convicted him with “spreading propaganda for an illegal organisation” through a music video

released in 2016 with his rendition of the song *Partizan*, made famous 25 years ago by another Kurdish singer.<sup>11</sup> Bedran explained that he had been granted permission to release the song by Turkey’s Ministry of Culture. Prior to its release, and he had performed it at concerts and through his social media posts. However, the charges against the musician were launched in 2016 and although he was subsequently acquitted by the court of appeal, the investigation was reopened by another court, and he was sentenced to a prison term. Bedran told Freemuse that *Partizan* had five million views on YouTube, but it was taken down. His revenue from the YouTube channel was seized and the channel was shut down.<sup>12</sup>

Egypt is another country that continuously excessively uses the 2015 Terrorism Entities Law to punish artists critical of the government. The case of Ramy Essam’s song *Balaha*, in which the singer who has been living in exile since 2014 reflects on the achievements of the 2011 Egyptian revolution, exemplifies this. After the song was released in February 2018, Egyptian authorities arrested seven people allegedly associated with Essam, and as he told Freemuse, many more were threatened and harassed.<sup>13</sup>

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*“As Kurdish artists, we are deemed dissidents and we face all kinds of problems. My only income is music, but for a year, all of my concert applications have been denied. We are banned and face financial difficulties. In short, the destiny of a dissident artist is prison, exile and tears.”*

AZAD BEDRAN, FREEMUSE INTERVIEW (ONLINE), 15 JULY 2020.

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Photographer and *Balaha* music video director Shady Habash was in pre-trial detention for more than 800 days when he died in Tora Prison in Cairo on 1 May 2020. According to the authorities, he allegedly ingested hand sanitiser instead of water, but Amnesty International assert that he died in Tora Prison due to “medical negligence”.<sup>14</sup> Song lyricist, poet Galal El-Bhairi, was also among those arrested. Although released from charges in this case, he has been serving three years in prison since July 2018 for his unpublished book of poetry.<sup>15</sup> Although not involved in the production of *Balaha*, web designer Mustafa Gamal was also arrested in March 2018 because of his former association with Essam, whose fan page he certified on Facebook in 2015.<sup>16</sup> While Egypt’s anti-terrorism law allows authorities to keep suspects in pre-trial detention for up to two years, Gamal’s detention has long exceeded this limit.

Film producer Moataz Abdel Wahab is another person who has been under prolonged detention in Egypt’s prisons on charges of “membership in a terrorist group”. Arrested in May on allegations relating to several of his documentary films which were sold to the Aljazeera Documentary Channel, he remains in prison as of January 2021.<sup>17</sup> An appeal for his release, however, ascertains that these were cultural documentaries with no political views. His release was ordered by the Cairo Criminal Court on 5 October, but instead of releasing him, the prosecution filed a new charge of “joining a terrorist group while in custody”.<sup>18</sup>



Egyptian film producer Moataz Abdel Wahab have been tried for ‘membership in a terrorist group’. Credit: Moataz Abdel Wahab on Facebook



Spanish rapper Pablo Hasél sentenced to prison for ‘glorifying terrorism’ and ‘insulting the crown’. Credit: Pablo Hasél on Instagram

Over the past five years, Spain sentenced 14 Catalan rappers to prison terms for ‘glorifying terrorism’ through the lyrics in their songs. On 28 January 2021, rapper Pablo Hasél, convicted for his lyrics, public comments, and social media posts referring to banned terrorist groups and criticising former King Juan Carlos, received a judicial order stating that he had ten days to voluntarily enter prison. In September 2018, he was sentenced to nine months and one day under the 2015 Public Security Law, but was not jailed at that time, because Spanish law does not require prison stays for penalties under two years. However, aggravating circumstances were considered, keeping in mind that he also had not entered prison in 2014 when he was sentenced to two years for “exalting terrorism” through his songs about terrorist groups, under the condition that he would not commit other crimes.<sup>19</sup>

In a response to a nationwide furore over Hasél’s case, Prime Minister Pedro Sánchez’s government announced in early February 2021 that it would ease its restrictions on free speech.<sup>20</sup> However, there are still concerns about the implications that this atmosphere would have on a group of 12 rappers from the rap group La Insurgencia who were given six-month suspended sentences in September 2018 for referring to formerly active terrorist groups in their lyrics.<sup>21</sup> Another Spanish rapper, Valtonyc, remains in exile in Belgium, where he fled in May 2018, to avoid entering prison for three years and six months because of his song lyrics.<sup>22</sup> He was accused of “insulting the monarchy” and “praising terrorist groups”.

## FACING DANGER FOR EXPRESSIONS DEEMED INSULTING OF RELIGION

Through 2020, religious-themed artworks, in particular cartoons depicting the Prophet Muhammad, and those responsible for creating and discussing them, came under serious attack in various countries. In France, these attacks were preceded by the publication of cartoons of the Prophet Muhammad on 1 September by the satirical weekly *Charlie Hebdo*, to mark the start of the trial against those accused of assisting two gunmen who opened fire on the weekly's offices in a January 2015 terrorist attack.<sup>23</sup> After they were republished on the *Charlie Hebdo* cover page with the message "All of this, just for that," the terrorist organisation Al-Qaeda threatened the weekly,<sup>24</sup> whilst the head of *Charlie Hebdo* human resources was forced to leave her house because of threats addressed to her security guards.<sup>25</sup> In addition, in Morocco, a country whose Press Code allows for bans on content deemed "defamatory of Islam", the Ministry of Culture prohibited the distribution of any issues of French newspapers and magazines that had published the *Charlie Hebdo* cartoons of the Prophet Muhammad.<sup>26</sup>

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*"It may hurt when someone has an opinion that conflicts with your worldview or religious conviction, but they have a right to say so in all liberty."*

DUTCH PRIME MINISTER MARK RUTTE, REUTERS, 6 NOVEMBER 2020.

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On 16 October, an 18-year-old refugee of Chechen origin beheaded the French teacher Samuel Paty near the college where he worked in Paris, after Paty showed his students two of the *Charlie Hebdo* cartoons in a class on freedom of expression.<sup>27</sup> Before his murder, the teacher was subject to a smear campaign on social media orchestrated by a parent of a Muslim student who attended Paty's class. He was harassed, despite the fact that Muslim students who felt they would be offended by the cartoons had been permitted to leave the class before they were shown. Dozens of people were arrested in connection with Paty's murder, whilst President Emmanuel Macron publicly criticised Islamist extremism, recalling the series of terrorist attacks across France since 2015.<sup>28</sup>

Paty's murder generated further debate, resulting in repercussions faced by teachers in other countries for using cartoons for educational purposes. In Brussels, a schoolteacher was suspended on 30 October, for showing one of the *Charlie Hebdo* cartoons in a class with children aged ten and eleven, despite offering the students the opportunity to look away if they were upset by the images.<sup>29</sup> In this case, the concern was about indecency, versus an affront to Islam, as the cartoon depicted the Prophet Muhammad naked, with his genitals exposed. In the Netherlands, an 18-year-old woman in Rotterdam was arrested on 6 November after she made online threats against a high school teacher who was urged to go into hiding.<sup>30</sup> The teacher discussed Paty's murder with her class and showed a cartoon of the Prophet. In this period, Cartoonists for Peace, an organisation that works with teachers by providing lessons in which they use press cartoons, had some schools cancel these activities due to fear caused by the recent events.<sup>31</sup>

Furthermore, in 2020, Freemuse documented that at least 40 people were detained, prosecuted, and imprisoned on religion-related grounds, mainly in predominantly Muslim countries. Among them, seven Moroccan nationals were prosecuted under Article 267.5 of the country's Penal Code which penalises "causing harm to Islam". On 12 June, six people were arrested in the port city of El Jadida on the Atlantic coast for "contempt of Islam" because of a TikTok video in which they sang a song about the Prophet Muhammad while drinking alcohol.<sup>32</sup> On 14 July, Mohammad Awatif Kachchach, a civil servant in the city council of Youssoufia, was sentenced to six months in prison and a fine of 3,000 dirhams (approximately 300 euros) for sharing a cartoon representing the Prophet in a psychiatric facility on Facebook.<sup>33</sup>

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*"In the case of Samuel Paty, the emphasis shouldn't be put solely on the killer and his despicable act, but also on the people who protested against Mr Paty's work, put his name on social media and threatened him, drastically increasing the risk of someone reacting aggressively against him."*

KAK, FREEMUSE INTERVIEW (ONLINE), 14 JANUARY 2021.

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In Pakistan, a country where blasphemy is punishable by death, filmmaker Sarmad Khoosat faced censorship and a smear campaign because of his award-winning film *Zindagi Tamasha* (Circus of Life), tackling issues of moral policing and intolerance in society. Although it initially received clearance by Pakistan's Central Film Censor Board, in January, following the release of the trailer, Khoosat came under fire from members of the Tehreek-e-Labbaik Pakistan, a far-right Islamist political party.<sup>34</sup> The filmmaker told Freemuse that they requested an additional content review and staged protests claiming that the film, inspired by an online video the filmmaker saw in which "a religious Muslim man apologises for dancing in a wedding", was blasphemous.<sup>35</sup> He added that photographs of him were posted around the city of Lahore and on social media, but that the threats against him culminated when his personal information was leaked. However, although the film has yet to be released in Pakistan, it has been submitted as the country candidate for the Oscars International Feature Film Category.

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*"In Pakistan, even talking about blasphemy has now been labelled as blasphemy itself."*

SARMAD KHOOSAT, FREEMUSE INTERVIEW, 2 FEBRUARY 2021.

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## INDECENCY AS A GROUND FOR CENSORING ARTISTS

Over the past five years, hundreds of artists and artworks were targeted under the pretext of indecency. Although, in 2020, artists were mostly subjected to censorship, at least 17 of them faced some legal consequences for alleged 'obscenity', 'bestiality' and other notions deemed contradictory to 'family values' and public morality. On 24 December, film director Anonno Mamun and actor Shaheen Mridha were arrested in the Bangladeshi capital Dhaka, after a police officer filed a case against them under the Pornography Act for their work on the legal drama *Nabab LLB*.<sup>36</sup> They were detained on charges with "creating pornographic content" through a film, which is set in a fictional courtroom and tackles the issue of rape and the treatment of victims by police.

In Israel, artist Zeev Engelmayer was briefly arrested on 5 September for wearing a naked woman costume as part of his artistic character Shoshka, while participating in a protest held outside the Prime Minister's house, calling for his resignation. The police authorities claimed that he was detained because he was "dressed as a naked woman, in a way that could constitute sexual harassment of the public". According to one newspaper, the police also insinuated that the artist's outfit was portraying Sara Netanyahu, the Prime Minister's wife.<sup>37</sup>



Israeli artist Shoshke Engelmayer arrested for protesting in a costume deemed 'indecent'. Credit: Shoshke Engelmayer on Facebook



The exhibition by the Belgrade-based underground cartoon group Momci was destroyed on 13 October. Credit: Courtesy of Goran Rajšić

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*“We were surprised that someone noticed this drawing, which was taken out of the context violently, or more precisely, the new context was given to it violently. More importantly, we were surprised to learn that people think that the kid drawing equals incitement to violence against children.”*

GORAN RAJŠIĆ, FREEMUSE INTERVIEW, 23 OCTOBER 2020.

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On 13 October, after negative reactions towards the comic art exhibition *They had that kind of glow around them* created by the Serbian underground cartoon group Momci, the exhibition which was on display in Belgrade was vandalised by a group of 15 masked young men.<sup>38</sup> The attack on the exhibition, a retrospective of the group’s work, which resulted in the destruction of original artworks created during the 1990s, came after some drawings were shared on social media. The drawing called *Kenjkavac*, which shows a bloody baby with an axe in his head, was the main subject of the critique. The five members of the group received negative comments and death threats based on the treatment of the child in their drawing. They reported this to the police, but the police failed to take any action. The Serbian Ministry of Culture published a press release condemning the attack but highlighted that “showing and affirming disgusting and immoral content, wrapped in a cloak of alleged artistic creativity, rightly provokes negative reactions from the majority of the public.”<sup>39</sup>

Authority intolerance for artistic expressions that include shocking and disturbing content has been also documented in a number of censorship cases. On 7 December, the Minister of Culture of the Faroe Islands Janis av Rana announced that he would not allow public financial support for the film *Skúla Scam* (School Scam), directed by 17-year-old Tóki Jansson because he found it personally unsuitable. Despite being recommended for financing by Filmgrunnurin, the film fund operating under the Ministry, the animated film was rejected by the Minister because of the language in the film which included swearing.<sup>40</sup> The Minister stated that he “didn’t like that he saw” and that he “could not approve this film nor say that it was great”.

In February, a video production by visual artist Xandra Ibarra was banned from the group exhibition *XicanX: New Visions* at the Centro de Artes in San Antonio, Texas because it “violated a Texas statute prohibiting ‘obscene content’”.<sup>41</sup> The artwork, entitled *Spictacle II: La Tortillera*, addressed issues of race and gender stereotypes and included a simulated sex act. The ban was confirmed during the meeting of the Arts Commission of the City of San Antonio held on 10 March, because they insisted it was “a very graphic video”.<sup>42</sup>

Sexually explicit content is sometimes censored by artistic centres themselves. Turkish artist Serkan Bayer had an invitation to participate in a Modern Turkish Art Exhibition scheduled for 4–27 April, but it was revoked at the last minute by the Dutch Independent Art Foundation on the grounds of ‘obscenity’. The artist was informed of this decision after he delivered three works which are the part of a series entitled *The Birth* for the exhibition.<sup>43</sup> He told Freemuse that his manager reached out to the Pulchri Studio Gallery in The Hague, Netherlands, where the exhibition was due to be exhibited, but that he did not receive a response. He added that “acceptance of censorship by the Pulchri Studio should have made Rembrandt turn in his grave.”<sup>44</sup>

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*“Sex and sexuality are part of critically and radically thinking about aesthetics. I will continue to objectify myself for my pleasure, work, and intellectual development regardless of whether it is ‘obscene’ or not.”*

XANDRA IBARRA, FREEMUSE INTERVIEW (ONLINE), 22 OCTOBER 2020.

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Still of the Xandra Ibarra's exhibition *Spictacle II La Tortillera* (2014) censored in Texas. Credit: Curtesy of Xandra Ibarra

The violations presented here demonstrate how authorities use of legislation meant to combat terrorism, blasphemy and indecency can have a detrimental effect on artists' ability to express themselves in contemporary societies. Although artists should be able to play a vital role in contesting political ideologies, state policies, religious beliefs, and cultural and social norms, they constantly face pushback. Vague provisions of counterterrorism laws in countries such as Egypt, Turkey, and Spain are open to interpretation and can easily become a tool applied against those who criticise the authorities, instead of serving solely as measures to prevent and punish threats to national security. Violations related to insulting religion and against artworks perceived as unfit from the perspective of public morality are often carried out even though best practices require that artists be free to express themselves not only through affirmative and neutral expressions, but also through those that offend, shock, and disturb. Artists are targeted or face consequences by both state and non-state actors for artworks through which they lampoon religious figures, question religious tenets and beliefs, tackle the human body and sexuality, use language deemed inappropriate, or in other ways contradict social norms imposed on societies worldwide. These attacks constitute violations of international human rights standards and states' obligations to respect, protect and fulfil the right to freedom of expression. Freemuse remains concerned that these violations also result in a climate of fear which may lead to self-censorship and artists' reluctance to address certain topics for fear of repercussions.



Lars Refn (Denmark).  
Credit: Cartooning for Peace



# LIMITATIONS TO ARTISTIC EXPRESSION IN THE DIGITAL SPACE

## LIMITATIONS ON ARTISTIC EXPRESSION IN DIGITAL SPACE

In a year when most cultural events were moved to online platforms after the closure of physical spaces due to COVID-19 restrictions, artists encountered numerous violations of their right to freedom of artistic expression on social media and other online platforms. At least 67 artists faced legal consequences because of their posts on Facebook, Twitter, Instagram, and other online artistic activities. Their voices were stifled by laws which regulate cybercrime. Freemuse also documented 81 cases of censorship by social media and film streaming platforms and 58 situations where artists received death or rape threats online. Although Facebook established an Oversight Board in 2020 consisting of 40 experts to review its moderation decisions,<sup>1</sup> artists still experienced arbitrary and inconsistent applications of the company's community standards, and a lack of adequate appeals procedures in such cases.

## OFFENCES OVER SOCIAL MEDIA POSTS

In every third violation of artistic freedom Freemuse documented in the digital space, artists were arrested, prosecuted, and sentenced to prison for their online activities. Although most of these violations were related to political posts on social media, a number faced legal consequences because of the artistic content published online. An 18-year-old Moroccan rapper Hamza Sebaar served eight months in prison for sharing a YouTube

video which included the song *Stalin understood us*, in which he touched on the social and political situations in Morocco. He was released from the Bouizakarne prison in southern Morocco on 28 August 2020.<sup>2</sup>

In March, Palestinian cartoonist Ismail Al-Bozom was detained twice in Gaza over his drawings and Facebook posts in which he commented on the arrest of Abdullah Abu Sharekh—a Palestinian writer who was arrested on 13 March for Facebook posts criticising Hamas.<sup>3</sup> Al-Bozom told Freemuse that he was beaten and mistreated during his first detention (of a day and a half), as well as during his second detention of five days. He was released on the condition that he be “silent and not touch on the issue of Abdullah Abu Sharekh”.<sup>4</sup> Additionally, filmmaker Abdul-Rahman Dhaher was arrested in August for “defaming the Palestinian Authority” through satirical television programs he produced many years before (while living abroad) that criticised the authorities for corruption, as well as for his Facebook posts criticising Prime Minister Mohammad Shtayyeh.<sup>5</sup> Although he was released on bail after 35 days, he still faces charges under the Palestinian Authority's Cybercrime Law and Penal Code.

Artists in Turkey continuously face problems for political comments posted online. On 29 July, the Turkish parliament passed a new law which allows for stricter control over social media, thereby requiring social media companies to appoint local representatives tasked with responding to complaints over content published on their platforms.<sup>6</sup> This law prescribes financial penalties and advertising bans for social media companies which fail to comply and do not remove reported content within 24 hours. This law was adopted as the authorities have been monitoring dissent on social media and initiating legal cases for content deemed ‘inappropriate’.



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*“Other cartoonists belong to [political] parties and their parties support them, while I belong to the people ... and the people are greater than anyone else.”*

ISMAIL AL-BOZON, FREEMUSE INTERVIEW (ONLINE), 7 MAY 2020.

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One of the most common grounds for legal prosecution is 'insulting the President'. Turkish senior actress Nilüfer Aydan was indicted by Istanbul's Chief Public Prosecutor's Office in August over posts published on Facebook between 2016 and 2018. Apart from being deemed insulting of President Erdoğan, her posts were also associated with the FETÖ, an outlawed movement led by US-based Islamic cleric Fethullah Gulen. Aydan claimed that she had granted young people access to her account and allowed them to post on her behalf since she was less familiar with the technology.<sup>7</sup>

Similarly, the trial against leftist poet Ahmet Telli commenced on 7 October before the Ankara 22nd Civil Court of First Instance over posts published on the Facebook account registered under Telli's name. The poet faced charges for a post which read "President Recep Tayyip Erdoğan, the murderer of the soldiers", and was acquitted on 7 January 2021 due to lack of sufficient evidence to determine that the account belonged to him.<sup>8</sup>

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*"The censorship affects my art blogging. I keep posting artistic nudes, females, and males. But only paintings, and only if I think they are not too shocking. I'm always alert, and don't feel free to post what I want. The sword of Damocles is always there."*

CHRISTA ZAAT, FREEMUSE INTERVIEW (ONLINE), 6 MAY 2020.

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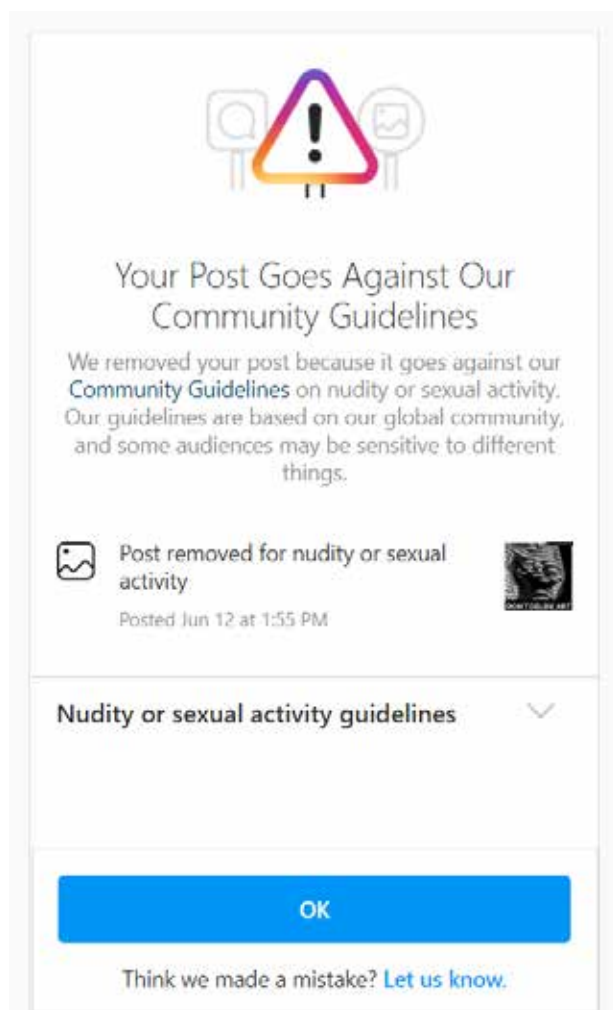
In Tanzania, comedian Idris Sultan was detained on 19 May and charged under Section 23 of the Cybercrimes Act 2015, because of a video published on social media in which he allegedly bullied President John Magufuli by laughing at an old photograph of the president. The artist, who was previously arrested in 2019 for sharing photoshopped face swap pictures of himself and President Magufuli, was released on bail of 368,000 Tanzanian shillings (around 130 euros) after spending eight days in detention.<sup>9</sup>

## CENSORSHIP ON SOCIAL MEDIA

Complaints over the arbitrary and inconsistent automatic removal of artwork from social media platforms have been made since 2018, when major companies introduced their community guidelines. These internal regulations ban 'objectionable content', such as adult nudity and sexual activity, hate speech, praise of terrorism, and violence and graphic content, but allow for some exceptions for artistic content. The algorithms, however, often automatically suspend accounts or remove content which does not, in fact, breach the community guidelines. Thus, companies have launched different review mechanisms. In 2019, for example, Facebook introduced an option to request a review of the blocked

content, but this tool was not available as much as it was needed in 2020; Facebook reported it had less capacity to process requests due to the COVID-19 pandemic.<sup>10</sup>

In 2020, nudity and sexual activity were once again the most frequent reason for digital content removal. Freemuse had first-hand experience with this, when on 7 August, Instagram removed a post published as part of Freemuse's *Don't Delete Art* campaign in partnership with other organisations promoting free speech online. The campaign aims to raise awareness about online art censorship.



Instagram blocked a photograph of New York-based visual artist Savannah Spirit who advocates for body positivity through her work. Australian photographer Camille Brandon, who also uses art to promote body positivity, reported in December that Instagram removed five of her images of female breasts and nipples, and threatened to close her account.<sup>11</sup> Similarly, in March, English tattoo artist Tanya Buxton said that Facebook took down her posts containing images of breast cancer survivor

Dee Samuels. The banned post was part of Buxton's work in which she performs areola tattoos free of charge for cancer survivors to help women rebuild their self-esteem post mastectomy. Facebook subsequently apologised for removing Buxton's post.<sup>12</sup>

In addition to photography, fine art has also been under scrutiny by social media companies. On 26 March, art blogger Christa Zaat from the Netherlands published images of three paintings by the English artist Harold Knight which were flagged as inappropriate three times in 24 hours, and later deleted. Zaat told Freemuse that as a moderator of the Facebook page *Female Artists in History*, she has faced many problems with censorship over the past five years, including warnings that she would lose her page if she continued posting paintings containing nudity.<sup>13</sup> This art blogger said that she constantly censors herself, not knowing if Facebook algorithms and people who review content can tell the difference "between nude photography art and nude pornographic photography".<sup>14</sup>

In the case of a Facebook ban of a post with the promotional video of USA band Unsung Lilly's album, a scene in which singer Sera Golding-Young and her wife Frankie lean their heads against each



other was considered 'objectionable content'. After the musicians realised that the post was banned, they posted the same video, but used a picture of a heterosexual couple in the same post; Facebook did not censor the post.<sup>15</sup> Golding-Young told Freemuse that they were angry because "Facebook literally shapes the world we live in, and if they are silencing LGBTI content, that is a huge issue".<sup>16</sup> The musician's appeals were repeatedly rejected, but after Facebook was contacted by the American Civil Liberties Union, the company admitted a mistake, claiming that "the nature of dance in the video influenced the decision".<sup>17</sup>



Frankie Golding-Young (left) and Sera Golding-Young (right) / Screenshot from the music video Demons, Courtesy of Sera Golding-Young

*"Like so many musicians, we lost all our income due to COVID-19. The ad that got banned was us reaching out to fans to help support the making of our new album on Patreon and was our attempt at trying to replace the income we had lost."*

SERA GOLDING-YOUNG, FREEMUSE INTERVIEW (ONLINE), 27 OCTOBER 2020.



Social media companies also removed posts and accounts from their networks following numerous reports of content containing violence, harassment, false news, hate speech and terrorism, among other reasons. This practice is exemplified by the 5 September suspension of the Instagram accounts of two editorial staff from the French satirical weekly *Charlie Hebdo*—Laure Daussy and Coco—after they shared the front page of the magazine with the Prophet Muhammad cartoons. The following day, Instagram admitted its mistake and reinstated both accounts, adding that "they might be automatically removed because of massive reports".<sup>18</sup>

The song *Diemi Bahar* (Eternal Spring), created in collaboration between Pakistani singer Hadiqa Kiani and Turkish artist Ali Tolga, was removed from YouTube on 13 July, the same day it was posted. This song pays tribute to Kashmiri martyrs and was reinstated two days later due to the efforts of the organisation Kashmir Civitas, which campaigns for the right of self-determination for the people in the disputed territories of Jammu and Kashmir.<sup>19</sup> In September, the poem *Ila Mazbalat Al-Tarikh* (To the Dustbin of History) by the young Tunisian poet Mariam Al-Trabulsi was removed from Facebook for alleged violations of the company's policies. In this poem, the poet denounces the leaders of the Arab regimes for normalising relations with Israel.<sup>20</sup> Politics and alleged 'hate speech' led to the removal of the cartoon by Sudanese political cartoonist and activist Khalid Albaih, published on the Facebook page Organising for Palestine, and which was critical of peace between the UAE and Israel. The cartoonist told Freemuse that it is common practice for "IDF [Israel Defence Forces] trolls [to] take down pro-Palestinian content".<sup>21</sup>

## GOVERNING FILMS ON THE NETFLIX STREAMING PLATFORM

In 2020, the motion picture industry worldwide experienced production and distribution obstacles due to COVID-19 restrictions. Thus, film streaming platforms have gained greater predominance in the market. The Academy Awards changed its rules in April to allow films that did not have a theatrical release due to COVID-19 restrictions eligible for competition in the 2021 ceremony if they were released on commercial streaming or video-on-demand services.<sup>22</sup> This increase in the importance of streaming services brought with it an increase in attacks on films in the digital space.

In early 2020, Netflix revealed that over the past five years, the company was forced to censor nine films in some countries "due to government takedown demands".<sup>23</sup> However, India's attempt

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*“Traditionally, the government in India has regulated all forms of mass media entertainment, including cinema exhibitions, radio broadcast or television. Hence, this law [on OTT or video-streaming platforms] is an extension of government instinct to control, censor, and ensure that entertainment content is within a degree or a boundary of its control.”*

APAR GUPTA, FREEMUSE INTERVIEW, 23 NOVEMBER 2020.

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to control content available on this platform has been particularly exemplary of the government’s interference in digital streaming services. Freemuse documented several cases in which Netflix complied with requests for editing content available in India. In June, Indian Netflix subscribers noticed that the local version of the series *Vikings* had scenes containing nudity and pork meat blurred,<sup>24</sup> whilst the version of the film *Mission: Impossible—Fallout* had all references to the Kashmir region erased.<sup>25</sup>

Despite these interventions, in November, India’s parliament passed a law bringing the Over the Top (OTT) platforms—video streaming service providers—under the control of the Ministry of Information and Broadcasting. This law prohibits content deemed disrespectful of national symbols and religious sentiments, or promoting child pornography and terrorism.<sup>26</sup> Following the adoption of this legislation, on 23 November, the Madhya Pradesh Home Minister Narottam Mishra filed a complaint against two senior officials of Netflix

in India—Monika Shergill and Ambika Khurana—on accusations of “hurting Hindu religious sentiments”.<sup>27</sup> Mishra’s complaint stemmed from a scene in the series on Netflix entitled *A Suitable Boy* in which a Muslim man kisses a young Hindu woman at a Hindu temple.

Netflix also faced lawsuits in the USA. On 23 September, the Tyler County District Attorney in Texas filed charges against Netflix under Section



43.26 of the Penal Code for promoting “lewd visual material” of an underage child in the film *Cuties*, a coming-of-age drama meant to criticise the ‘hypersexualisation’ of pre-adolescent girls.<sup>28</sup> Prior to this, in March, former New York City prosecutor Linda Fairstein filed a lawsuit before a federal court in Florida against Netflix for what she claims was a defamatory portrayal of her in Ava DuVernay’s series *When They See Us*. She claimed that her character—a prosecutor in the 1990 legal case known as Central Park Five—was falsely portrayed as a “racist, unethical villain” pushing for the convictions of five Black and Latino teenagers.<sup>29</sup> Only several days after Fairstein filed this lawsuit, Netflix won a defamation case before the District Court in Illinois for the same series. In this case, John E. Reid and Associates, a company which developed the interrogation method known as the Reid technique, sued Netflix for merely mentioning the Reid technique in one of the series’ episodes.<sup>30</sup>

## DIGITAL SMEAR CAMPAIGNS AGAINST ARTISTS

Artists’ vulnerability to violence in the digital space has been a constant problem monitored by Freemuse. However, only rarely are these threats properly investigated by state authorities, which has resulted in widespread impunity for online intimidation. Cases of online harassment and threats documented by Freemuse in 2020 illustrate that artists are targeted through social media for the same reasons as in the physical space, such as political dissent and ‘insult to religion’. In June, Nigerian Afro-pop musician M-Josh received threats via WhatsApp and Facebook by an army officer because of his song *Movie in Aso Rock* in which he criticised human rights violations and the military in Nigeria.<sup>31</sup> British-based dancehall artist Lisa Mercedez, who recently converted to Islam, removed her song *Shahada* from online circulation in April, following threats she

## IF YOU ARE BEING HARASSED: ON SOCIAL MEDIA



*“I am worried about my safety. Nigeria, as it is today, is a lawless nation, shit happens, and nobody cares. Politicians commit all sorts of atrocities, and if anyone tries to speak up, they come after them with their police, army or even send assassins.”*

M-JOSH, FREEMUSE INTERVIEW, 30 JULY 2020.

received for using a prayer from the Quran in the opening scene of the music video.<sup>32</sup>

Criticism of authorities’ response to COVID-19 also triggered online attacks against some artists. Members of the Chilean artist collective Delight Lab



received threats and had their Instagram account hacked and deleted in May, when they staged a series of performances projecting visuals and text on public spaces in Santiago to raise awareness of the effects of the COVID-19 pandemic on the country.<sup>33</sup> In April, China's martial artist Lei Lei launched a social media campaign against poet and writer Wang Fang over of her book *Wuhan Diary* in which she wrote about her experiences with the lockdown in the city of Wuhan, where the COVID-19 virus first emerged. Fang was accused of publishing "a diary which has become a tool used by foreigners to attack China".<sup>34</sup> Palestinian

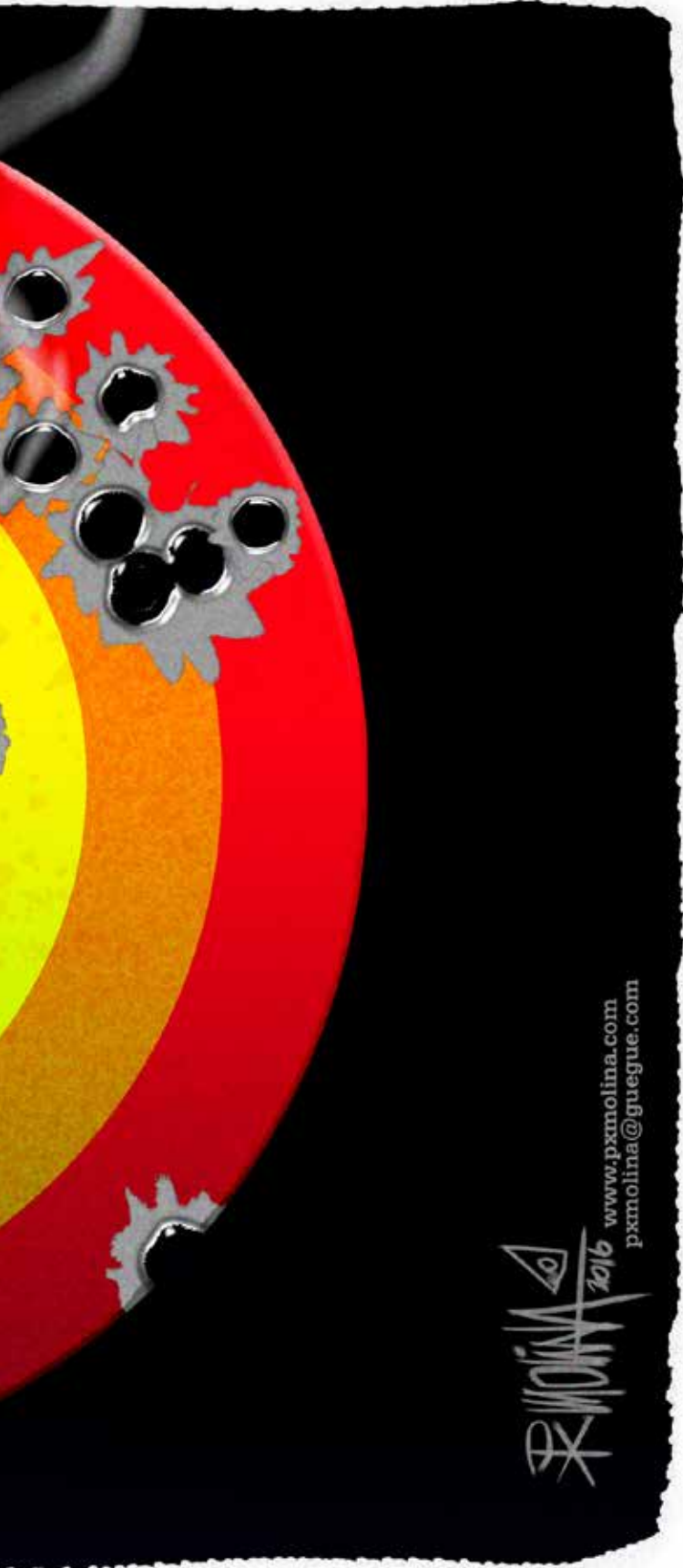
cartoonist based in Sweden Mahmoud Abbas was threatened with death in April after his cartoon about the collapse of international oil prices due to the pandemic went viral in Saudi Arabia. Some social media users believed that the cartoon was critical of the Saudi Crown Prince, and in his defence, attacked Abbas by referring to him as a 'terrorist', publishing personal information about his family, as well as revealing his location in Sweden.<sup>35</sup>

International standards governing free speech should be applied equally in digital and physical spaces. Restrictions on freedom of expression in the digital space must satisfy the tests of necessity and proportionality, in accordance with Article 19 of the ICCPR. Although governments have a responsibility to monitor and prevent crimes in cyberspace, they should refrain from unlawful sanctions of artists' peaceful expressions in online spaces. The same principles should govern social media companies when regulating content on their platforms. Although Facebook's decision to establish an independent Oversight Board is welcomed, this company, as well as other social media platforms, should invest sufficient resources for the objective and timely review of complaints by staff to avoid the challenges that arise from automatised content moderation. Freemuse calls on authorities in countries where national law enforcement and judicial bodies have not yet established task forces to deal with violence in the digital space to do so and effectively investigate and prosecute perpetrators.



*Pedro X. Molina (Nicaragua). Credit: Cartooning for Peace*





# HOMOPHOBIC ACTIONS AGAINST ARTISTIC EXPRESSION

Over many years, Freemuse research has shown that LGBTI artists and representative artwork centring on sexual orientation and gender identity and expression (SOGIE) have disproportionately come under attack around the world. In the report *Painting the Rainbow: How LGBTI Freedom of Artistic Expression is Denied*—published in December 2020—Freemuse analysed the global situation in detail. The report revealed that homophobic and transphobic mentalities and actions affect cultural sectors in countries where a same-sex amorous relationship is illegal, as well as in those where it is legal. In 2020, Freemuse found that 48 percent of violations against LGBTI artists and artwork occurred in countries which criminalise homosexuality and its promotion, whilst 52 percent of violations took place in countries with no legal obstacles to the full expression of LGBTI rights.

Despite significant progress made over the last several decades worldwide to combat discrimination based on SOGIE, LGBTI persons still do not enjoy the same level of legal protections in every country. This problem also has direct consequences on the cultural sector. In 2020, Freemuse documented 98 violations of artistic freedom on SOGIE grounds in 28 countries. LGBTI artists and LGBTI-themed art were under particular pressure and persecution in countries where conservative, populist regimes adopted policies against so-called 'LGBTI-ideology'. These policies fall under the pretexts of protecting religious sentiments or that such expressions conflict with the 'views of the majority'. However, despite the obstacles, artists and cultural workers have remained persistent in their efforts to feature LGBTI characters and topics in their cultural work.

## VIOLENCE AGAINST ARTISTS INVOLVED IN LGBTI-THEMED PRODUCTIONS

Members of the LGBTI community worldwide have been constantly attacked and threatened. LGBTI artists are no exception. While these attacks are more acute in countries which criminalise homosexuality, Freemuse research has shown that artists in countries with no legal obstacles to SOGIE rights still face threats and violence. At times, authorities lack the will to conduct thorough investigations and sanction perpetrators. Therefore, impunity persists in many cases.

In such a hostile environment, LGBTI persons can experience physical and mental health challenges. Such was the case for Egyptian socialist writer and activist Sarah Hegazy. Hegazy, who was arrested in September 2017 for waving a rainbow flag at the concert of Lebanese Indie-rock band Mashrou' Leila (whose lead singer is openly gay) in Cairo. Detained for three months on charges related to national security, the activist was sexually assaulted, tortured by electricity, and held in solitary confinement in an Egyptian prison.<sup>1</sup> She fled to Canada following her release. In a letter published a year



Sarah Hegazy at the Mashrou' Leila's concert in Cairo in 2017. Credit: Caoimhe Butterly on Twitter

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*"To my siblings,  
I tried to survive but I failed. Forgive me.  
To my friends,  
experiences have been cruel  
and I'm too weak to resist. Forgive me.  
To the world,  
you have been extremely cruel, but I forgive..."*

SARAH HEGAZI'S SUICIDE NOTE, 14 JUNE 2020

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Brazilian musician Guilherme Azevedo sustained injuries in a homophobic attack in September. Credit: Guilherme Azevedo on Instagram

after her arrest, she wrote about fear, alienation and isolation, thoughts of suicide and memory problems.<sup>2</sup> Hegazy committed suicide on 14 June 2020.

Documented cases of homophobic attacks in 2020 included those against well-known artists who are publicly 'out' and against their perceived sexual orientation and gender identity. On 12 June, South African dancer, choreographer, and gender-nonconforming activist Kirvan Fortuin was stabbed in Macassar, a suburb of Cape Town. Fortuin died on the way to the hospital. A 14-year-old girl was arrested for her alleged involvement in the murder, which is believed to have had homophobic motivations.<sup>3</sup> On 17 September, musician Guilherme Azevedo was beaten by seven men in São Fidélis, in the Brazilian state of Rio de Janeiro. He spoke publicly about this attack in which his shoulder and finger were broken and about the ongoing harassment he

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*“The most first and most prominent feeling is that of helplessness. In some of us, it spreads to mental questions and musings, guilt, and paranoia. In others, a paralysis occurs, even while still moving. We began to [ruminate on] these feelings.”*

LEONEL GIACOMETTO, FREEMUSE INTERVIEW, 22 SEPTEMBER 2020.

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had faced since moving to São Fidélis one month prior.<sup>4</sup> Azevedo told Freemuse that following the attack, he was unable to work for one month. This included work on his own music, and his work as a producer for other artists. With his main sources of income compromised, as well as the pain he experienced in his finger and shoulder, Azevedo struggled mentally to stay active and motivated.<sup>5</sup>

On 19 August, Leonel Giacometto, gay playwright Leonel Giacometto from Argentina, was beaten while defending a friend who was attacked in front of his house. Two hours later, he and his partner, a visual artist, were both shot by the same group of people from their neighbourhood in Rosario, a city in the central province of Santa Fe.<sup>6</sup> Both Giacometto and his partner sustained minor injuries. A day later, the artist was attacked once again in front of his mother who came to visit him. In these incidents, he was insulted with homophobic slurs by the attackers. Giacometto filed a complaint with the authorities and the investigation is still pending. In the meantime, he has taken refuge in a safe house.

In Uganda, police raided and shut down the Tuzinne Festival: Where Human Rights Dance held on 15 November 2019 at the National Theatre in Kampala. Many performers in the fashion show, which featured trans women models, were physically attacked. Whilst these attacks remain unpunished, the

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*“With the way the situation was taken, it tarnished my name personally and my brand countrywide. I can’t go to church. I can’t go to public gatherings because Christians say – this guy is promoting homosexuality.”*

OSCAR SSENYONGA, FREEMUSE INTERVIEW, 3 NOVEMBER 2020.

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festival director, dancer, and choreographer Oscar Ssenyonga and more than 70 festival participants have been under investigation. On 6 January, the Ugandan Communications Commission issued a letter threatening to withdraw licenses from any media outlet and local blogger who featured a story about Ssenyonga.<sup>7</sup> The dancer told Freemuse that because of COVID-19 restrictions, they did not have any court hearing, making them fear impending arrests or arbitrary detentions.<sup>8</sup>

LGBTI artists also face harassment, online and offline. USA transgender icon, actress, and activist Laverne Cox was harassed on 29 November after a man attacked her friend while they were walking in a park in Los Angeles, addressing them both with transphobic comments.<sup>9</sup> In addition, after French singer Hoshi kissed one of her dancers during the performance of an anthem against homophobia (*Amour Censure; Love Censorship*) at a Paris concert on 14 February, she faced an online smear campaign with insults, rape and death threats.<sup>10</sup> In March, Serbian actor Miloš Timotijević received more than a thousand threatening messages, mostly from minors, after the airing of the eleventh episode of the TV series *South Wind* (*Južni vetar*), in which Timotijević kissed a man.<sup>11</sup> The actor stated that he was surprised to see this many people concerned about a gay kiss, but no one showed concern about the corrupt police officer he portrayed.



Screenshot of singer Hoshi kissing one of her dancers during performance of *Amour Censure*. Credit: Hoshi on Instagram

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*"I was scared for my boyfriend and my mother. It is not so hard to find my address. At least I have my company address at another location. At some point, I saw that some Twitter accounts were sharing my company address, asking people to get there and get rid of me."*

BARTOSZ STASZEWSKI, FREEMUSE INTERVIEW, 29 OCTOBER 2020.

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Polish artist and LGBTI activist Bart Staszewski has been prosecuted because of his artistic project on 'LGBTI-free-zones' u Poland. Credit: Monika Bryq, curtesy of Bart Staszewski



Bart Staszewski's project Zones. Credit: Bart Staszewski

## POLAND: LEGAL PROSECUTION OF ARTISTS FOR LGBTI EXPRESSIONS

In 2020, Freemuse documented seven ongoing legal prosecution cases connected with LGBTI-themed art. Apart from one case in each of Russia and Sri Lanka, others were registered in Poland. Over the last few years, the rising trend of targeting artists for their LGBTI-related activities in Poland has been paralleled with the authorities' crackdown on LGBTI communities, resulting in the loss of some of the previously achieved protections (such as state finances for SOGIE groups). During the June elections campaign, President Andrzej Duda launched a "family charter" and pledged to protect children and family from so-called "LGBT ideology".<sup>12</sup> Additionally, through 2019 and 2020, more than 100 Polish localities were declared "LGBT-ideology-free zones".<sup>13</sup> Artists who opposed these decisions by local governments have faced repercussions.

In March, a 16-year-old boy from Jordanów was brought before the Family Court in Sucha Beskidzka on allegations of violating Article 137 of the Penal Code which criminalises insulting state symbols.

The complaint against him was filed by Jordanów Mayor Andrzej Malczewski because of a graphic the boy published in a closed Facebook group on 14 February. The graphic depicted the city's coat of arms with a rainbow background.<sup>14</sup> The 16-year-old created the graphic in response to a decision of the local council to declare Jordanów an 'LGBTI-ideology free zone' in May 2019.

In September and October, the local authorities in Zakrzówek and Tuszów Narodowy sued activist and filmmaker Bartosz 'Bart' Staszewski for alleged dissemination of false information in his artistic project about 'LGBTI-free zones'. The artist started the project in December 2019 to spark debate over the zones which openly discriminate against the LGBTI community. Staszewski created yellow signs with 'LGBT-Free Zone' written on them and then photographed them next to the signs of towns that have passed such declarations. He published the photographs along with the stories of LGBTI individuals expressing their feelings about the LGBT-free zones. Staszewski told Freemuse that the lawsuits filed before the District Courts in Lublin and Tarnobrzeg were based on allegations that Staszewski's project presented "a fake interpretation of the declarations and that [the] towns are not

against LGBTI persons, but 'LGBTI-ideology'.<sup>15</sup>

Elżbieta Podleśna, an activist from the city of Płock in central Poland, also faced legal persecution in 2020. She was briefly detained in May 2019 on allegations of "offending religious beliefs", charges punishable with imprisonment of up to two years. Podleśna was arrested in connection to a poster of the Virgin Mary that had a halo painted in the colours of the rainbow flag and which was allegedly found by police in her possession. Before her arrest, police searched her home and confiscated her laptop, mobile phone, and memory cards. On 29 June

2020, she was officially charged before the Regional Court in Płock under Article 196 of the Criminal Code for "publicly insulting an object of religion". The trial against her was scheduled for 4 November 2020 but was postponed until 13 January 2021.<sup>16</sup>

## CENSORING LGBTI FILMS

Over many years, film has been the most frequently censored artform on the basis of its



Rayma (Venezuela). Credit: Cartooning for Peace

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*“I think the [constitution] clause on freedom of expression is very clear about what can be censored and what can’t be censored. If we are just looking at the clause, then we would be fine and that is what we are continuing to fight for.”*

WANURI KAHU, FREEMUSE INTERVIEW, 17 NOVEMBER 2020.

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LGBTI content. In countries which criminalise homosexuality, filmmakers struggle to obtain licences to release films in local cinemas. This is particularly problematic when national legislation criminalises so-called ‘homosexual propaganda’ by banning public depictions of homosexuality. In Kenya, where the Kenya Film Classification Board’s (KFCB) Classification Guidelines outlaw affirmative depiction of homosexuality, the film *Rafiki* (Friend)—a love story between two women—was banned in 2018 due to its “intent to promote lesbianism in Kenya contrary to the law and dominant values of the Kenyans.”<sup>17</sup> The film crew appealed the ban, but in April 2020, the country’s High Court upheld the KFCB’s decision. The court ruled that the ban did not violate constitutional provisions on freedom of expression. In Nigeria, the Same Sex Marriage Act of



Actress Uzoamaka Aniunoh at the premier of the film *Ife* in Kampala. Credit: Uzoamaka Aniunoh on Instagram

2014 carries a prison sentence of up to 10 years for showing same-sex amorous relationships. Although the trailer for the film *Ife* (meaning ‘Love’ in the Yoruba language), which also features a lesbian story, was released in July 2020, the film has not yet been released in local cinemas. The Nigerian Film and Video Censors Board monitors online video platforms to prevent the film from being streamed digitally.<sup>18</sup>

International films are also subject to bans in countries with discriminatory legislation. In February, India’s first gay romantic comedy *Shubh Mangal Zyada Saavdhan* (Extra Careful of Marriage) was banned in the United Arab Emirates.<sup>19</sup> In March, several Gulf countries, including Saudi Arabia, Qatar, Kuwait and Oman, did not grant the necessary permit to release the Disney/Pixar film *Onward*, which includes a reference to one of the characters being a lesbian.<sup>20</sup> Ten Arabic countries banned the episode of “The Son” from the Apple TV Plus series,



Poster for the film *Shubh Mangal Zyada Saavdhan*. Credit: *Shubh Mangal Zyada Saavdhan* on Facebook

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*"I think nowadays all it takes is to know there is a gay character in a Russian film to reject it "just in case"."*

KSENIA RATUSHNAYA, FREEMUSE INTERVIEW (ONLINE),  
24 JANUARY 2021.

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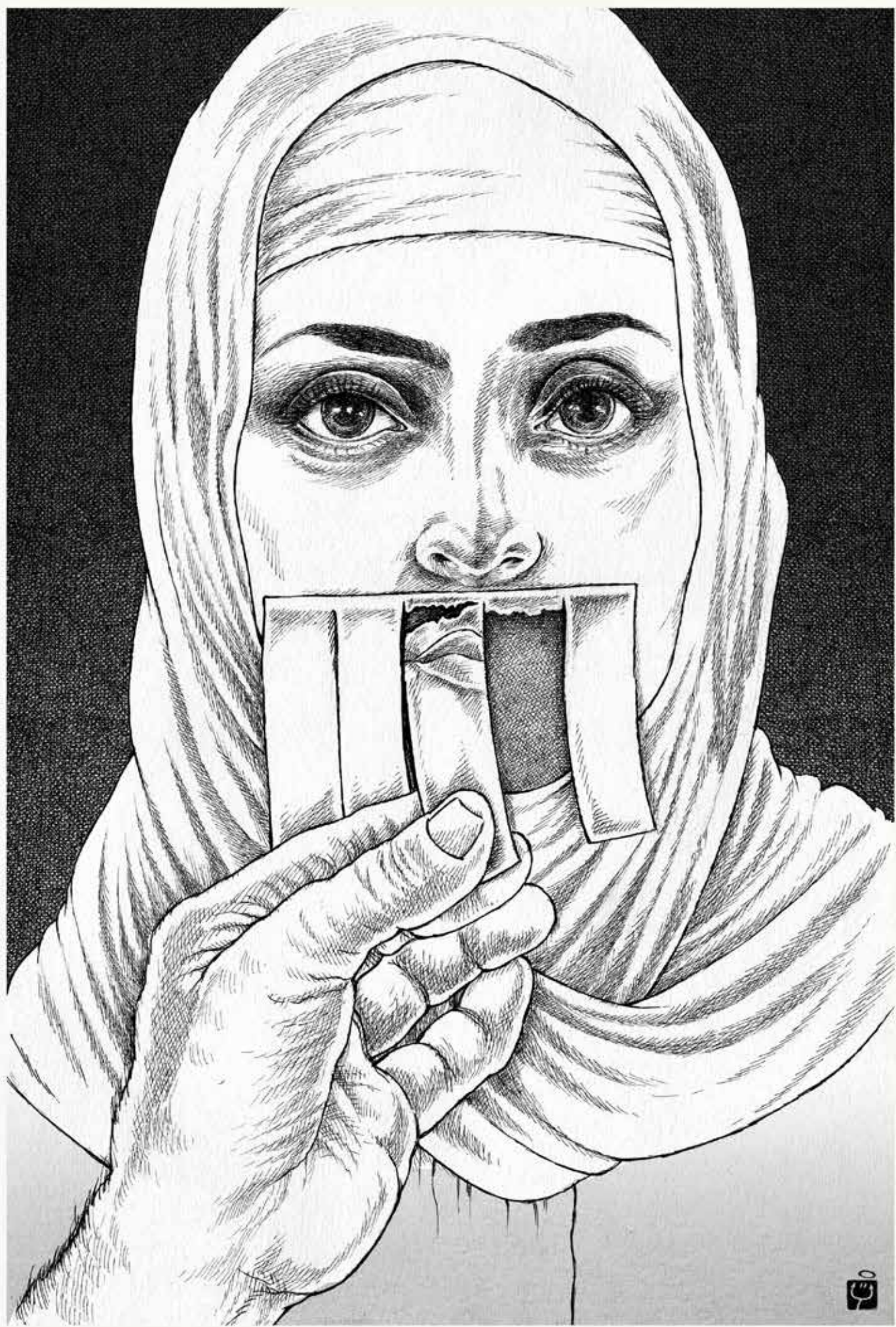
*Little America*, which features the story of a gay immigrant from Syria.<sup>21</sup>

This *Little America* episode was also blocked in Russia, a country where homosexuality has been decriminalised, but the national law bans 'gay propaganda'. Furthermore, the versions of the film *Onward* in Russian and Polish cinemas were altered. The scene where a cyclops police officer named Specter talks about her "girlfriend's daughter" has been translated as "partner's daughter" in Russia, and as "stepdaughter" in Poland.<sup>22</sup> In July, Turkey denied Netflix permission to produce the show *If Only* in the country because one of its main protagonists was supposed to be gay.<sup>23</sup> As a result,

Netflix has cancelled the production of the series.

Cutting out scenes has also been documented on Australia's television network Channel 7. On 30 January, the channel aired an episode of *Home and Away* without a scene which showed a lesbian couple kissing. The channel cited human error for the deletion, although in November 2019, two kisses by the same couple were also cut out of the series on Channel 7.<sup>24</sup> In May, Samuel Goldwyn Films cut gay sex scenes from Francis Lee's drama *God's Own Country*, distributed to Amazon Prime for streaming. Samuel Goldwyn Films had edited the movie so it could reach a wider audience, but without consulting the director in advance.<sup>25</sup>

LGBTI artists and creators of LGBTI-themed artwork are entitled to exercise their right to freedom of creative expression fully and freely, and all states must align their national legislations to ensure this right is respected. Laws criminalising homosexuality, currently existing in 70 countries, as well as laws which ban so-called "homosexual propaganda", enacted in 35 countries, must be repealed immediately. Legal provisions, including constitutional guarantees which prohibit discrimination on SOGIE grounds should be ensured. By taking such actions, state authorities would signal their willingness to protect LGBTI persons, including those in artistic circles, from legal prosecution, as well as violence and harassment exercised by state and non-state actors. The best international practices do not allow suppressing freedom of expression related to LGBTI topics on grounds of protecting 'traditional values', 'traditional family' or public morals.<sup>26</sup>



Shahrokh Heidari (Iran). Credit: Cartooning for Peace



# TARGETING WOMEN'S ARTISTIC EXPRESSION AND GENDER INEQUALITY IN THE CULTURAL SECTOR

Freemuse research has continuously revealed that women's artistic freedom has been silenced and that women artists face gender-based discrimination in the cultural sector globally. In the report *Creativity Wronged: How women's right to artistic freedom is denied and marginalised* published in 2018,<sup>1</sup> Freemuse detailed how patriarchal societies and values result in gender-based violence and unequal access to resources and support. In some of the most restrictive national contexts, women artists are deprived from equally enjoying cultural rights or taking part in cultural life. In Iran, for example, women are prohibited from performing solo before mixed-gender audiences.<sup>2</sup> In other contexts, they lack encouragement and support when opting for art as their profession, which has a significant impact on their underrepresentation in the cultural sector. Those women who persist in pursuing artistic careers have been disproportionately targeted in this endeavour.

Throughout 2020, Freemuse registered 93 violations of women's artistic freedom and attacks on artworks depicting women or feminism-related issues. At least 25 women artists were subject to arrest, prosecution, and imprisonment, whilst others



Mana Neyestani (Iran). Credit: Cartooning for Peace

were censored and harassed for their artistic expressions, as well as for stances they shared in public, their attire, or their activism. Like previous years, women artists who were vocal against the patriarchy and advocated for gender equality were disproportionately subjected to violence, whilst their artworks tackling issues such as abortion, femicide and domestic violence were either censored or sustained damages. The recorded cases demonstrate that women artists have been under constant scrutiny, particularly through the lenses of decency, morality, and religion.

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*“Although women in Iran are very much involved in certain cultural spheres, there are limitations on what they can perform in public for gender-mixed audiences. For example, solo singing is not allowed for the general public and women singers are allowed to perform for female-only audiences. Dancing is very limited for women to certain folklore and regional traditional dances, but modern dances, like ballet, which are centered on the woman's body, cannot be performed in public.”*

JOURNALIST NEGAR MORTAZAVI, FREEMUSE INTERVIEW (ONLINE), 22 JANUARY 2021.

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## VIOLENCE AGAINST WOMEN ARTISTS ADVOCATING FOR GENDER EQUALITY

In some countries, women artists who are outspoken advocates for gender equality face serious attacks on their life and physical integrity. In 2020, this trend was recorded in countries with a high rate of gender-based violence, which is often met with a lack of justice or impunity, and in states where women face other obstacles in fully exercising their rights, including their reproductive rights. Attacks were usually carried out by individuals opposing feminist activism, but also by members of civil society and political organisations which advocate for preserving the status quo when it comes to women's rights.



Mexican artist and feminist activist Isabel Cabanillas de la Torre was killed in January. Credit: Banny Symons-Brown on Twitter

One of the women artists targeted in 2020 was Mexican artist and feminist Isabel Cabanillas de la Torre. On 18 January, the 25-year-old artist was found dead after she was shot in the chest and head while cycling in Ciudad Juárez, Chihuahua.<sup>3</sup> She was part of a feminist collective that brings attention to issues of femicide and patriarchal violence through protest art. Her murder remains unsolved a year after her death. On 25 August, actress and Afghani pioneer woman film director Saba Sahar was shot in the stomach by three gunmen on her way to work in Kabul. During the attack, she was in a car with a child and a driver, as well as two bodyguards, who were also injured.<sup>4</sup> Her injuries were successfully treated in hospital. The famous actress has been a prominent advocate for women's rights in Afghanistan and her films have explored justice and corruption.



Afghani actress and film director Saba Sahar was shot in stomach in Kabul. Credit: Saba Sahar Zaki on Facebook

In October, Polish actress Julia Wróblewska was attacked by members of the right-wing nationalistic association National Radical Camp (Obóz Narodowo-Radykalny, ONR) during the Women's Strike in Warsaw. The nationwide protest was organised after the Polish Constitutional Court restricted abortion laws in the country banning pregnancy termination in cases of foetal health defects.<sup>5</sup> During the protest, the actress dressed as a character from the *Handmaid's Tale*, a dystopian television series focusing on child-bearing slavery, wearing an artificial belly as if she were pregnant. She posted on Instagram that she fainted after she was beaten and sustained injuries.



Polish actress Julia Wróblewska was attacked during Women's Strike in Warsaw. Credit: Julia Wróblewska on Instagram

On 3 September, the launch of the digital book *Estesia* by Brazilian female poet Cida Pedrosa was interrupted by a group of around 20 hackers, who claimed to be supporters of Brazilian President Jair Bolsonaro. Hackers took control of microphones and played sounds of gunfire, 'violent' music, and anti-communism videos. According to the poet, she was attacked because she is a well-known feminist activist and a Communist Party candidate for the State of Pernambuco local elections.<sup>6</sup> Aiming to raise money for a shelter for women in a vulnerable position by selling the book (which consisted of poems and photographs taken by Pedrosa), the artist became a victim of the supporters of President Bolsonaro, who is known to encourage the climate of anti-feminism and misogyny.<sup>7</sup>

## SUDAN: REPERCUSSIONS FOR ARTISTS' PARTICIPATION IN 'MIXED-GENDER' CULTURAL ACTIVITIES

Although women have been globally underrepresented in the cultural industry, this problem has been more acute in societies with deeply rooted traditional conservative stances, and a belief that the public arena is predominantly



11 members of the Sudanese collective Civic Lab were sentenced to prison. Credit: Courtesy of Civic Lab

the men's domain. In Sudan, which underwent a revolution following eight months of protests between December 2018 and August 2019 and overthrew the regime of former President Omar al-Bashir, some legacies of the past remain intact. Members of the Civic Lab, a collective established at the end of the revolution, told Freemuse that although they were finally able to open a centre which has been largely focused on organising cultural activities, they still faced many issues caused by conservative individuals living in their neighbourhood in the city of Khartoum.<sup>8</sup>

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*"There were questions like 'what are you guys doing here?', 'why do boys have dreadlocks?', 'why are they dressed this way?', 'why are boys and girls in the same space?'. These comments came mainly from a man from the neighbourhood who initiated the fight in August. He belongs to the 'old regime'".*

DUAA TAREG, FREEMUSE INTERVIEW, 14 OCTOBER 2020.

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On 10 August, while a silent theatre group was rehearsing in the Civic Lab, they received complaints by a neighbour concerned about the 'mixed-gender theatre workshop'. When Duaa Tareg, Civic Lab program and office manager, tried to explain to him the nature of their activities, the neighbour refused to talk to her and requested to see 'a man in charge'. Tareg told Freemuse that he slapped her after she explained that she has been managing the place.<sup>9</sup> The quarrel with the man from the neighbourhood quickly escalated, with a spontaneous mob of around 20 people gathering

in front of the collective's premises, protesting their activities. When the police came, Civic Lab members were taken to a police station, where their harassment continued, particularly against Tareg. She was hit once again, this time by a police officer and fainted as a result.

Eleven Civic Lab members were prosecuted in connection to the incident in two separate cases. The trials were held before the Central Khartoum Primary Court on allegations of public

disturbance and public nuisance. In September, they were sentenced to two months in prison and a fine of 5,000 Sudanese pounds (approximately 75 euros) for chanting pro-democracy slogans at the police station.<sup>10</sup> The Appeals Court subsequently acquitted all 11 defendants in early October, a decision that filmmaker Hajooj Kuka believes was influenced by the pressure from the international artistic community.<sup>11</sup> Neighbours who initiated the incident faced no consequence for their actions.

## CENSORING ARTWORKS TACKLING ABORTION AND GENDER-BASED VIOLENCE IN LATIN AMERICA

In 2020, Freemuse documented cases in which women artists who tackled issues related to religion, the female body, the patriarchy, and violence have faced restrictions and obstacles, particularly in Latin American countries. Women artists, as well as (in some instances) men producing art focusing on women's rights, were censored or subject to harassment. These attacks on artistic freedom were carried out under the pretext of protecting religion or preventing a discussion about issues deemed 'sensitive', such as abortion and violence.

On 1 February, the installation *Virgencita abortera* by Peruvian visual artist Romina Chuls displayed at the *Clandestinas* exhibition at the Forum Gallery in Miraflores, Lima City was vandalised by a member of a group *Patriotas de Perú* (Peru Patriots). The vandal recorded a video of himself while destroying part of the artwork, arguing that the piece was an affront to "freedom of worship and good morals".<sup>12</sup> The installation, which depicted the Virgin Mary with elements added by the artist, centred on the emotional state of women carrying unwanted pregnancies in Peru, where abortion is illegal. The exhibition had been running for three weeks, and this incident occurred only a few hours before it was scheduled to close. After



Romina Chuls' installation "Virgencita abortera". Credit: Romina Chuls on Instagram

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*"The attack came with threats to destroy the entire exhibit, which filled me with panic. There were pieces that had taken me more than a year to make. I felt nervous and anxious, as well as helpless, and that filled me with rage. When I discovered who was behind the attack, Patriotas del Perú, I was afraid of the attacks promoted by the group's Facebook page and because my image had been circulating on the Internet. For days, I did not walk alone in public for fear of being exposed to aggression due to the threats I received."*

ROMINA CHULS, FREEMUSE INTERVIEW (ONLINE), 2 FEBRUARY 2021.

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this act of vandalism was publicly reported, the gallery started receiving phone threats.

In 2020, Mexican artist Haniel Fonseca worked on the exhibition *México Bárbaro* to address the issue of femicide and violence against women in his state of Toluca, which is the second state with the most femicides in the entire country.<sup>13</sup> His exhibition

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*"I have heard from other artists that they had some censorship problems with the Ministry of Culture or the government, but I think that it is the first time that I see such explicit censorship with a problem that is so evident, very, very, very evident, especially in the place where we live. As if avoiding the visibility of the problem would solve the cases of murdered women."*

HANIEL FONSECA, FREEMUSE INTERVIEW (ONLINE), 2 FEBRUARY 2021.

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Haniel Fonseca's *Desvalijador de cuerpos o de la ablación ontológica*. Credit: Haniel Fonseca



Chilean Collective Las Tesis was under attack because of their song deemed as a 'threat' to police. Credit: Collective Las Tesis on YouTube

was cancelled on 4 February, a month before it was due to be exhibited at the Virreinato Museum from 6 March to 11 May. The artwork by a male painter was reportedly censored following an order by the State Museums Directorate. The Director of Mexico's State Museums, Thelma Morales García, denied having given the order for the suspension, though admitted that the subject matter was "inappropriate for the space which was a convent".<sup>14</sup> Fonseca, who worked on the exhibition for a year, told Freemuse that he had agreed with the Museum Director Andrea Zelaya about the topic and the dates for the exhibition, and that he was asked not to include nudes, a request he found strange, given that his artistic work focuses on nude bodies. He added that when he was informed about the cancellation, he had already filled the form for insurance.<sup>15</sup>

Finally, on 16 June, the Chilean Police Force, Carabineros de Chile, filed a legal complaint against the feminist collective Las Tesis for an alleged "attack on authority" and "threat", after the collective published a YouTube video on 27 May.<sup>16</sup> In the video titled *Manifiesto Against Police Violence*, produced in collaboration with the Russian feminist activist group Pussy Riot, the Chilean activists demonstrated peacefully outside a police station. The legal complaint, which was filed because of the lyrics in the video in which the collective calls for "violence against police officers", was dismissed on 4 January 2021.<sup>17</sup> Although the Las Tesis collective argued that the language they were using was a metaphor, they still removed 'problematic' parts from their video.

## INDECENCY USED AS A RATIONALE FOR CURBING WOMEN ARTISTS' EXPRESSIONS

In 2020, indecency was used as a rationale to suppress women artists' voices in more than 40

percent of violations focusing on women issues. This data demonstrates that different concepts about what constitutes decency had a significant impact on women's ability to express themselves artistically. Acts of censorship under this pretext were carried out by various actors, including governmental bodies and television stations.

The problems the French film *Cuties* has faced in various countries demonstrated how social norms can affect artwork in different national contexts. The troubles for the film, which features the story of an 11-year-old girl who joins a dance group, began in August, when Netflix withdrew the promotional poster for the film, which was criticised for "sexualising young girls".<sup>18</sup> Although the director explained that the film centres on the role of social media in pushing girls to "mimic sexualised imagery without fully understanding what lies behind it", the film nevertheless faced many problems. The Turkish Radio and Television Supreme Council ordered Netflix to block access to the film in Turkey, because "containing exploitation and abuse, it might lead to potential child exploitation behaviour patterns emerging".<sup>19</sup> The film also spurred the question by Egyptian MP John Talaat submitted to the Minister of Culture on 5 September, asking about the role of the Censorship of Works of Art, the country's censorship agency, in controlling the content broadcast on Netflix.<sup>20</sup> On 23 September, Netflix was indicted in the USA, by the Texas Tyler County District Attorney under Section 43.26 of the Texas Penal Code, on allegations that the film *Cuties* promoted "lewd visual material" of an underage child.<sup>21</sup> The Brazilian



Poster for the film *Cuties*. Credit: *Cuties* on Facebook

Ministry of Women, Children and Human Rights sent a formal request to the National Commission for Childhood and Youth to investigate the film on grounds of “hypersexualising children and of child pornography”.<sup>22</sup>

Nigerian actress Rahama Sadau was suspended from the Motion Picture Practitioners Association over pictures that she posted on Twitter on 1 November in which she posed in a backless gown, without a hair covering. She was accused of violating the rules and regulations of the Association through this post, which allegedly triggered “blasphemous comments against Islam”.<sup>23</sup> The Inspector General of Police also instructed the local police to investigate the controversy the post had generated. Following the backlash against her, Sadau deleted the pictures from social media and issued a public apology.

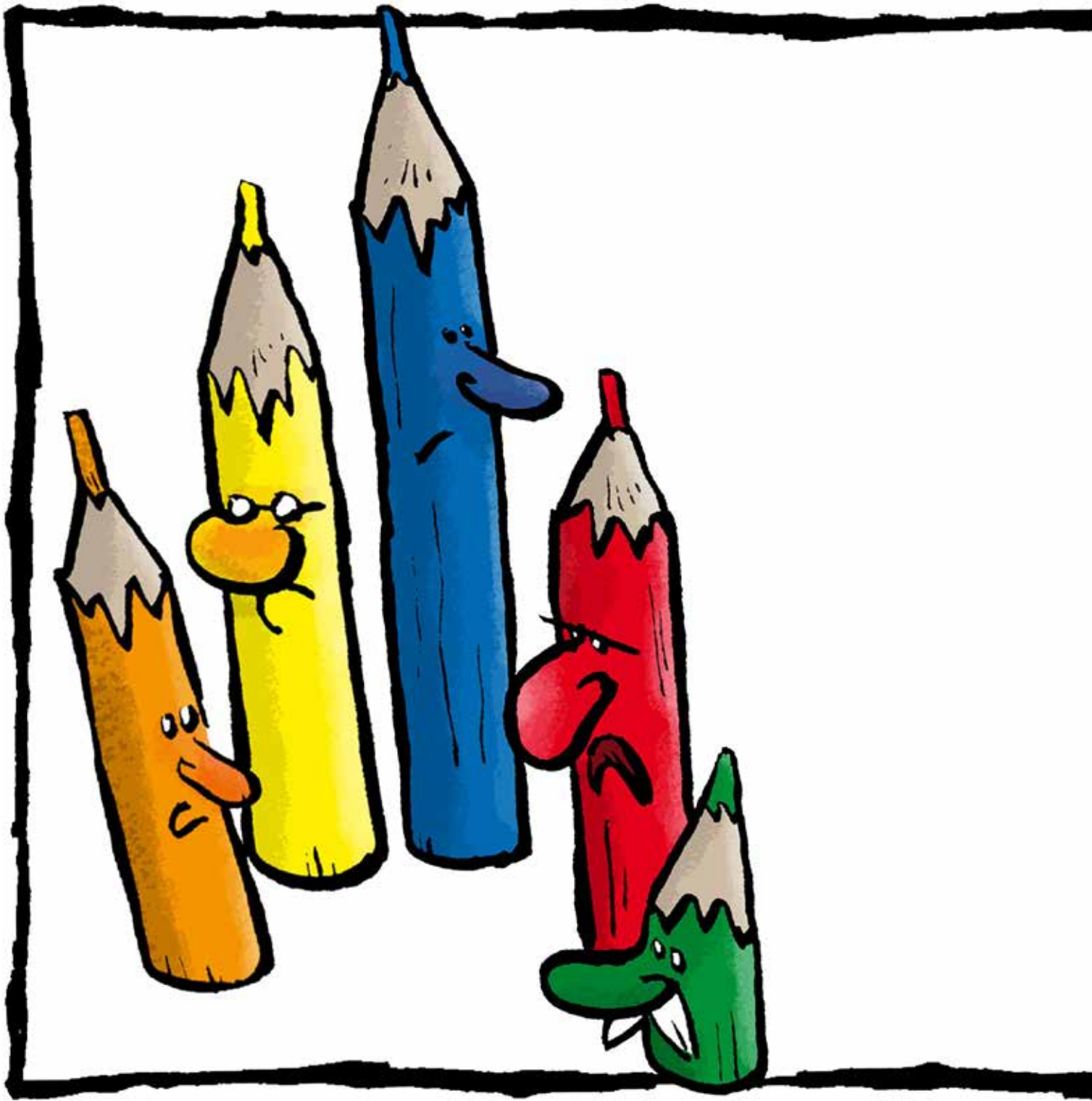


*Promotional photograph for the new album of Lebanese singer Elissa was censored. Credit: Elissa on Twitter*

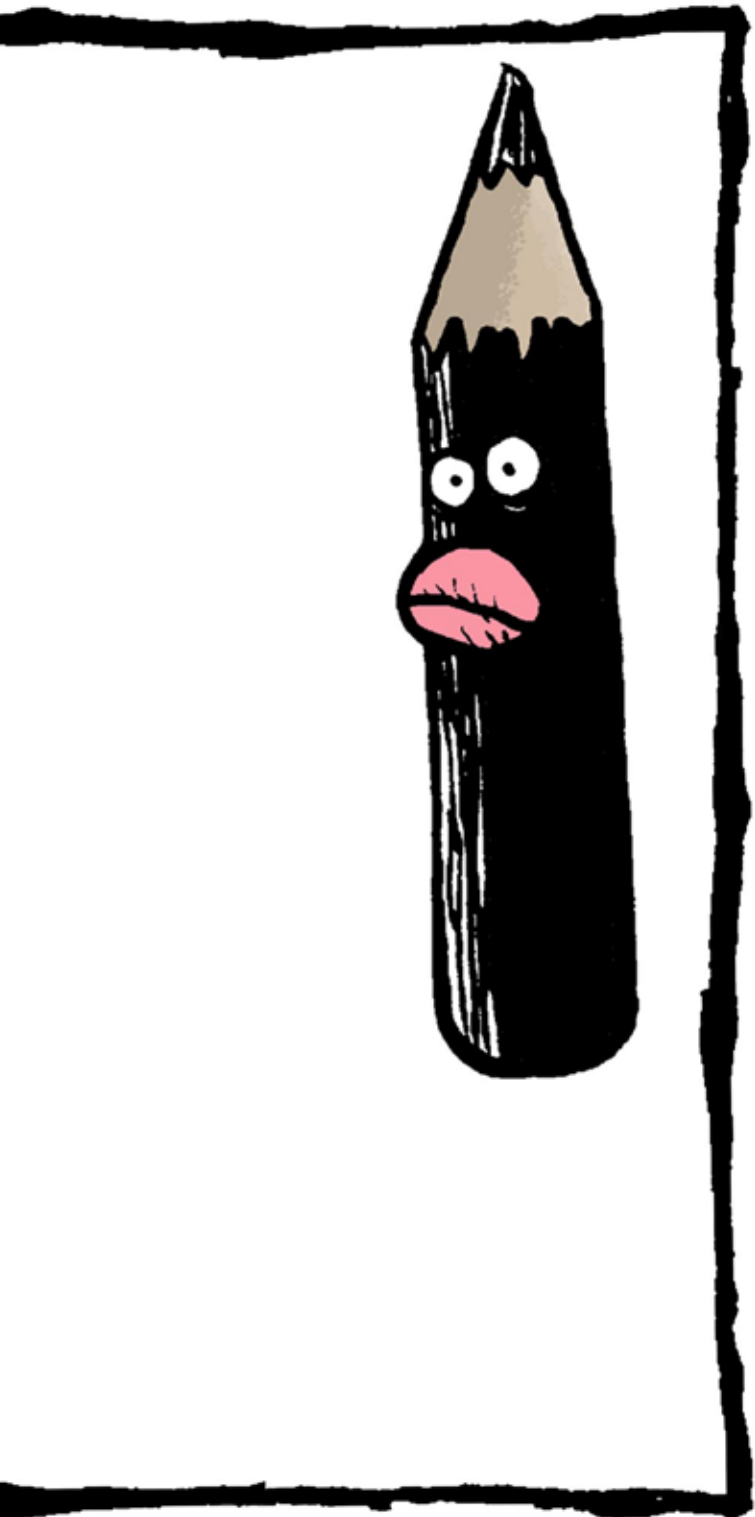
In April, Nigeria’s Kano State Censorship Board banned the broadcast of *Kwano Casa’In*, a television series that is a socio-political critique of the government, because one of the episodes contained a scene of a woman being held by men on a tricycle. Citing Section 102(2) of the Kano State Censorship Board Law which prohibits the screening of content that is “indecent, obscene or likely to be injurious to morality and is undesirable in the public interest”, the Board highlighted that the scene in question had contradicted local norms, which forbid the holding of women by men in public.<sup>24</sup>

Furthermore, in July, Saudi company Rotana Group, which produced Lebanese singer Elissa’s new album, deleted from social media the album’s promotional photo featuring the singer laying on a bed covered only with sheets. The photo, which was removed just hours after it was posted following strong backlash, was the singer’s response to criticism she was subject to at the beginning of her career for appearing in a music video wearing a bed sheet.<sup>25</sup> On 22 July, Rotana posted other photos of Elissa to promote the album.

Censoring women on the grounds of indecency and attacking feminist artists and movements have been caused by unequal power relations between men and women, which have been constantly reinforced. Silencing women artists because of their gender contravenes international standards which prohibit gender-based discrimination and guarantee their right to equal treatment in public and private spheres. Measures that impede women’s right to take part in cultural life are in clear violation of the right to freedom of expression and cultural rights, guaranteed by the ICCPR and ICESCR. States should ensure that women artists can freely express themselves without fear of persecution or attack, so that they do not resort to self-censorship. Women artists’ voices should not be stifled, but rather taken into consideration and encouraged, primarily when they express themselves on issues of gender-based violence and reproductive rights, two areas of concern which continue to be key issues in many societies across the globe.







## RACIAL DISCRIMINATION AND ARTISTIC EXPRESSION

The struggle against racial discrimination and racially motivated violence in countries with a history of slavery, colonialism and imperialism has been ongoing for decades. In 2020, the fight for this cause reignited following the killing of African American George Floyd at the hands of the police on 25 May in Minneapolis, Minnesota. His death prompted nationwide protests in the USA which quickly spread worldwide under the umbrella of the Black Lives Matter (BLM) movement. Apart from bringing the problem of systemic racial injustice and police violence to the forefront of the global news agenda, these protests also played a significant role in reopening debates about the way Black people, and the painful centuries-long history of discrimination, have been portrayed in art, prompting discussions about the moral

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*“As you are aware, the mural has created considerable controversy in our community. While it is intended to celebrate the efforts of black and white Americans in Vermont and throughout the United States to achieve freedom and justice, its depiction of enslaved people leaves many uncomfortable and even offended... While we respect the effort, vision, and creativity that you brought to creating the mural, we have concluded that it does not have a place on our campus.”*

EXCERPT FROM THE LETTER ARTIST SAMUEL KERSON RECEIVED FROM THE MANAGEMENT OF THE VERMONT LAW SCHOOL ON 5 AUGUST 2020 ORDERING THE REMOVAL OF HIS MURALS FROM THE SERIES THE UNDERGROUND RAILROAD.

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and ethical aspects of artistic interpretations of racism. 'Racial insensitivity' and the exploitation of racial stereotypes were among the main reasons for censorship and self-censorship, which were particularly emblematic in mid-2020, parallel to the peak of the BLM protests. However, at the same time, artworks bringing attention to racism and discrimination were targeted with backlash.

According to Freemuse research, 82 percent of all violations of artistic freedom in the context of the fight against racism occurred in the Global North, with 45 percent of cases registered in the USA. At least 34 statues and busts were destroyed or removed because of their representation of, or association with, slavery and the colonial past. In addition, racial bias against people of colour was behind 42 cases of verbal and physical attacks on artists and artworks, which were triggered by artists' support for the BLM movement. Following the death of George Floyd, artists worldwide used creative ways to commemorate his death through social media illustrations, street art and posters waved during protests. However, some of these artistic expressions became targets of attacks. In at least one instance in the UK, where a mural was damaged with a racist slur, authorities treated the defacement as "racially aggravated criminal damage".<sup>1</sup> In other cases, street artworks were painted over by local authorities, following complaints about the negative portrayal of law enforcement.

## THE IMPLICATIONS OF THE ANTI-RACISM MOVEMENT FOR ARTISTIC EXPRESSION

In 2020, various actors were involved in the debate about the way race, racism and racial violence have been depicted through arts and culture. These issues were at the centre of a number of censorship initiatives, questioning the ways in which artworks deemed 'racially insensitive' affect members of the Black community. Apart from monuments displayed

in public spaces, which were at the centre of the dispute following the first protests condemning George Floyd's death, film and literature were also widely challenged.

Over the years, there have been initiatives in the USA advocating for the removal of monuments due to their association with slavery and racism. While some of the statues honouring Confederate<sup>2</sup> and other controversial figures were removed from public spaces by the authorities in past years,<sup>3</sup> following the emergence of the BLM protests in 2020, many of them were vandalised and torn down by protesters or removed under the order of local officials. These monuments were mainly erected in the late 19th Century and during periods of civil rights tension in the 20th Century aiming to "send a message about white supremacy, and to sentimentalise people who had actively fought to preserve the system of slavery".<sup>4</sup> Some of them were recently contested by local communities, but authorities never responded to initiatives for their removal.

Apart from the USA, monuments deemed controversial because of their connections with colonialism were toppled or removed in Belgium, Denmark, France, and the UK. In Cameroon, political activist André Blaise Essama, who has been on a decades-long mission to purge colonial-era symbols, destroyed seven "colonial statues of French heroes" in the country's economic capital Douala and confiscated their heads.<sup>5</sup> In several instances, the vandalism against these monuments was met with backlash against statues honouring Black people. On 11 June, the first ever bust erected in honour of a Black person in the British city of Bristol—the statue of Jamaican-born poet Alfred Fagon erected in 1987—was covered with a corrosive substance,<sup>6</sup> whilst on 17 June, the statue of legendary African American tennis player Arthur Ashe in Richmond, Virginia was spray painted with the words "White Lives Matter".<sup>7</sup>

Recognising that slavery, colonialism and imperialism are as much a cultural project as a political, military, and economic endeavor, as well as that the public codification of artistic expressions through monuments and statues have been governments' intentional acts, Freemuse believes that these monuments displayed in public spaces should be subject to consultations involving diverse local communities. This process must be accompanied by an educational program that informs communities of the full extent of violations committed by historical figures honoured by monuments. Regardless of the motivations that led to their creation, Freemuse

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*"This program includes negative depictions and/or mistreatment of people or cultures. These stereotypes were wrong then and are wrong now. Rather than remove this content, we want to acknowledge its harmful impact, learn from it and spark conversation to create a more inclusive future together."*

**DISNEY+ ADVISORY** APPEARING BEFORE TITLES IDENTIFIED AS CONTAINING RACIAL STEREOTYPES.

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recognises these monuments as artistic expressions and thus finds their destruction and removal from public access a violation of artistic freedom. In this regard, Freemuse supports adding plaques which contextualise monuments by providing the historical background, as well as their placement in museums where they could be used for educational purposes.

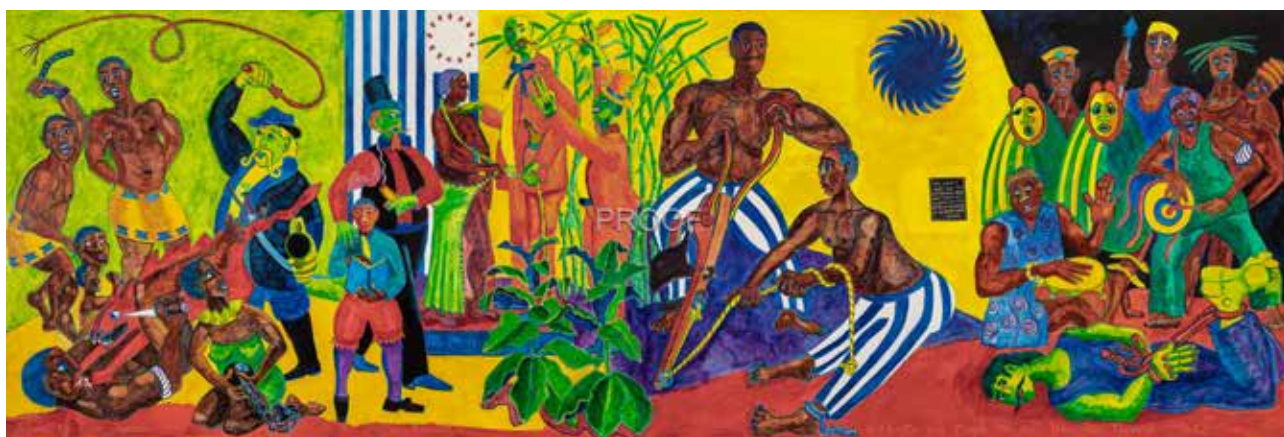
Following the emergence of the BLM protests, some books and visual artworks were contested in an educational context due to the way they depicted the legacy of racism. In July, the Vermont Law School ordered the removal of Samuel Kerson's murals from the series *The Underground Railroad* from the school walls. The artist was given 90 days to remove the murals which were deemed to propagate negative stereotypes of Black people.<sup>9</sup> The artist told Freemuse that his murals created in 1993 tell the story of slavery and liberation, and the struggle against oppression, focusing on the local context. He added that in December, he filed a suit under the 1991 Visual Artists Rights Act, hoping that this can protect his murals.<sup>9</sup>

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*"In a year when we have seen a national movement against systemic racial injustice, it is crucial to bring these subjects [systemic racism] into the classroom with care and sensitivity, which teachers are well-equipped to do. Blocking engagement with these important books is also avoiding the important role that schools can and should play in providing context for why these books inspire and challenge us still today."*

EXCERPT FROM THE PETITION INITIATED BY PEN AMERICA DEMANDING THAT BURBANK SCHOOLS REINSTATE BANNED BOOKS.

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*The Underground Railroad Mural by Samuel Kerson. Credit: Courtesy of Samuel Kerson*

Similarly, in September, the authorities in Burbank, a city in Los Angeles County, temporarily banned teachers from using four books—including Mark Twain’s *The Adventures of Huckleberry Finn* and Harper Lee’s *To Kill A Mockingbird* – following a complaint by parents who objected to the books which deal with the subject of race. Although Freemuse recognises that Black people have historically been represented stereotypically in artworks, it also believes that removing all ‘racially insensitive’ content from school curriculum would not resolve difficult legacies of the past. Instead, these artworks could be utilised for opening critical debate about racism through educational systems.

In 2020, Freemuse registered that around 20 films were also challenged on the pretext of ‘racial insensitivity’. Apart from films that contained a defamatory depiction of Black people, racial slurs, and racist stereotypes, most of these films were removed from streaming platforms due to the use of blackface by some characters. They were challenged as blackface has been tightly connected with racial stereotyping, negative representation of Black people, and reinforcing white supremacy.<sup>10</sup> Some films containing racial stereotypes were temperately removed from Netflix, Hulu, HBO, Disney+, and later were reinstated, incorporating advisories on historical contextualisation. One example is the film *Gone with the Wind*, which was removed from HBO Max on 10 June, but returned two weeks later with a disclaimer explaining that the film “denies [the] horrors of slavery”.<sup>11</sup>

## REPERCUSSIONS AGAINST ARTISTS AND ARTWORKS ENDORSING BLM PROTESTS

Freemuse’s research demonstrates that artists who openly endorsed the BLM protests or created artworks deemed supportive of the causes of this movement were faced with pushback. Responding to the violence that occurred during some protests, authorities in some countries used the endorsement of this movement as a reason to retaliate against artists and cultural institutions. In Nevada, Douglas

County Sheriff Dan Coverley sent a letter to the local Public Library Board of Trustees in which he threatened to stop responding to library calls over their support of the BLM movement. His reaction was triggered by an announcement by the library management that during a meeting scheduled for 28 July they would discuss the adoption of a ‘diversity statement’ to denounce “all acts of violence, racism and disregard for human rights”.<sup>12</sup> The meeting was cancelled after the Library Director met with the Sheriff. This, in turn, was followed by the Sheriff’s Office withdrawing its statement about cancelling services to local libraries.

In mid-June three London-based drill rappers<sup>13</sup> who were on probation—Digga D, Lavidia Loca and Dutchavelli—received warning calls by the Metropolitan Police, in which their conditional releases were questioned under the pretext of endorsement of the BLM protests. Digga D who was released from prison in May tweeted that he had received a call after he participated in protests and posted a photo of himself holding a BLM sign.<sup>14</sup> Lavidia Loca stated that she was informed by the police that “protesting is also being deemed as inciting violence”, and that the warning made her reluctant to attend BLM protests “due to the fear of going back to prison”.<sup>15</sup> Police looked for rapper Dutchavelli because of his Instagram announcement about a plan to join a BLM protest. Although he did not attend the protest, his sister Stefflon Don (also a rapper) claimed that the police had “ransacked” the house of their other sister while looking for Dutchavelli.<sup>16</sup>

Apart from repercussions from law enforcement, artists vocal about the BLM movement also suffered harassment, bullying and threats of violence from their fellow citizens. In August, The Pink Flamingo—a Black and LGBTI-run artist group based in the Canadian city of Calgary—postponed their plans to create four BLM murals for 2021, because they received overwhelming “violent vitriol, racism and threats” soon after they announced their project.<sup>17</sup> In the UK, members of the Bristol-based Rising Arts Agency experienced racial harassment and threats of violence after they launched the artistic project #WhoseFuture mid-July, posting billboards around the city responding to the worldwide BLM movement.<sup>18</sup>

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*“To support this movement [BLM] is to support violence and to openly ask for it to happen in Douglas County. Due to your support of Black Lives Matter and the obvious lack of support or trust with the Douglas County Sheriff’s Office, please do not feel the need to call 911 for help.”*

EXCERPT FROM THE DOUGLAS COUNTY SHERIFF DAN COVERLEY’S OPEN LETTER, DOUGLAS COUNTY SHERIFF’S WEBSITE, 27 JULY 2020.

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Participants in the project #WhoseFuture were victims of race-based harassment. Credit: Rising Arts Agency Facebook



Mural dedicated to Elijah McClain who was 23 when died in police custody. Credit: Danielle Mielke on Instagram @dmielke.art



The photograph of the reinstalled Sekai Machache's mural trail by Janice Aitken. Credit: Courtesy of Sekai Machache

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*"I wanted to highlight that the BLM movement isn't just related to police brutality, which obviously is a major component of the movement. My work is about addressing the fact that we're living in a precarious position with our health, especially in relation to the COVID-19 pandemic. Also, when it comes to access to mental health care, specifically in Scotland, there are not enough people of colour that we can go to."*

SEKAI MACHACHE, FREEMUSE INTERVIEW, 6 OCTOBER 2020.

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On 19 July, while Amira Caire and Danielle Mielke were working on murals dedicated to two residents of the local Black community in Madison, Wisconsin who were killed recently, these street artists were harassed by a person who shouted at them from a truck. He also approached the artists on foot, called their artworks 'racist' and threatened to vandalise the murals arguing that they did not belong in his neighbourhood.<sup>19</sup> On 5 October, the exhibition *BREAdTH apart* by Scottish visual artist of Zimbabwean origin Sekai Machache was the target of a racist attack in Dundee. Vandals tore up 16 portraits of Black people wearing colourful facemasks created as part of a BLM mural trail.<sup>20</sup> The artist told Freemuse that she created this exhibition hoping to open a conversation about the inequality and systematic racism within the healthcare system in Scotland, by pointing out how the COVID-19 pandemic disproportionately affects the Black community, which is vulnerable "not just to contracting it, but also to whether they are going to survive".<sup>21</sup>



Mohammed Ali's mural "I can't breathe" mural in Birmingham. Credit: Mohammed Ali Aerosol Twitter

## DEFACING AND REMOVING STREET ART CONDEMNING POLICE VIOLENCE AND THE DEATH OF GEORGE FLOYD

George Floyd's murder sparked an explosion of street art created worldwide in efforts by individuals and communities to raise awareness about police brutality and racial injustice. "I can't breathe", Floyd's words expressed while a police officer was pressing his knee against Floyd's neck for more than eight minutes, were often featured in street murals and graffiti. However, some of these artworks were subject to racist backlash and objections by law enforcement. Freemuse documented that at least 26 street artworks were vandalised or painted over in six countries.

Most of these attacks were documented in the USA. In July, in Baltimore, Maryland a ranger working for the City Department of Recreation and Parks was held responsible for taking down five BLM murals in Patterson Park. Park authorities stated that their employee, who had been reported for racial misconduct in the past, was involved in this vandalism despite the murals having been officially approved.<sup>22</sup> When in July, Katherine Bernhardt painted a BLM mural featuring an image of the civil rights activist and NFL player Colin Kaepernick on the walls of the building she owns in St. Louis, Missouri, it was removed by a company contracted by the city as a response to "complaints about graffiti on the property" submitted through the Citizens' Service Bureau.<sup>23</sup>

In the UK, the "I can't breathe" mural by Birmingham-based street artist Mohammed Ali created on 1 June on the wall of the Acorns Hospice charity shop was painted over by the local City Council.<sup>24</sup> Following the outcry caused by the authorities' move, the City Council apologised. A week later, a mural of George Floyd in the Scottish city of Dundee by graffiti artist SYKE was vandalised with a white Celtic cross (a white supremacist symbol) painted over Floyd's face, whilst the word 'Black' was painted over in

the message “Black lives matter”.<sup>25</sup> When on 22 July, a racist slur was written on the mural created by Manchester artist Akse P19Fre. The French graffiti artist of Vietnamese origin said that as someone who had suffered “racial discrimination since childhood”, he was “disgusted” by what had happened.<sup>26</sup>

In July, a mural tackling police violence, painted in Stains, a city in the Paris region, as a tribute to George Floyd and Adama Traoré (a Malian-French man who died in 2016 under unclear circumstances while in police custody) was defaced with words such as “extortion” and “theft”.<sup>27</sup> After this mural was inaugurated on 18 June by the Committee for Justice and Truth for Adama (a group created to advocate against police brutality) it was immediately protested by local police. They were successful in their efforts to pressure authorities to remove the word ‘police’ from the message on the mural “against racism and police violence”.<sup>28</sup>

Street art was also under duress in the Australian city of Sidney. On 23 June, following complaints about an “anti-police” mural, local authorities painted over the street artist Scottie Marsh’s work, which depicted a police vehicle on fire (dedicated to a 17-year-old indigenous teenager killed in 2004 while pursued by police cars).<sup>29</sup> A mural by Aziz Al-Asmar and Anis Hamdoun dedicated to George Floyd was defaced with the message, “Our cause is more noble than this” in the Syrian province of Idlib. This mural, painted on a wall of the remnants of Al-Asmar’s destroyed home, reportedly was destroyed by militants affiliated with an Islamista group operating as al-Qaeda’s branch in Syria.<sup>30</sup>

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*“In a time when anti police sentiment is high I don’t see what’s to be gained by censoring public artwork that you don’t agree with @nswpolice [New South Wales], other than reinforcing #ftp [fuck the police] #acab [all cops are bastards] sentiment...”*

AUSTRALIAN ARTIST SCOTT MARSH, INSTAGRAM, 23 JUNE 2020.

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Mural by Aziz Al-Asmar and Anis Hamdoun in tribute of George Floyd defaced in Syria. Credit: Mohamed Al Naser Twitter @M\_Alner

Freemuse recalls the findings of the Durban Declaration (issued at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001) “that remembering the crimes or wrongs of the past, wherever and whenever they occurred, unequivocally condemning its racist tragedies and telling the truth about history are essential elements for international reconciliation and the creation of societies based on justice, equality and solidarity”.<sup>31</sup> In this regard, Freemuse advocates that authorities should prompt civic engagement in critical thinking about legacies of the past and contemporary challenges for their interpretations, especially when these challenges stem from communities of aggrieved minorities and are connected with systematic racial injustices and violence, including police violence. Silencing artists vocal about these issues goes against international standards governing free speech. Freemuse further condemns attacks on artists based on their racial background or for their artistic expressions against discrimination, and calls on national authorities to timely, effectively, and impartially investigate racially motivated violence and punish perpetrators in line with laws.



# 3

CHAPTER 3: COUNTRIES OF CONCERN



# BANGLADESH:

## SILENCING ARTISTS ON GROUNDS OF ‘DIGITAL SECURITY’

- In 2020, Bangladeshi authorities continued to suppress freedom of expression under the widely criticised Digital Security Act (DSA).
- Baul musicians were particularly vulnerable to legal prosecution under the DSA Section 28 which bans insults to religion.
- Artists were kept in pre-trial detention for months before charges were pressed, only partly due to the limited functioning of the judiciary because of the COVID-19 pandemic.

Freemuse research shows that in 2020, the Muslim-majority country run by the nationalist Awami League exposed advocates of pluralism and syncretism to violence and systematic suppression. Such state strategy has a direct impact on artists, resulting in attacks, bans and campaigns against creative works across the cultural sector which are deemed inconsistent with government policies and conservative Islamic philosophy.<sup>1</sup> Human rights organisations constantly condemn the crackdown on free speech in Bangladesh, recording cases of employment of law enforcement and intelligence agencies against those expressing dissent.<sup>2</sup> Authorities also disproportionately use different

sections of the 2018 Digital Security Act (DSA) as a tool to suppress voices of artists, lawyers, bloggers, journalists, and activists.<sup>3</sup>

In 2020, Bauls—mystic minstrels—have been particularly targeted. Freemuse documented charges levied against two of Baul musicians under the nonbailable Section 28 of the DSA which prescribes up to seven years of imprisonment for publishing information that “hampers the religious sentiment or values”. Although Baul songs have been inscribed on the UNESCO’s Representative List of the Intangible Cultural Heritage of Humanity, Baul musicians have been subjected to systematic harassment, partly because they do not identify with any organised religion or deities.<sup>4</sup>



Baul singer Rita Dewan has been prosecuted under the Digital Security Act. Credit: Rita Dewan

## SUPPRESSING POLITICALLY OPPOSING VOICES

The trend of shrinking space for criticism against the government has been evident in the sphere of arts and culture. In 2020, Freemuse documented a case in which government officials directly intervened in an activist action. The Drik Gallery’s performance against extrajudicial killings by the Rapid Action Battalion (RAB), staged at the University of Dhaka in September, was interrupted by counter-protesters led by Dhaka South City Councillor Hasibur Rahman Manik.<sup>5</sup> The performance included images from artist and activist Shahidul Alam’s 2010 exhibition *Crossfire* which centred on the killings of civilians by RAB. The exhibition was triggered by the killings of an estimated 4,000 persons since 2004 when the RAB police unit was established.<sup>6</sup>

In addition to obstructing the performance, the government-aligned counter-protesters also threatened performers, while policemen stood by, failing to provide protection.

In May, members of the RAB arrested cartoonist Ahmed Kabir Kishore and writer Mushtak Ahmed for disseminating Kishore's cartoons critical of the government and corruption in health sector on social media. They were among 11 people detained on 5 May under different sections of the DSA for their criticism of the way authorities handled the COVID-19 pandemic.<sup>7</sup> Kishore and Ahmed were kept in pre-trial detention despite the COVID-19 pandemic, and although their trials had not commenced until the end of 2020, they both were denied release on bail on multiple occasions. In the meantime, Kishore's health deteriorated due to inadequate treatment of his insulin-dependent diabetes.<sup>8</sup>

## SILENCING BAUL MUSICIANS

Baul singer Shariat Boyati was arrested in January following a complaint filed by the Islamic cleric Mawlana Faridul Islam. The cleric claimed that Boyati's performance at a folk music festival in December 2019 insulted religious sentiments of Muslims. The singer's performance, in which he allegedly stated that Islam does not prohibit singing, was uploaded to YouTube. He was brought to prosecution under Section 28 of the DSA that prohibits the publication or broadcast of "any information that hurts religious values or sentiments."<sup>9</sup> After having his petition for release on bail refused twice, then delayed due to COVID-19 restrictions, Boyati was finally released from prison on 28 July. At the end of 2020, his case was before the Cyber Tribunal in Dhaka for charges pressed on 11 March by the Criminal Investigation Department of the Bangladesh police.<sup>10</sup>

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*"I am very scared because of legal prosecution since I have no confidence in Bangladeshi legal system. Our government does not believe in freedom of expression nor artistic freedom. It is highly religious, biased, conservative system. I am very anxious whether I will get justice or not."*

RITA DEWAN, FREEMUSE INTERVIEW, 3 NOVEMBER 2020.

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Another Baul singer Rita Dewan is facing prosecution under the DSA for the performance of a two-person *Pala Gaan* (folk opera) in November 2019. In this performance, of which parts were streamed on YouTube and other social media, she performed the role of a human being who questioned Allah's "mysterious role".<sup>11</sup> In early February, Dhaka Lawyers' Association member Imrul Hasan filed a case against Dewan before the Cyber Tribunal under the DSA while the actor Russell Mia filed another case under sections of the Penal Code (which include intentional insults against religious beliefs and feelings). Her case was directed to the Police Bureau of Investigation. On 5 October, the bureau decided to proceed with prosecution.<sup>12</sup> Dewan's lawyer Abdullah Al Noman told Freemuse that an arrest warrant against his client was issued on 2 December, and that after she surrendered on 13 January, the Dhaka Cyber Tribunal promptly responded to her request for bail and released her.<sup>13</sup> In an interview with Freemuse, singer shared that while the legal process is under way, she is unable to perform. This is particularly difficult for her family as they rely on Dewan's earnings as their sole income.<sup>14</sup>

Freemuse also recorded an incident in which Baul musicians suffered an attack. In May, unidentified people staged an arson attack on the Ashor Ghor (music room) of Baul singer Ranesh Thakur. The building was destroyed, as well as musical instruments, such as monochords, harmoniums, and drums.<sup>15</sup>

Bangladeshi constitution prescribes that cultural traditions and heritage of the people should be conserved.<sup>16</sup> In this regard, repression against Baul singers is detrimental to the cultural landscape of Bangladesh as a whole. Bangladeshi authorities should refrain from the practice of legal prosecution of artists for their political beliefs or stances towards religion. The use of the DSA to suppress freedom of expression is also in breach of the rights guaranteed by the Bangladesh constitution. The vagueness of the legal provisions and almost unlimited power of law enforcement to arrest suspects without a warrant under the DSA creates an atmosphere of fear among those holding dissenting views. Freemuse finds the trend of keeping artists in pre-trial detention without charges during the COVID-19 pandemic particularly worrying.

# BELARUS:

## ARTISTS AT THE FRONTLINE OF RESISTANCE

- All violations of artistic freedom Freemuse documented in 2020 were committed by President Alexander Lukashenko's regime.
- Dozens of artists arrested for their participation in protests over disputed presidential elections testified about their humiliating treatment and beatings while in prisons.
- Due to fear of repercussions for their political activism, some artists were forced to flee the country and fear being unable to return safely.

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*"The essence of contemporary art is to provoke the regime, but also to be with audience. To make them think. To dream together and show resistance."*

NATALIA KALIADA, FREEMUSE INTERVIEW, 5 OCTOBER 2020.

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In Belarus, a country where freedom of expression has long been suppressed, the position of artists and cultural workers took a dramatic turn for the worse around and following the presidential elections held on 9 August 2020. President Alexander Lukashenko, who has held power since 1994, claimed a total of 80 percent of votes cast in his favour. These results were followed by accusations of extensive election fraud in Belarus, as well as condemned internationally, where the elections were regarded as 'neither free nor fair'.<sup>1</sup> The aftermath of the elections was marked by mass protests staged across Belarus, requesting President Lukashenko's resignation, the release of political prisoners, and an end to the violent crackdown on dissent. The regime responded with mass arrests of the protesters, with the police accused of ill-treatment of detainees.

Artists and cultural workers have been prominent in the democracy movement, with some staging musical performances, street theatre, art installations and using their status as highly regarded cultural icons to voice government criticism and encourage peaceful protests. As a result, many have been arrested, fined, and lost

employment, whilst some were prompted to leave the country. Freemuse research demonstrates the widespread use of administrative detentions for people from the cultural sphere under Article 23.34 of the Code of Administrative Offences 'violation of the organisation or holding of mass events', which can incur sentences of up to 15 days in prison.

## SHORT-TERM ADMINISTRATIVE DETENTIONS AS THE KEY INSTRUMENT OF REPRESSION

From December 2019 to December 2020, a Belarusian non-profit organisation documented 485 cases of violations against cultural workers and cultural rights (two-thirds occurring in the post-election period), including 203 cases of arbitrary arrest or detention.<sup>2</sup> Some notable cases include members of the Presidium of the Coordination Council established by the opposition leader Sviatlana Tsikhanouskaya on 19 August. Professional flute player Maria Kolesnikova was detained on charges of 'causing harm to national security'.<sup>3</sup> Former Minister of Culture and Director of the Janka Kupala National Theatre Pavel Latushko<sup>4</sup> and 2015 Nobel prize winner in literature Svetlana Alexievich fled the country, aiming to continue with their political activities from abroad.<sup>5</sup>

On the evening of 9 August, when the first demonstrations emerged, many artists, including members of Belarus Free Theatre (BFT) in Minsk joined the protests. Natalia Kaliada, BFT Founding Artistic Director, now living in exile, told Freemuse

that the independent cultural institution has been working over the years to educate its audience and paper them for the current events. As such, it was natural for them to show their support for protesters by joining them.<sup>6</sup> On the night of the first mass protests, four BFT members were arrested, including Managing Directors Svetlana Sugako and Nadezhda Brodskaya, actress Daria Andreyanov and ensemble member Kirill Konstantinov. In the following days, Sugako and Brodskaya were sentenced to ten days and 13 days in prison respectively.<sup>7</sup> They reportedly speak of being kept in cramped and unhygienic conditions and suffering incidents of humiliation.<sup>8</sup> In September, three members of PEN Belarus, poets Hanna Komar and Uladzimir Liankevich and translator Siarzh Miadzvedzeu, were also held in administrative detention for nine days for their participation in the peaceful protests.<sup>9</sup>

## VIOLENCE, ILL-TREATMENT IN PRISONS AND UNFAIR TRIALS

Many artists have suffered violence perpetrated by law enforcement while protesting, during arrests and while in detention. An example of the extreme violence inflicted by Belarus police occurred on 11 November, when artist Raman Bandarenka was beaten by people believed to be plain-clothed state security officers after they came to artist's neighbourhood in Minsk to remove protest flags and ribbons.<sup>10</sup> Although severely injured, 31-year-old Bandarenka was arrested. He died in hospital the following day.

Documentary film director Maksim Shved spoke to Freemuse about his experience of police brutality



Visual artist Alexei Kuzmich's performance at the polling station. Credit: Alexei Kuzmich

following his arrest on 10 August while filming a project on conversations between taxi drivers and their passengers. Shved served a five-day sentence while being "treated as an animal".

*[The] policemen were very cruel. They did not listen to any reason. They shouted at me and beat me with sticks and by hand on different parts of my body and my head.*

MAKSIM SHVED, FREEMUSE INTERVIEW (ONLINE), 27 OCTOBER 2020.

On election day, performance artist Alexei Kuzmich staged the performance *I believe* at his polling station, in which he briefly stood in a position of a crucified man, half-naked and blindfolded, with a phallus drawn on his ballot paper stuck to his chest. On the evening of 9 August, he joined protests, standing in front of police and repeating the performance for which he was arrested. He was detained for three days during which he states of being physically and mentally abused. Kuzmich told Freemuse that President Lukashenko's law enforcement policy is to terrify protesters because "they represent the face of the revolution and those who want and will bring about change."<sup>11</sup> Kuzmich has since left Belarus.

Vladimir Petrovich, actor and director at the Mogilev Regional Drama Theatre, was arrested on 10 August. He was sentenced to several days in prison on allegations of swearing at police officers and resisting arrest, without the opportunity to defend himself or invite his witnesses. In a YouTube video about his trial, he stated that the witnesses who testified against him were police officers whom he had never seen and who gave incorrect details about the place and time of his arrest.<sup>12</sup>

These attacks on artists and cultural workers are the authorities' failure to respect legally binding responsibilities undertaken in 1973 when Belarus ratified ICCPR and ICESCR. The authorities should immediately put an end to arbitrary arrests of Belarusian citizens for peacefully exercising freedom of expression and assembly, refrain from conducting unfair trials with false witnesses and stop abuses in prisons. They should also conduct thorough independent investigations into all human rights violations committed in light of the 2020 elections, and adequately sanction those found responsible.

# BRAZIL:

## SILENCING CRITICISM AND LIMITING ARTISTIC FREEDOM IN THE NAME OF CHRISTIANITY

- In 2020, authorities adopted two legal instruments placing cultural institutions under direct government control.
- Despite court decisions which overruled censorship requests finding them unconstitutional, censorship was still carried out, sometimes at the behest of state officials.
- Artists faced online harassment and intimidation, stemming from public figures or government supporters.

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*“The freedoms of intellectual, artistic, scientific expression, of religious belief, philosophy and communication are fundamental and essential rights for the achievement of the objectives of the Federal Republic of Brazil.”*

JOSÉ ANTONIO DIAS TOFFOLI, BRAZIL SUPREME COURT JUDGE, MERCOPRESS, 11 JANUARY 2020.

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During Evangelical Christian President Jair Bolsonaro's second year in office, the undermining of secular, liberal, and human rights norms has deepened in Brazil. The president's contempt for democratic institutions and rule of law was particularly evident during a political crisis in May 2020 when he supported the rally of far-right protesters in Brasilia who called for the closure of Congress and the Supreme Court for investigating the country's leader.<sup>1</sup> Given this context in which democratic institutions have been challenged, the national government continued to undermine artistic freedoms, particularly targeting artistic content on the grounds of religion and political dissent. The centralised administration of key cultural institutions, state-sponsored censorship, and the continuous online harassment of artists have been used as tools to silence criticism and to narrow the national narrative based on conservative Christian values.

### CENTRALISED ADMINISTRATION OF CULTURAL INSTITUTIONS

After disbanding the Ministry of Culture in 2019, the national government made deliberate moves to centralise administrative control over the cultural sector in 2020. On 7 August, President Bolsonaro signed Decree 10499 which mandates the Ministry of Tourism to supervise the finances and management of key state-funded cultural institutions, which in the past functioned autonomously.<sup>2</sup> Furthermore, on 4 September the Special Secretary of Culture Mario Frías (who operates under the Ministry of Tourism) issued an order that requires his approval of “appointments, dismissals, transfers, publication of notices and posts on websites and social networks of all bodies linked to the Special Secretary for Culture”.<sup>3</sup> Although the order recognises the legal autonomy of key cultural institutions, it still establishes their subordination to the Secretary. According to journalist Camila Moraes, this decision

is in accordance with the arbitrary logic of a conservative government that seeks total control. This will result in the abandoning and diminishing of culture in the country, preventing it from flowing without hindrance.<sup>4</sup>

## CENSORSHIP REQUESTS AND JUDICIARY PUSHBACK

Like previous years, throughout 2020, national and local officials, as well as conservative religious groups, continued to request artwork bans on the grounds of protecting family and religious values. Freemuse documented attempts by different groups to push Netflix to remove films deemed “inappropriate” from its platform. Some of these attempts were met with pushback by the judiciary as judges ruled in favour of freedom of expression, which is protected by the constitution.<sup>5</sup>

On 9 January, the President of the Supreme Federal Court, Judge José Antonio Dias Toffoli, overthrew a request from the Catholic organisation Don Bosco Center for Faith and Culture to ban the parody film *The First Temptation of Christ*. The film tells the story of a homosexual Jesus Christ who brings home his boyfriend Orlando.<sup>6</sup> Similarly, on 26 September, the 5th Financial Court of Sao Paulo rejected a petition by the Evangelical religious group Planet of the Lord Temple to censor the film *Cuties* on the grounds of child pornography. Judge Luiz Fernando Rodrigues Guerra categorised this request as “an indefensible form of censorship, as it sought to suppress freedom of information and, above all, freedom of family education.”<sup>7</sup>

Despite these rulings that unambiguously supported artistic freedom, in February, the Municipal Secretary of Culture of Rio de Janeiro, Adolpho Konder, requested the removal of visual artist Órion Lalli’s painting *Todxs xs Santxs - Renomeado - #eunãosoudespesa* from an exhibition displayed



*Todxs xs Santxs - Renomeado* by Órion Lalli. Credit: Órion Lalli

at the Municipal Art Centre Hélio Oiticica, arguing that the artwork was “an attack on Christian values”.<sup>8</sup> The painting features an image of the Virgin Mary with a naked breast and a penis, and the inscription “God above all, enjoying above all”. The artist explained that his intent was to raise awareness about the state’s policy around HIV and “criticise the view of the Church, which says that it is a sin for people to use condoms”.<sup>9</sup> The art centre removed the artwork after two deputies from the far-right Social Liberal Party, Christiane Tonietto and Márcio Gualberto, filed a legal complaint, accusing Lalli of “vilification of religious sentiments”. This is a blasphemy-related crime, as stipulated in Article 208 of the Penal Code. The charges were dismissed on 6 August.<sup>10</sup>

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*“It’s great that the case has been closed. At the same time, I wonder, ‘why was it initiated?’ A story that has deconstructed everything to end up in a [judicial] archive. And I am left alone to reflect on it. I was censored, but the process of my vilification has not been concluded. That was the biggest problem for me. Being accused of a crime would be just the tip of the iceberg.”*

ÓRION LALLI, CADAL INTERVIEW, 5 NOVEMBER 2020.

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## DIGITAL HARASSMENT: SHRINKING CULTURAL SPACES THROUGH VIOLENCE AND THREATS

Throughout 2020, Freemuse documented a growing trend of artists suffering online harassment and attacks, which were met with impunity and resulted in the normalisation of violence. The harassment and threats directed against women and LGBTI artists, and those who openly criticised the government, were at times carried out by public figures, as well as social media users who support the government.

In September, a group which identified itself as supporters of President Bolsonaro created videos depicting the burning of books by prominent Brazilian novelist Paulo Coelho, accusing him of being an “anti-patriot”, due to his critical stance on President Bolsonaro’s government.<sup>11</sup> Furthermore, the Special Secretary of Culture Mario Frías used his personal and the Secretary’s social media accounts to insult comedic actor Marcelo Adnet for his parody of an official video praising Brazilian military glory.<sup>12</sup> As a consequence, hundreds of users reiterated the insults, resulting in overwhelming aggression against the actor.

Such widespread aggression encouraged by President Bolsonaro’s allies can have a detrimental impact on the work and mental health of artists. Transgender musician Rosa Luz was forced to shut down her social media accounts because of the harassment she was exposed to after she shared a photo of herself holding the head of a middle-aged white man to promote a single titled *Diss Pras Rata*.<sup>13</sup> She told Freemuse that in a country where the murder of [prominent politician and human rights defender] Marielle Franco<sup>14</sup> was met with impunity, the threats terrified her, and she did not leave the house for two weeks.<sup>15</sup>

To promote a democratic pluralistic society, the Brazilian government should reconsider the process of the centralised oversight of the cultural sector and enable cultural institutions to function independently from political influence. State officials should refrain from censoring artistic expressions deemed critical of the government or inappropriate in a Christian society, which is against Brazil’s commitments to the ICCPR and ICESCR, ratified in 1992, constitution and established national judicial practice. Furthermore, public officials should not resort, nor encourage their supporters to resort, to the harassment of artists they find offensive. Rather, the authorities bear a responsibility to investigate violence against artists and, in line with national legislation, punish perpetrators accordingly.



Rosa Luz shut down her social media after she was subject to threats. Credit: Gil Diniz on Facebook

# CHINA:

## DISAPPEARANCE AS A TACTIC FOR SILENCING ARTISTS

- 60 percent of all documented violations of artistic freedom in China in 2020 were related to politics, including at least six artists prosecuted on state security-related charges.
- Freemuse research shows that artists in China are held in “residential surveillance at a designated location” or detained in total isolation, without external contacts.
- Artists vocal against human rights violations are impacted by the governmental general crackdown on human rights defenders.

For decades, China has consistently applied mechanisms to control political dissent. National legislation has been widely misused to prosecute those vocal against violations of national minorities’ rights, the existence of large numbers of prisoners of conscience, and China’s policies on Hong Kong, among other issues. Criminal charges of ‘picking quarrels and provoking trouble’, espionage and “inciting subversion of state power”<sup>1</sup> have been used against a wide range of dissenters, including artists. The position of the Uighur artists in the Xinjiang region (where an estimated one million people have been kept in internment camps and exposed to political indoctrination and torture) remains particularly vulnerable.<sup>2</sup> Subject to systematic persecution and denied the right to use their language, Uighurs have been under risk of cultural assimilation.

China’s law enforcement strongly relies on ‘disappearance’ tactics which are legal under domestic law. Alongside the practice of detaining people for months without charge, Freemuse documented cases of artists being kept for up to six months under “residential surveillance at a

designated location”<sup>3</sup> (RSDL) with no contact to lawyers or family. Frances Eve, the Deputy Director of Research at the Chinese Human Rights Defenders, told Freemuse that this can be understood as a “punishment on its own with no due process” aimed at frightening people from speaking out.<sup>4</sup>

## BOOKSELLERS AND WRITERS TARGETED FOR ENDANGERING STATE SECURITY

The publishing industry in China is among the sectors most vulnerable to accusations of corrupting state security. The Criminal Law of the People’s Republic of China (1997) and National Security Law of the People’s Republic of China (2015) have frequently been used for legal prosecution in the literature sphere. A notable example is the February sentencing of bookseller Gui Minhai to ten years in prison for “illegally disseminating classified information abroad”.<sup>5</sup> The Swedish citizen, born in China and a publishing house in Hong Kong known for issuing books critical of the Chinese authorities. Gui’s legal battle with the Chinese judicial system started in 2015, when he disappeared. Then, in 2017, he appeared before a government press conference where he testified that he had been misled by the Swedish government to turn against China. This statement was widely seen as having been made under duress following Chinese a judicial practice that is, as Amnesty International notes, “heavily reliant on forced confessions obtained through torture and ill-treatment.”<sup>6</sup>

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*“In China, many things are political that aren’t traditionally considered political, purely because there is a sort of invisible red line when it comes to politics. And nobody knows when they’ve crossed that line.”*

FRANCES EVE, FREEMUSE INTERVIEW, 30 OCTOBER 2020.

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In October, the legal team of Australian writer of Chinese origin Yang Hengjun was informed that his case was accepted by the Beijing Second Intermediate People's Court, which will officially press charges against him for spying, 21 months after his arrest at the Guangzhou Baiyun International Airport in January 2019.<sup>7</sup> While in detention, this former employee of China's Ministry of Foreign Affairs and author of novels on espionage between China and the USA, stated in his external communications that he was subjected to frequent interrogations and occasionally his external contacts were rejected.<sup>8</sup> He also denied allegations that he confessed to espionage.

## PUNISHMENT FOR CRITICISM REGARDING HUMAN RIGHTS ABUSES IN CHINA

Artists who voice their opinions on human rights abuses have found themselves heavily penalised in China. In April, the wife of the documentary filmmaker Chen Jiaping (also known as Chen Yong) published a letter in which she announced that her husband had been kept under Residential Surveillance at a Designated Location (RSDL) in Beijing without contact to his family on allegations of "inciting subversion of state power".<sup>9</sup> It is thought that his detention is for directing a documentary about the civil rights activist Xu Zhiyong who was himself arrested in February after going into hiding for several weeks amid a crackdown on human rights activists.<sup>10</sup>

Visual artist Zhui Hun is facing prosecution for selling his artworks to donate to families of those imprisoned because of their political expressions. Together with five further artists, in May 2019, Zhui Hun was on a touring exhibition *China's Conscious Movement* when they were detained in the eastern city of Nanjing. Zhui Hun has been imprisoned on several occasions since 2011 for his politically



Zhang Xianmin, one of the China Independent Film Festival organisers and film producer. Credit: Courtesy of Zhang Xianmin

sensitive art, as well as his protests of 're-education camps' and support for the pro-democracy movement in Hong Kong. As in so many similar cases, he has been detained on allegations of "picking quarrels and provoking trouble".<sup>11</sup> In August 2020, his trial commenced which he attended via video-link.<sup>12</sup> He pleaded innocence and announced that he would commence a hunger strike in protest of the unfair trial. In late August, it was reported that he was critically ill and transferred to hospital.

## TIGHTENING CENSORSHIP OVER INDEPENDENT FESTIVALS

Stricter censorship has been increasingly evident across different cultural sectors in China. One emblematic example is the January 2020 decision of the China Independent Film Festival based in Nanjing to cease its activities. After 14 festival editions since 2003, the organisers decided to close the festival because, as one of the festival organisers and film producer Zhang Xianmin told Freemuse, the restrictions had led it to become a "ruins of a festival".<sup>13</sup> Over the years, the organisers came up with creative ways to covertly hold screenings, but the pressure on them intensified to the point where they found it impossible to hold the festival with "a purely independent spirit".<sup>14</sup>

*At the beginning of the 21st century there were several autonomous film festivals in China. The bureaucratic apparatus took almost a decade to finish their internal procedures which resulted in a massive cancelling [of cultural events] with the help of security forces.*

ZHANG XIANMIN, FREEMUSE INTERVIEW (ONLINE), 30 OCTOBER 2020.

The long-standing and persistent repression of freedom of expression, artistic and cultural rights in China, with high numbers of people imprisoned and under restriction, is detrimental to a flourishing and diverse arts and cultural sector. In the late 1990s, China signalled its willingness to stand by the right to freedom of expression and cultural rights by signing the ICCPR and ICECSR. However, since then it has not moved to ratify these conventions, which would make them binding under law, and until such time, they carry little weight. This is particularly concerning considering China's election onto the UN Human Rights Council in October which have these conventions at the foundation of its activities.<sup>15</sup> Its presence on the Council needs to be backed by its full support of the treaties that the body promotes, support that can only come with ratification and an end to persecution of political dissent.

# CUBA:

## REPERCUSSIONS AGAINST ARTISTS AT THE FOREFRONT OF THE OPPOSITION TO DECREE 349

- Most violations of artistic freedom documented in Cuba in 2020 were committed by state authorities, mainly law enforcement.
- At least 22 artists were arbitrarily arrested for exercising their right to freedom of expression or assembly.
- The opponents of Decree 349—primarily those associated with the San Isidro Movement—continued to face systematic persecution.

Cuba is a socialist republic and one-party state where fundamental rights of its citizens are constantly restricted.<sup>1</sup> Individuals and groups who openly protest the regime or are perceived as politically outspoken, often face persecution and arrests. In an atmosphere in which the state has total control over citizens' lives, artistic expression has also been curtailed. During 2020, Freemuse recorded that artists were subjected to police

brutality, abductions and deprived from external contact while in detention. The Cuban government has systematically targeted members of the San Isidro Movement (Movimiento San Isidro, MSI), a collective established to advocate for artistic freedoms in 2018, in response to Decree 349, which institutionalised state censorship over independent cultural expression.



San Isidro Movement protesting for respect of cultural rights in Cuba. Credit: Movimiento San Isidro on Facebook

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*“The Movimiento San Isidro emerged in 2018, from the campaign against Decree 349 and the need to create a space that would connect and give identity to those independent artists who had taken a frontal stance against the regime. We did not want to be political ornaments but wanted to play an important role in the changes in Cuba, using art and culture to connect with different civic and social causes.”*

LUIS MANUEL OTERO ALCÁNTARA, CADAL- FREEMUSE INTERVIEW (ONLINE), 4 NOVEMBER 2020.

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## ARBITRARY DETENTION USED TO SILENCE UNWANTED CULTURAL EXPRESSIONS

In 2020, Freemuse documented that at least 22 dissident artists were arbitrarily detained by police officers and state security agents. Some of these detentions, which “are used to promote a climate of fear and silence unwanted cultural expressions,<sup>2</sup> have been compounded by an extensive use of violence. Visual artist Luis Manuel Otero Alcántara and rapper Maykel Osorbo, who are at the forefront of the San Isidro Movement, suffered the most frequent reprisals. Each of them was detained at least 16 times during 2020.

Osorbo, whose lyrics express an acute criticism of the Cuban revolution’s downsides (particularly challenging the official narrative about social and economic conditions in the country) was sentenced to one year in prison in 2018 for a performance critical of Decree 349.<sup>3</sup> Under the vague and overly broad provisions of the Decree, artists are prohibited from operating in public or private spaces without prior approval by the Ministry of Culture.<sup>4</sup> In addition to arrests, Osorbo was kidnapped on 16 June in an

act which was seen as an attempt to prevent him from filing a complaint over the police brutality he suffered during an earlier detention. He testified that he was taken to a house in the town of Siboney where two officers tried to convince him to put an end to his activism.<sup>5</sup> He remained incommunicado until the next evening, when he was released.

Visual artist Alcántara has been placed under ‘*regulado*’ status, which prevents him from leaving the country.<sup>6</sup> He was detained on 1 March upon leaving his house to attend a peaceful protest in support of the LGBTI community. He faced charges of damaging a police car after he reacted to an attack by police officers on art curator Claudia Genlui who was filming his arrest on her phone. Alcántara was released after two weeks. On 15 April, his lawyer was informed that the charges of property damage were “provisionally dismissed”.<sup>7</sup> He also faces previous charges for misusing the national flag in his artistic performance *Le Drapeau*, staged in 2019.<sup>8</sup> Lawyer Laritza Diversent, from the non-profit organisation Cubalex, told Freemuse that the trial was suspended, though the charges are still pending.

## TARGETING ARTISTS ASSOCIATED WITH THE MSI

Members of the MSI, which became a focal point of artistic resistance against the regime, were targeted as a group on several occasions throughout 2020. In reaction to the police murder of a young Black man, Hansel Ernesto Hernández Galiano, they announced a protest of police brutality for 30 June. The action was suppressed after more than a hundred people, including five MSI members, were arrested or prevented from leaving their houses, to stop them from participating in the protests.<sup>9</sup> On 10 October—the anniversary of the beginning of the First Cuban War of Independence in 1868—the MSI planned to organise a “Concert for Freedom”, but it was cancelled after nearly 20 artists and activists were detained at different locations in Havana.<sup>10</sup>

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*“I do rebellious rap, so I’ve become a threat to the totalitarian system. With the rap I do, I denounce the realities that happen to me, so they think that’s offensive. What bothers them the most is that I don’t depend on any agency or any Cuban political party to make my art. That’s why they arrest me so often, that’s why they point their finger at me.”*

OSORBO MAYKEL, CADAL- FREEMUSE INTERVIEW (ONLINE), 8 JUNE 2020.

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Explanation Credit: Rafael García, courtesy of Movimiento San Isidro  
 P92 down: Members of San Isidro Movement while on hunger strike. Credit: Movimiento San Isidro on Facebook

The repression against the movement escalated after 9 November when officers of the National Revolutionary Police detained rap singer and MSI member Denis Solís in Havana, for streaming a video of police officers entering his house without authorisation. In the video, he insulted officers and President Miguel Díaz-Canel. Since Solís was held incommunicado, from 10–23 November, at least 34 MSI members, journalists and activists who were requesting information on his whereabouts, were detained, some on multiple occasions.<sup>11</sup> On 16 November, authorities announced that he was imprisoned in the Valle Grande maximum-security prison. Solís’s lawyer Diversent informed Freemuse that on 11 November the rapper was sentenced to eight months in prison for contempt in a summary trial during which he had no access to a lawyer or external contacts.<sup>12</sup>

Concurrently, on 13 November, rapper Didier Eduardo Almagro Toledo, was sentenced to three years in prison on charges of contempt of court and public disorder following his participation in protests of power cuts in his neighbourhood on 4 August. Almagro Toledo’s friend Ariadna López, a member of the Academia Julio Machado, a civic studies academy, told Freemuse that while in detention, Almagro Toledo was beaten and denied the right to outside communications.<sup>13</sup>

After being arrested several times in early November for protesting the undue prosecutions of the two rappers, 14 MSI members barricaded themselves in the movement’s headquarters, with six undertaking a hunger strike.<sup>14</sup> Alcántara, whose house is used as MSI headquarters, was also on a thirst strike. On 27 November, authorities broke inside, arrested

people who were gathered there and forcibly fed those who were hunger striking. During this time, the Internet was cut in Havana preventing artists from reporting on the events.

As an elected member of the UN Human Rights Council for the period 2021–2023, the Cuban government should ratify the ICCPR and ICESCR, signed in 2008, and provide its citizens with protections in line with UN standards. It should guarantee them the unhindered exercise of freedom of expression, association, and assembly, as well as the right to fair trials and the protection of persons in detention. Authorities should refrain from interfering in the work of civil society and ensure the free sharing of information, without employing Internet cuts as a technique to prevent the dissemination of dissenting opinions. Without delay, the government should repeal Decree 349 and adopt legislation in line with Article 19 of the ICCPR.



Since 2018 when the song Bahala was released, Egyptian authorities arrested seven people allegedly associated with Ramy Essam. Credit: Patrick Fore, courtesy of Rammy Essam

# EGYPT:

## LEGISLATION ON COUNTERTERRORISM AND PUBLIC MORALITY AS MAIN OBSTACLES FOR ARTISTIC EXPRESSION

- In 2020, Egyptian authorities continued to misuse laws on countering terrorism and protecting public morality to disproportionately target artists.
- Women artists are vulnerable to legal prosecution under the charges of violating the “family values of Egyptian society”
- The popular Mahraganat music genre was banned by the Musicians’ Syndicate and characterised as a greater threat to society than COVID-19.

*“The state imposes its patriarchal view on artists in a way that makes the situation difficult and self-censorship becomes more present. At the same time, those who are subjected to violations do not resort to the court because they largely reject complaints and imprison those who violate recently passed laws.”*

EGYPTIAN LAWYER WHO WISHED TO REMAIN ANONYMOUS, FREEMUSE INTERVIEW, 12 NOVEMBER 2020.

of outlawed organisations, such as the Muslim Brotherhood or the April 6 Youth Movement, and prosecuted for terrorism.<sup>4</sup> Even though neither the Egyptian constitution nor any laws define what constitutes ‘family values’, this vague term nevertheless has been frequently used in trials against women artists. In addition, the authorities have used the institution of professional artists’ syndicates to suppress those artists who produce art deemed ‘indecent’.

Except for a short period between 2011 and 2013, when Egypt went through a ‘cultural revolution’ on the heels of the political revolution and the Arab Spring,<sup>1</sup> freedom of artistic expression in the country has been under constant duress. Although Article 67 of the 2014 Constitution<sup>2</sup> guarantees freedom of artistic and literary creation, over the past six years, Egypt’s authorities have adopted a series of legal instruments (including the ) Anti-Terrorism Law No. 94 of 2015 and the 2018 Anti-Cyber and Information Technology Crimes law), creating a heavily restrictive framework for the exercise of freedom of expression, association, and assembly. In 2020, under President Abdel Fattah al-Sisi’s government, thousands of people were kept in pre-trial detention on terrorism-related charges, often solely for exercising rights to peaceful assembly and free expression, and many beyond the two-year limit Egyptian law provides.<sup>3</sup> Artists criticising the government risk being perceived as supporters

## PROLONGED PRE-TRIAL DETENTION FOR ARTISTS PROSECUTED ON TERRORISM-RELATED CHARGES

Since the adoption of the Anti-Terrorism Law No. 94 of 2015, Egyptian authorities have detained, prosecuted, and imprisoned dozens of artists under the pretext of countering terrorism. This law, which vaguely defines terrorism and grants the government vastly expanded powers that would usually only be invoked during a state of emergency, has disproportionately been used against artists. Prescribing heavy penalties, including the death penalty, and allowing authorities to keep suspects in pre-trial detention for up to two years, it has had a detrimental effect on those who express dissenting views, artistically or otherwise.<sup>5</sup>

In May 2020, the Cairo Criminal Court extended the pre-trial detention for Moustafa Gamal, a social media administrator who was arrested in 2018 on the accusation of 'being a member of a terrorist group', together with seven other people suspected of involvement in the production and promotion of the song *Balaha* by artist-in-exile Ramy Essam, which criticised the Egyptian government.<sup>6</sup> Gamal's detention was extended although it exceeded the legal limit of two years. Another person who was kept in detention for more than two years without trial was Shady Habash, arrested for directing the music video for *Balaha*. The 24-year-old filmmaker died in Tora Prison on 2 May due to medical negligence, reportedly after he mistakenly drank hand sanitiser instead of water.<sup>7</sup>

Satirist and blogger Shady Abu Zeid also spent more than two years in pre-trial detention after being arrested in May 2018 on accusations of 'spreading false news and joining a banned group'. This comedian, known for his satirical shows about important issues in Egypt's society, including sexual harassment, received a release order in February 2020. However, only a few days after the court issued this order, and before he left the prison, Abu Zeid

was charged in a new case on similar charges— "engaging with a terrorist group" and "helping in achieving its objectives."<sup>8</sup> He remained in pre-trial detention until his release in October.

## WOMEN ARTISTS ACCUSED OF 'UNDERMINING FAMILY VALUES'

Over the years, Freemuse research has indicated that women artists in Egypt have been subject to legal prosecution on the grounds of inciting debauchery and prostitution and in other ways violating the "family values of Egyptian society".<sup>9</sup> This trend extended to the online sphere in 2020, when in only three months, over ten women were arrested and prosecuted for their social media posts under Article 25 of the 2018 Cybercrime Law.<sup>10</sup> This article prescribes prison sentences of at least six months and fines up to 100,000 Egyptian pounds (approximately 5,200 euros) for violating the "values and principles of the family in Egyptian society".



*Dancer and model Salma Al-Shimi was arrested for publishing photographs taken in front of a pyramid in the Saqqara archaeological area. Credit: Salma Al-Shimi's fan page on Twitter*



The installation *The Wall - Community Art Building Mural*. Credits: Yaman Navlakha, curtesy of Gargi Chandola

On 27 June, a court in Cairo sentenced belly dancer Sama El-Masry to three years in prison and a fine of 300,000 Egyptian pounds (approximately 15,600 euros) for videos she posted on TikTok that were deemed “sexually suggestive”.<sup>11</sup> After three separate complaints were filed, she was arrested in April on multiple immorality-related charges. On 30 November, photographer Houssam Mohammad and dancer and model Salma Al-Shimi were briefly detained for publishing photographs of Al-Shimi in an ancient Egyptian dress taken in front of a pyramid in the Saqqara archaeological area. Accused of taking “provocative and offensive” photos without authorisation in an archaeological site, the two were released on bail, pending investigation.<sup>12</sup>

## MAHRAGANAT MUSIC GENRE TARGETED BY MUSICIANS’ SYNDICATE

In 2020, Freemuse documented a systematic campaign by Egyptian authorities against Mahraganat (meaning ‘festivals’ in Arabic), a music genre which gained popularity after the removal of President Hosni Mubarak from office in 2011, by addressing issues faced by impoverished communities and reflecting the voices of unrepresented youth.<sup>13</sup> The Mahraganat, which combines electronic and folk music, came under attack in November 2018, when the Musical Professions Syndicate accused Hamo Beka and another singer of “deterioration of the state of art and public taste.”<sup>14</sup>

On 16 February 2020, the head of the musicians’ syndicate, Hany Shaker, banned Mahraganat singers from working and performing in Egypt and prohibited tourist establishments from hiring 23 Mahraganat singers.<sup>15</sup> The decision was issued after a Cairo concert during which singers Hassan Shakoosh and Omar Kamal performed the song *Bent El-Giran* (The Neighbour’s Daughter), which was deemed vulgar because of the lyrics “I will drink alcohol and smoke hashish”. In the following months, an orchestrated campaign against Mahraganat singers was staged at various levels, including at parliamentary debates, where this genre was referred to as “more dangerous than coronavirus”.<sup>16</sup> In August, Hany Shaker convinced the leadership of the Tunisian Syndicate of Musical Professions to prohibit Hamo Beka and Hassan Shakoosh from performing in Tunisia.<sup>17</sup>

Freemuse research demonstrates that despite being party to the ICCPR and ICESCR since 1982 and having constitutional guarantees for the unhindered exercise of artistic creation, freedom of expression and access to cultural rights have been systematically curtailed in Egypt. The authorities should immediately put an end to the practice of misusing counterterrorism legislation to silence dissent and depriving prisoners from guarantees surrounding due process. Professional syndicates should be held accountable for committing violations of artistic freedom and instead of stifling artists’ voices, they should support them. National legislation related to restricting freedoms on grounds of public morality and family values should be harmonised with international standards and meet proportionality and necessity tests.

# INDIA:

## WHEN ARTISTIC EXPRESSION COLLIDES WITH HINDU NATIONALISM

- In 2020, India's Hindu nationalist government disproportionately suppressed artists expressing political dissent and allegedly 'insulting Hinduism'.
- Penal Code provisions on sedition and propagating enmity between different groups were extensively used to stifle artists' voices.
- The ongoing conflict with Pakistan over Kashmir continued to affect artistic expression.



The Wall - Community Building Art  
Credits: Yaman Navlakha



Freedom of artistic expression in India took a downward turn in 2020. Almost half of the documented cases of suppressing artists' voices were committed under the initiative of the ruling Bharatiya Janata Party which heavily propagates Hindu nationalism.<sup>1</sup> Prime Minister Narendra Modi's policies have perpetuated intolerance and hatred towards non-Hindus. These policies stem from the ideology of the Rashtriya Swayamsevak Sangh—a Hindunationalist organisation of which Prime Minister Modi is a member.<sup>2</sup> In 2019, the government enacted the widely criticised Citizenship (Amendment) Act (CAA) and introduced the National Register of Citizens (NRC), thereby granting citizenship to those who can prove that their ancestors were Indian citizens.<sup>3</sup> Criticism of these policies, expressed through art, has been systematically stifled. In 2020, the regime also applied the sections 124A (sedition) and 153A (promoting enmity between different groups) of the Penal Code to criminalise dissent and alleged insults of Hinduism. Pakistani artists and artwork with references to Kashmir remain at risk of censorship.

## REPERCUSSIONS FOR SUPPORTING CAA PROTESTS THROUGH ART

The adoption of the Citizens (Amendment) Act in December 2019 sparked outrage and protests across India over the government's attempt to discriminate against the Muslim population in the country by denying them citizenship. The protests were met with violence, especially during February 2020 Legislative Assembly elections in Delhi.<sup>4</sup> Artists who opposed this legislation faced censorship and imprisonment.

On 30 January, headmistress of the Shaheen School in Bidar, in the southern state of Karnataka, Fareeda Begum, and a single mother of a school pupil, known only as Nazbunnisa (both of whom are Muslim) were arrested for helping children stage a play on the CAA and NRC on 21 January. One pupil's parent watched the play via Facebook Live and filed a complaint against the school for "using children in a play to abuse the prime minister and for spreading hatred".<sup>5</sup> The headmistress and mother were charged under the Penal Code for sedition and promoting enmity. The children—aged nine to twelve—who participated in the play were questioned by police. Begum and Nazbunnisa were released on bail after they spent two weeks in the Bidar district prison.<sup>6</sup>

On 2 February, members of the Post-Art Project who worked on the installation *The Wall: Community Art Building Mural* which was to be displayed during the India Art Fair 2020 at the Italian Embassy Cultural Centre's booth were prevented from doing so.

Gargi Chandola, co-founder of the Post-Art Project, told Freemuse that the installation featuring Hindu and Muslim women in traditional attire, created live by artists from different minority communities, including LGBTI persons and persons with disabilities, focused on "pointing at the strength of women and multiple contemporary movements that have seen the women in India at the forefront", without pointing to any one specific protest.<sup>7</sup> However, their performance was interrupted by Delhi police who reportedly had received an anonymous complaint about a CAA-protests-themed artwork.<sup>8</sup>

*Even though we were careful not to break the rules of the fair, and created a peaceful art performance, we were interrupted mid-performance and asked to pull down our work and leave it in the booth which was cordoned off. Police acted on what is clearly and blatantly an Islamophobic 'anonymous' complaint.*

GARGI CHANDOLA, FREEMUSE INTERVIEW (ONLINE), 15 JANUARY 2021.

Police eventually left when the fair was close to closing. The Post-Art Project has not since been able to locate their artwork.

## NO SPACE FOR 'OFFENDING' HINDU SYMBOLS AND HISTORICAL FIGURES

The impact of the Hindu nationalist agenda on India's society was evident in cases of violations of artistic freedoms for allegedly defaming the Hindu religion and historical figures. Artists accused of doing so can face legal prosecution. On 31 July, filmmaker Velu Prabhakaran was arrested in Maduravoyal, west of Chennai, on allegations of defamatory rhetoric of the Hindu devotional song *Kandha Sashti Kavasam* on a website.<sup>9</sup> He faced Penal Code charges for "promoting enmity among communities".

Furthermore, in an interview with Freemuse, lawyer and Executive Director of the Internet Freedom Foundation Apar Gupta argued that in India there are people affiliated with political and religious outfits who, when their sentiments are hurt, regard artistic expressions as criminal and that which need to be censored.<sup>10</sup> In such an atmosphere, artists whose artworks are deemed insulting of Hinduism are subject to threats of violence and vandalism by non-state actors. In May, members of the religious militant organisation Bajrang Dal destroyed a set

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*“For artistic freedom, there is a large amount of social bullying by organised campaigns (...) and there is a large amount of public criticism directed towards choices made by artists.”*

APAR GUPTA, FREEMUSE INTERVIEW, 23 NOVEMBER 2020.

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for the film *Minnal Murali* (Lightning Murali) by the Malayalam cinema based in the southwestern state of Kerala, because it depicted a church in the birthplace of Adi Shankaracharya, an ancient Hindu missionary.<sup>11</sup>

In July, Maharashtra Cabinet Minister Anil Deshmukh announced an investigation into comedian Agrima Joshua for mocking the statue of Shiv Smarak—dedicated to the 17th century King Chhatrapati Shivaji Maharaj—during a stand-up performance at the Habitat studio in Mumbai in 2019.<sup>12</sup> After the video of her performance went viral, she received death and rape threats. Members of the right-wing nationalist Maharashtra Navnirman Sena (MNS) party vandalised the Habitat studio, threatening to destroy it unless the comedian apologised, which she did in a video post.<sup>13</sup>

India’s government should not inhibit diverse artistic expressions. Artists play a crucial role in assuring that diverse opinions are heard, and debates their work inspire should be taken into consideration by decision makers. In line with the ICCPR and ICESCR ratified by India in 1979, the authorities should refrain from Hinduism-driving nationalist campaigns targeting any form of expression deemed “antinational”. Instead of censoring Pakistani artists and artwork centring on the situation in Kashmir, Indian society should use art as a tool for conversation and dialogue about the conflict and for building bridges between the two countries.

## **CONFLICT WITH PAKISTAN AS AN OBSTACLE IN THE CULTURAL SECTOR**

The decades-long conflict with Pakistan over Kashmir continued to hinder artistic expressions in India. In June, the music company T-Series removed the version of the song *Kinna Sona* by the Pakistani singer Atif Aslam from its YouTube channel, because of pressure from followers, including members of the nationalist MNS.<sup>14</sup> T-Series promised not to promote Pakistani artists in the future. In January, the Shaheed Sukhdev College of Business Studies in Delhi cancelled the Alternative Space Project’s play *Aksariyat Akliyat* which was to be performed at the annual cultural fest *Crescendo 2.0*. The play was cancelled the day before the festival because it dealt with Kashmir (region over which India and Pakistan have disputes) and could, according to the College, “cause trouble”.<sup>15</sup>

# IRAN:

## SILENCING ARTISTS ON THE PRETEXT OF 'PROTECTING PRINCIPLES' OF THE ISLAMIC REPUBLIC

- Half of documented violations of artistic freedom in Iran in 2020 were based on “promoting propaganda against the state”.
- In 2020, at least ten artists were detained or imprisoned under questionable health conditions impacted by the COVID-19 pandemic.
- Artists vocal against violations of women rights continued to face severe repercussions.

Throughout 2020, Iranian authorities continued to suppress freedom of expression by different means, including legal prosecution under Article 500 of the Penal Code which prohibits propaganda against the Iranian Islamic state. Freemuse documented cases in which artists facing these charges were kept in pre-trial detention for months without charge. Those convicted of ‘spreading propaganda’ in 2019 were summoned to serve their sentences in prisons where the health risk due to the COVID-19 pandemic was acute. In October, an alarm was raised by the UN High Commissioner on Human Rights who said that the situation in Iran’s prisons was dire, and that the COVID-19 infections run rampant.<sup>1</sup> In addition, vaguely defined morality laws, disproportionately applied against women, have been used to censor art and prosecute performers. One of the main obstacles for the exercise of artistic freedom and creativity remained the prohibition of women from freely participating in the cultural life.

### PRISON TERMS FOR ‘PROPAGANDA AGAINST THE STATE’

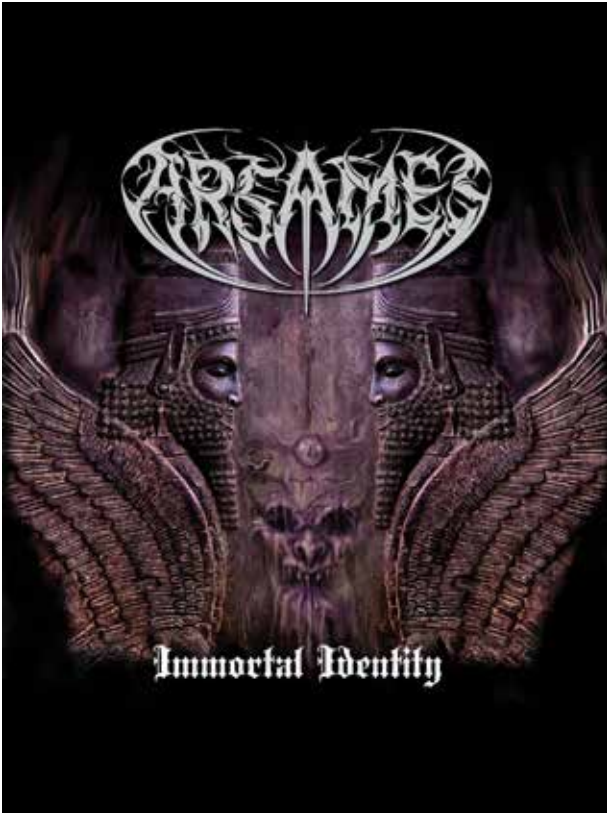
Over the years, Freemuse’s research has shown that artists in Iran are often subject to legal prosecution for ‘spreading propaganda’ against the Islamic Republic. On 26 September, Baktash Abtin, Reza



Poster for the film *There is no Evil*. Credit: Berlinale on Facebook

Khandan Mahabadi, and Keyvan Bajan, members of the Iran Writers’ Association (IWA), who in May 2019 were sentenced to six years in prison each (one year for “propaganda against the regime” and five years for “assembly and collusion against national security”), were transferred to Tehran’s Evin Prison to serve their sentences.<sup>2</sup> With the exception of Bajan, whose sentence was reduced to three and a half years by the Appeals court in December 2019, the other two writers will serve the maximum sentences carries under both charges: Article 500 of the Penal Code (up to one year) and Article 610 (up to five years). The three writers were imprisoned for printing publications critical of art censorship in Iran, membership in the unauthorised IWA, and organising commemorations for the IWA members who had been killed by state agents in the 1990s.<sup>3</sup>

The Iranian authorities further prohibited filmmaker Mohammad Rasoulouf from attending the world premiere of his film *Sheytan vojud nadarad*



Cover for the Arsames' album *Immortal Identity*. Credit: Courtesy of Arsames

(*There Is No Evil*) at the Berlin International Film Festival on 28 February. Rasoulof had in 2019 been charged for three films that the authorities found to be "spreading propoganda against the Islamic Republic" and sentenced to the maximum one year in prison and a two-year travel ban.<sup>4</sup> Since his prison sentence was not executed, the filmmaker continued his work and produced a new film in secrecy. On 29 February, he was awarded the prestigious Berlin Film Festival Golden Bear Award for Best Film. Just days later, on 4 March, he was summoned via text message to serve his sentence. Rasoulof's lawyer advised him not to turn himself, since a text message summon has no legal basis. He is appealing against the sentence.<sup>5</sup>

Heavy metal music has long been viewed as 'satanic', violating blasphemy laws and 'against the government'. In August, three members of the death metal band Arsames were arrested and sentenced under the Islamic Penal Code to 15 years in prison and 74 lashes.<sup>6</sup> Band founder Ali Madarshahi told Freemuse that they were sentenced for "promoting Satanism" and "acting against system and government".<sup>7</sup> The band members were previously arrested in 2017 on the same grounds. Their social media accounts were blocked, and they were ordered not to release or sell music. They, however, continued producing music until their 2020 court judgement, after which they fled the country to avoid prison.



Band Arsames (2016). Credit: Courtesy of Arsames

## CONTINUOUS CRACKDOWN ON ARTISTS ADDRESSING WOMEN'S ISSUES

Apart from obstacles to perform solo before a male audience, female singers and dancers in Iran also face prosecution if their acts are deemed 'indecent' or 'immoral'. This also applies to male artists who openly advocate for women's equal participation in cultural life. Musician Mehdi Rajabian has long been a keen supporter of women in Iran's right to sing. On 10 August, he was summoned to the Islamic Revolutionary Court and arrested after he released the *Middle Eastern Project*, which involves women singing and a video of a woman dancing.<sup>8</sup> He was later released on bail. He reports that the presiding judge had told him that the project was "encouraging prostitution".<sup>9</sup>

In Iranian society, women artists who address problems related to gender inequality can face severe consequences. In October, documentary filmmaker Maryam Ebrahimvand was sentenced to a total of ten years in prison for two of her films, despite their approval by the Ministry of Culture and Islamic Guidance. *Girls' Boarding House*, focuses on the rape of Iranian girls, and *September 24*, deals with the 2015 Hajj stampede in Mecca, Saudi Arabia, when more than 700 people died. Branch 1059 of the State Employees' Court sentenced Ebrahimvand to seven years in prison for creating "a vulgar film", two years for "spreading disinformation about Islamic Revolutionary Guard Corps", and one year

for "insulting Iranian President".<sup>10</sup> When her sentence was announced, Ebrahimvand had already been in pre-trial detention since 2018. This detention invoked concerns for her welfare. In March 2020, she was transferred to Evin Prison, and subsequently went on hunger strike to protest the conditions of her detention.<sup>11</sup> On 18 September, she reportedly attempted suicide.

In June, award-winning actress Taraneh Alidoosti was sentenced to five months in prison following a complaint by the Deputy for Legal and Parliamentary Affairs for Iranian law enforcement over a social media post. In January, Alidoosti had posted a video which showed morality police attacking a woman for not wearing a hijab. The Culture and Media Prosecutor's Office convicted her for "insulting law enforcement" and engaging in "propaganda activities against the state".<sup>12</sup> Her prison sentence was deferred for two years.

Although Iran has been a party to the ICCPR and ICECSR since 1975, it has systematically denied the rights enshrined within them. This includes violations of the right to freedom of artistic expression and cultural rights, and arbitrary arrests and imprisonment of artists, dissidents, and citizens for peacefully exercising freedom of expression. Lack of fair trial, appalling prison conditions and the denial of medical attention are further cause for deep concern. Women especially struggle for equality within the cultural sector and are denied the basic right to perform in public.

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*"I tried to stay in my country and let the authorities understand our work and be positive about young generations and the power of the youth. Young people just have passion to show their abilities. They are not against anything. But now I feel that the authorities hate art and artists. I am sure that they hate us all."*

ALI MADARSHAHI, FOUNDING MEMBER OF ARSAMES, FREEMUSE INTERVIEW (ONLINE), 13 JANUARY 2021.

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# KENYA:

## ART UNDER ATTACK FROM AN INSTITUTIONALISED NOTION OF 'KENYAN VALUES'

- In more than half the cases documented in Kenya in 2020, artistic freedom was stymied by allegations of violating public morality and indecency.
- The Kenyan Film Classification Board banned certain artistic content for not obtaining licences and streaming permissions.
- Kenya's High Court ruled that the limitations on freedom of expression as per the country's Constitution are non-exhaustive.

*"Such people should not be considered as artists but enemies of society and a threat to the well-being of our children. They should not benefit from any Government funds."*

EZEKIEL MUTUA, HEAD OF THE KENYA FILM CLASSIFICATION BOARD, NAIROBI NEWS, 13 APRIL 2020.

Legislation regulating rules and procedures in Kenya's cultural sector have continued to limit freedom of artistic expression under the pretext of 'protecting minors' and preserving Kenyan norms and values based on the patriarchy and Judeo-Christianity.<sup>1</sup> In 2020, one of the key obstacles for artistic expression was the Film and Stage Play Act Cap 222 which requires licencing and authorisation from the Kenya Film and Classification Board (KFCB) before any audio-visual content can be created or distributed. In April, Kenya's High Court ruled in the case of *Rafiki* (Friend) that the 2018 KFCB ban of this LGBTI-themed film was constitutional.<sup>2</sup> The court's interpretation that Article 33(2) of the Constitution on limitations to freedom of expression is non-exhaustive gave the KFCB leeway to continue policing in the cultural sector. In June, the National Assembly discussed amendments to the Film and Stage Plays Act Cap 222 that would enable the KFCB to censor content beyond cinematography, including livestreaming on social media.<sup>3</sup>

## KFCB: 'MORAL POLICE' FOR THE MUSIC INDUSTRY

In 2020, the KFCB acted as a regulator of a wide range of video material meant for distribution in local cinemas, theatres, and on TV channels and online platforms. Cases documented by Freemuse show that the KFCB targeted videos with songs and livestreams of music performances which it found indecent. The role of the KFCB head Ezekiel Mutua was particularly detrimental in this regard. He has been criticised for censoring music and initiating prosecution and sanctions against artists and media outlets.

In mid-August, Mutua called for the arrest of composer George Otieno Adinda, known as Otieno Aloka, following the Facebook livestream of his performance of the song *Ochot Madhako*. Mutua declared the lyrics as "obscene", and likely to "corrupt the morals of children and young people".<sup>4</sup> He also argued that the producer did not obtain a filming licence nor had the KFCB approved it for distribution.<sup>5</sup> On 21 August, Aloka was summoned by the Director of Criminal Investigations in Kisumu to testify, but he was arrested at the police station. Although the artist accepted the accusations and issued an apology to the KFCB, he was still required to appear before the court. On 31 August, he pleaded guilty on two counts: releasing a video without KFCB approval and failing to obtain the licence. He was handed a Ksh. 120,000 (around 936 euros) fine or six months imprisonment.<sup>6</sup> Aloka paid the fine.

On 13 April, two weeks after the song *Utawezana* premiered on YouTube, Mutua warned that action would be taken against the media for publishing

“indecent content under the guise of creativity”.<sup>7</sup> This song by Femmi One and Mejja was targeted due to alleged “sexually explicit lyrics”. On 23 April, the Communications Authority of Kenya notified a local TV 47 station (which aired the song) of its violation of Section 461 of the Kenya Information and Communications Act which obligates broadcasters to “observe standards of good taste and decency”.<sup>8</sup> Mutua announced his intentions to discuss with the Communications Authority further action against the songwriters.

KFCB decisions have also had a chilling effect on the entire music industry. In addition to the KFCB, non-state actors, including artists themselves, have called for banning artistic content. In November, for example, gospel singer and Christian activist Alex Apoko (known as Ringtone), called on the KFCB to ban Juma Jux and Otile Brown’s song *Regina*. Apoko asserted that the song was blasphemous towards Christian values because it used the term ‘Messiah’ to refer to a woman and threatened to take legal action against songwriters.<sup>9</sup> In such an atmosphere, many artists may be prompted to self-censor.

## TARGETING LGBTI ART

Section 165 of Kenya’s Penal Code criminalises homosexuality, whilst section 5(ii) of the KFCB’s Classification Guidelines restricts content which “portrays, encourages, justifies or glorifies perverted or socially unacceptable sex practices”, including homosexuality. Thus, LGBTI art is particularly at risk of censorship. In February, the KFCB banned the Indian romantic comedy about a gay couple *Shubh Mangal Zyada Saavdhan* (Extra Careful of Marriage) from being screened in Kenya. Citing that the institution of the family is sacrosanct, Mutua declared the film impermissible as it contradicted national cultural identity as defined by the Penal Code.<sup>10</sup>

The same standards apply for domestic LGBTI films. On 29 April, Kenya’s High Court ruled on appeal that the KFCB’s 2018 ban of *Rafiki*, a film featuring a love story between two women, was justified and constitutional. The film had been banned “due to its homosexual theme and clear intent to promote lesbianism in Kenya contrary to the law and dominant values of the Kenyans”.<sup>11</sup> The film’s director Wanuri Kahiu told Freemuse that the High Court ruling would be appealed because the film producers do not believe that “it was reflective or representative of the spirit of the Constitution.”<sup>12</sup>

*We have the right to defend our own Constitution and that is what we are looking to do through this case... That is what I am really anxious about, but I am also excited about the fact that we are able to go to court. That, in itself, is a huge win and there is a movement forward, so we are excited to continue to pursue this case as far as we need to.*

WANURI KAHIU, FREEMUSE INTERVIEW, 17 NOVEMBER 2020.

As a signatory to the ICCPR and ICESCR since 1972, and to the African Charter on Human and Peoples’ Rights since 1992, Kenya is obligated to respect, protect, and fulfil the right to freedom of expression, including through the arts. Violations of this guarantee cannot be justified by the authorities’ interpretations of public morality and national cultural identity. Restrictions on freedom of expression on the grounds of public morality and protection of children need to pass proportionality and necessity tests. Furthermore, to harmonise its national legislation with international standards related to sexual orientation and gender identity, Kenya should decriminalise homosexuality and repeal provisions of the KFCB’s Classification Guidelines which ban public display of same-sex relations.



Poster for film *Rafiki* (Friend). Credit: *Rafiki* on Facebook

# KUWAIT:

## STATE-SPONSORED SUPPRESSION OF ARTISTIC EXPRESSIONS ON THE GROUNDS OF MORALITY

- In 2020, at least five artists based in Kuwait were detained, prosecuted, or sentenced to prison terms, mainly for expressions deemed immoral.
- The Ministry of Information, which is mandated to exercise prior and post-production censorship, was directly involved in violating artists' rights, either through banning artworks or ordering investigations against artists and artworks.
- During the month of Ramadan, at least four episodes of different dramatic series were subject to scene cuts on grounds of moral inappropriateness.

Kuwait, an economically developed Arab country in the Persian Gulf and a constitutional monarchy, has a very rich cultural life. It is, for example, perceived as a centre of drama production in the region. However, cultural production is highly dependent on religious and moral norms. Art has constantly been scrutinised through the lenses of Islam and public morality, while artists who are vocal about issues relating to women, who criticise different segments of society, or present a 'bad image' of the kingdom face censorship and legal prosecution.<sup>1</sup> Religious groups, especially those that are politically affiliated, have a particularly detrimental impact on creative expression.<sup>2</sup> The Ministry of Information and the national broadcaster Kuwait TV (owned and supervised by the Ministry of Information) were behind half of the violations of artistic freedom Freemuse documented in Kuwait in 2020. Article 198 of the Penal Code, which prohibits public immorality, was invoked in legal cases filed against artists. In this kingdom where expatriates constitute 70 percent of the population,<sup>3</sup> foreign artists with residency in Kuwait were also subject to prosecution and deportations for expressions deemed immoral.



*The Goddess of Small Things* by Shurooq Amin.  
Credit: Curtesy of Shurooq Amin



## THE POLICING OF ART BY THE MINISTRY OF INFORMATION

One of the main obstacles for the Kuwaiti film industry is the censorship of dramas and drama series, which has been carried out in accordance with a 2015 Ministry of Information resolution that regulates the allocation of permits for dramatic production and broadcasting.<sup>4</sup> Under this regulation, dramas have been subject to prior censorship of scripts, as well as post-production censorship. This phenomenon of altering the content of a dramatic production was particularly evident during April, the month of Ramadan, a period of spiritual devotion and discipline, when moral norms may be even more strictly applied. During that month, the official state-run television Kuwait TV cut 17 out of 32 minutes from the fifth episode of the series *Al December* (People of December), featuring a face-off between the two characters performing a traditional Kuwaiti dance called *Al-Qalita* from the Bedouin culture.<sup>5</sup> The producer of this series explained that he was not consulted about these cuts, nor did he understand the reasoning behind the decision.

In April, Kuwait TV also removed a scene of a woman dancing the traditional dance of Zar from an episode of the series *Ramadan Muhammad Ali Road*.<sup>6</sup> Another two episodes of the same series also caused controversy. The fourth episode which centred around a woman who left the island of Failaka to work as a housemaid was found to be “defaming of a segment of the Kuwait society” by several members of the parliament because it reportedly “showed islanders as servants”.<sup>7</sup> A mistake in the name of a prophet in the series’ sixteenth episode led Kuwait TV to apologise, while the Minister of Information issued a decree dissolving the two Ministry’s committees that approved the scene.<sup>8</sup>

In January, the Ministry of Information was also involved in the cancellation of visual artist Shurooq Amin’s exhibition *Like Russian Dolls, We Nest in Previous Selves* after it was deemed ‘pornographic’ because it included images of women in bikinis and men consuming alcohol (illegal in Kuwait). Amin told Freemuse that the gallery management was pressured to shut down the exhibition only a week after the art was put on display. They were visited by secret service agents who threatened to confiscate some of Amin’s paintings and close the gallery.<sup>9</sup> This, however, was not the first time Amin



*You Should See Me in a Crown* by Shurooq Amin. Credit: Curtesy of Shurooq Amin

experienced censorship. In 2012, the authorities shut down her exhibition *It's a Men's World*, which was also deemed 'pornographic' and 'anti-Islamic'.

*This time I was better prepared psychologically to deal with censorship. In 2012, I wasn't prepared at all. I was scared for my safety and of going to jail. I was terrified my kids were suffering. Men would come and throw rocks at my window. I was getting hate mail, death threats and being called names. I couldn't get out of bed for months.*

SHUROOQ AMIN, FREEMUSE INTERVIEW, 12 NOVEMBER 2020.

## RELAXING CENSORSHIP PROCEDURES ON LITERATURE

The Ministry of Information has banned the import and publication of thousands of books over the past decade. Under the 2006 Press and Publications Law, a 12-member censorship committee created by the Ministry would meet twice a month to approve books for publication in the country, often banning content deemed sensitive or as a potential threat to national security.<sup>10</sup> Amin, who is also a poet, who had first-hand experience of the country's censorship mechanism, was unable to publish anything in her country after 2012 when she fell under the authorities' radar following a ban of her exhibition.<sup>11</sup>

However, on 19 August, the Kuwait National Assembly passed amendments to the Press and Publications Law which resulted in a significant change. Book importers and publishers are now obliged to provide the Ministry only with titles and authors' names, but they bear responsibility for the content.<sup>12</sup> The amended legislation stipulates that legal action against books can only be taken after an official complaint, whilst the courts will impose bans. It remains unknown what will happen with books that have already been banned in the country.

## TARGETING FOREIGN ARTISTS FOR ALLEGEDLY VIOLATING MORAL PRINCIPLES

Among the artists who were prosecuted for violating public morality in 2020 were at least two foreigners based in Kuwait. In September, the Kuwaiti Criminal Court sentenced Pakistani comedian Farhan Al-Ali to a two-year imprisonment with hard labour and 1,000 dinars (2,670 euros) fine for appearing naked in a video he shared on the Snapchat platform.<sup>13</sup> After serving his sentence, he will be deported from Kuwait. On 21 October, the Jordanian actress and fashionista Sawsan Haroun, who resides in Kuwait, was summoned by the Public Prosecution, and detained for three weeks, after she posted a video of herself on Snapchat running braless.<sup>14</sup> If convicted for public immorality, Haroun faces deportation from Kuwait.

As a signatory to the ICCPR and ICESCR since 1996, Kuwait is bound to ensure the unhindered exercise of freedom of expression and its citizens' access to cultural rights. Institutionalised censorship that is deeply rooted in the Kuwaiti cultural sector does not only violate the state's commitments undertaken by signing these instruments, but also detrimentally affects artists' ability to express themselves creatively. Apart from resulting in bans on artworks and artists' legal prosecutions, it also leads artists to self-censor and avoid certain topics for fear of persecution. Although international standards permit limitations on freedom of expression on morality grounds, these limitations must meet the principles of necessity and proportionality and cannot be justified by views and stances of the majority.

# NIGERIA:

## BLASPHEMY LAW AND POLICE BRUTALITY PREVENT ARTISTS FROM ENJOYING FUNDAMENTAL FREEDOMS

- In 2020, a gospel singer was sentenced to death for a song that was deemed blasphemous.
- UN experts called for an end to the suppression of artistic freedom in the name of protecting religion.
- Artists involved in the #EndSARS protests of police brutality sustained injuries, faced beatings and arrests.

In 2020, the blasphemy law was once again used in Kano State, a predominantly conservative Muslim region of Northern Nigeria, to punish expressions deemed sacrilegious against the Prophet Muhammad. Gospel singer Yahaya Sharif-Aminu was sentenced to death for circulating a song on WhatsApp. He was among three people who, in 2020, faced severe consequences under the Kano State's Sharia law on blasphemy. They were subject to prosecution conducted in a manner which violates international standards for fair trial, including pre-trial detention without charge and deprivation of access to legal representation and contact with family.

Freemuse further documented that in 2020 the issue of artists' access to freedom of assembly through peaceful protest was a matter of grave concern in Nigeria. Since President Muhammadu Buhari took office in 2015, Nigerian citizens and UN agencies have called for the reform of the state security apparatus that has been implicated in brutality, extortion, and extrajudicial killings. These calls have systematically been met with the lack of satisfactory response from the government. In demanding accountability for human rights violations, artists have emerged as a core constituent of the fabric of human rights consciousness in Nigeria, through the mobilisation of critical masses and participation in peaceful protest. These actions, however, have resulted in their arbitrary detentions and unlawful beatings.

## DEATH SENTENCE FOR MUSICIAN UNDER BLASPHEMY LAWS

Nigeria is among 53 countries which still retain the death penalty, holding around 2,700 people on death row.<sup>1</sup> In twelve states applying Sharia, blasphemy to the Prophet and Islam carries a mandatory death penalty.<sup>2</sup> Although it has been rarely imposed, through 2020, at least three people were charged for blasphemy for various expressions deemed disrespectful to the Prophet Muhammad in Kano State. In April, non-Muslim humanist Mubarak

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*"Application of the death penalty for artistic expression and for sharing on a song on the internet is a flagrant violation of international human rights law, as well as Nigeria's constitution."*

**KARIMA BENNOUNE**, UN SPECIAL RAPPOREUR IN FIELD OF CULTURAL RIGHTS, 28 SEPTEMBER 2020.

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Bala was detained incommunicado on allegations that he had published a blasphemous statement on Facebook. 162 days after his arrest, he was finally granted access to a lawyer.<sup>3</sup> On 10 August, 13-year-old Omar Farouq was sentenced to ten years in prison for a comment about Allah he had made during an argument with a friend.<sup>4</sup> The same day, 22-year-old Sufi gospel singer Yahaya Sharif-Aminu was sentenced to death by hanging.<sup>5</sup>



Gospel singer Yahaya Sharif-Aminu sentenced to death for sharing a song containing reference to Prophet Muhammad. Credit: Yahaya Sharif-Aminu on Instagram

In February, Sharif-Aminu circulated a song on WhatsApp in which he elevated an imam from the Muslim brotherhood to a status that transcends that of Prophet Muhammad. As a result, he started receiving death threats that prompted him to go into hiding. On 4 March, his home was burnt down by protesters who then proceeded to Kano Hisbah command, where the police unit that enforces Sharia is headquartered, to demand his arrest.<sup>6</sup> He was arrested in early March, after which Sharif-Aminu had no access to family and lawyers. His first instance judgement under Section 382(6) of the Kano State Sharia Penal Code Law was rendered

with no legal defence. An appeal to Kano State High Court was made on his behalf on 3 September, and on 21 January 2021, it ordered the retrial due to “procedural irregularities”.<sup>7</sup>

## ARTISTS AS VICTIMS OF POLICE BRUTALITY DURING ANTI-SARS PROTESTS

Nigeria’s constitutional framework permits the use of lethal force by the Special Anti-Robbery Squad (SARS), without, as the UN Human Rights Committee noted in 2019, “restricting the nature of the force and setting principles of necessity and proportionality”.<sup>8</sup> In October, a video of a young man being shot by people suspected to be from SARS went viral, sparking the #EndSARS movement on social media.<sup>9</sup> The movement quickly grew into nationwide protests calling for the disbandment of SARS. An unknown number of people were killed during the demonstrations, and many were injured.<sup>10</sup> The harassment was particularly intense against Nigeria’s citizens who were perceived to have led the protests, with their bank accounts blocked and passports seized.<sup>11</sup> Bowing to pressure, on 11 October, Nigeria’s Inspector General of Police issued a statement that the SARS unit would immediately be disbanded.<sup>12</sup> Although, by the end of the year, the protests had largely abated, concerns remain with news that SARS members will be redeployed to other units.

Some artists Freemuse interviewed felt duty-bound to join and incite support for the protests, being urged to serve as “the conscience and mouthpieces of less-vocal or evocative people”. An artist who wished to remain anonymous due

to safety concerns stated that they felt tired of “singing or writing about sad tales of police brutality” and took an active role aiming “to live without fear of being harassed or killed by those meant to protect [them]”.<sup>13</sup> At least three artists who participated in the #EndSARS protests faced harsh repercussions. On 11 October, musician Ikuforiji Olaitan Abdulrahman, known as Oxlade, was injured at a protest march in Surulere, Lagos when live ammunition was fired indiscriminately by the police to disperse a crowd of protesters.<sup>14</sup> In the same protest march, music manager Ojabodu Ademola, known as Ojah B, was arrested and then dragged along the ground to the police station, sustaining



Anti-SARS protests in Nigeria. Credit: Curtesy of EndSARS Facebook page administrators

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*“Police brutality and extortion had become a very common problem in most southern states in Nigeria. Even on one occasion, the police tried to confiscate my work laptop because they noticed I had some foreign clients. They forced me to show them my bank accounts under the threat of being shot, and it was because of the low amount they saw in it that made them leave me alone.”*

**NIGERIAN ARTIST WHO WISHED TO REMAIN ANONYMOUS, FREEMUSE INTERVIEW, 8 JANUARY 2021.**

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injuries which resulted in the swelling of his brain and loss of control in his fingers.<sup>15</sup> On 16 October, in another wave of protests in Lagos, actress Beverly Osu was beaten up, detained for two hours and released after having been shuttled between Ikate and Ojuelegba police stations.<sup>16</sup>

As a state party to the ICCPR, Nigeria is committed to protecting the full range of rights, including freedom of expression, belief, fair trial, and peaceful assembly. The past year has seen Nigeria in serious breach of these commitments. Nigeria has not signed the Covenant’s Optional Protocol on the abolition of the death penalty, and its application

against those who exercise their right to freedom of expression is concerning and has a particularly detrimental impact on artists. As stated in a joint letter issued in September by nine UN rights experts, “artistic expression of opinion and beliefs, through songs or other media—including those seen to offend religious sensibilities—is protected in accordance with international law”.<sup>17</sup> Over the past several years, demands from within and outside of Nigeria on the government to address excessive use of violence by police remain unmet. Concrete solutions need to be found to avoid future loss of life and reprisals against peaceful protesters.

*Anti-SARS protests in Nigeria. Credit: Curtesy of EndSARS Facebook page administrators*



# RUSSIA:

## USE OF NATIONAL LEGISLATION TO STIFLE CREATIVE VOICES

- Russian authorities were responsible for 90 percent of all violations of artistic freedom documented by Freemuse in 2020.
- 17 artists were detained and six sentenced to prison, mainly for politically motivated reasons or 'propaganda of homosexuality'.
- Authorities used the 2013 'gay propaganda law' and law on public gatherings to silence artists.

In 2020, freedom of artistic expression in Russian remained under attack. Any potentials for improvement in the situation for Russian artists in the foreseeable future were halted when the referendum was passed on 1 July. The referendum allows President Vladimir Putin—who has been in power for 20 years—to run for two additional six-year presidential terms after his current term ends in 2024.<sup>1</sup> In 2020, artists who used public protest performances to advocate for rule of law and democratic principles faced arbitrary arrests, legal prosecution, and fines. They were sanctioned under the law on public gatherings,<sup>2</sup> which has been widely criticised because it requires authorisation from the authorities for any protest of more than one person.<sup>3</sup> Due to obstacles in receiving approvals for public gatherings, many artists fail to apply for them, resulting in their administrative arrests and fines.

Since the so-called 'gay propaganda law' was adopted in 2013, LGBTI-themed artwork has been under constant attack. Artists whose work focuses on sexual orientation and gender identity, as well as organisers of events featuring such art, have faced fines of up to 2,000 euros.<sup>4</sup> This law affects not only art that is deemed forbidden for minors, but also other cultural activities. Attendees of LGBTI-themed events are subject to mandatory document checks to assure no underage persons are present. LGBTI artists struggle to display their creativity in cinemas, galleries, and theatres, because the management of these spaces fear retaliation from the authorities or ultra-conservative groups.

## SILENCING POLITICAL DISSENT

Artists who expressed political views, particularly through public performances, once again suffered consequences at the hands of the authorities. As reported in previous years, members of the protest performance group Pussy Riot continued to experience arrests on multiple occasions in 2020. On 1 July, artists Alexander Sofeyev and Nika Nikulshina were briefly detained together with two municipal deputies and four other activists because of a performance they staged in protest of the proposed amendments to the Russian Constitution that extended Putin's ability to rule the country through to 2036.<sup>5</sup> The artists used their bodies to create the date '2036' on the ground. They were later released without charge.

Pussy Riot member Rita Flores had a different experience. On 4 December, the Tverskoy District Court in Moscow sentenced her to 20 days of administrative arrest for staging an unauthorised protest. Flores, together with artists Maria Alyokhina and Farkhad Israfilii-Gelman, performed *Fragile! Handle with Care!* on 28 November, to spotlight the imprisonment of protesters in Russia.<sup>6</sup> Israfilii-Gelman and Alyokhina were also briefly detained on 28 November and 2 December respectively, and both await trials for violating the law on public gatherings.

2020 brought an end to prominent theatre director Kirill Serebrennikov's ordeal with the Russian authorities, which has been ongoing since August 2017. In 2017, Serebrennikov was placed under house arrest for allegedly embezzling 129 million rubles

(around 1.6 million euros) in state funds allocated to the Gogol Centre theatre from 2011 to 2014. On 26 June, he was sentenced by Moscow’s Meshchansky District Court to a three-year suspended sentence and ordered to repay the embezzled money. Two other theatre employees, Alexey Malobrodsky and Yury Itin, were given suspended two-year sentences, whilst former Ministry of Culture official Sofia Apfelbaum was found guilty of negligence and fined 100,000 rubles (around 1,100 euros).<sup>7</sup> Serebrennikov, who was under house arrest until April 2019, denied the accusations. His trial was believed to have been in retaliation for lampooning the authorities through plays at the Gogol Centre.<sup>8</sup>

## OBSTRUCTING LGBTI CREATIVE EXPRESSIONS

Freemuse research has shown that film productions have been the most frequently targeted artform under Russia’s so-called ‘gay propaganda law’. This trend is exemplified in the situation for the drama *Outlaw*, a film about two teens—gay and transgender—in Soviet-era Russia. After numerous production problems (rejection by actors, locations, post-production studios, distributors) and three last-minute cancelations, the film had its theatrical premiere in Russia on 29 October.<sup>9</sup> However, as the film’s director Ksenia Ratushnaya told Freemuse, it was screened in only ten cinemas in Moscow and Saint-Petersburg, due to “cinemas’ fear that conservative activists would show up at screenings and bring unwanted attention to their business.”<sup>10</sup>

Additionally, *Outlaw*’s screening at the Spirit of Fire Film Festival (*Dukh Ognya*) in the Western Siberian city of Khanty-Mansiysk led to an inquiry from the Attorney General’s Office. Festival organisers were questioned about the motivation to screen the film and the underage ballerinas who presented a prize to the film crew. On 10 August, the festival’s former Executive Director Larisa Zhuravleva was fined 50,000 rubles (around 550 euros) for “promoting non-traditional sexual relationships among minors.”<sup>11</sup> She learned of the verdict only on 28 October when a bailiff contacted her.



Poster for the film *Outlaw*. Credit: Courtesy of Ksenia Ratushnaya

Authorities also suppress artistic voices calling for the recognition of LGBTI rights. Artist and LGBTI and feminist activist Yulia Tsvetkova from the Far Eastern city of Komsomolsk-on-Amur came under fire in March 2019 when she worked with high-school students on a play that was considered to “promote an LGBTI agenda”.<sup>12</sup> In December 2019, she was fined 50,000 rubles (around 550 euros) for LGBTI-related posts on the Russian platform VK (VKontakte). In 2020, two cases were initiated against her: one under the gay propaganda law and the other on pornography charges under the Criminal Code. These stemmed from her illustrations and social media posts on women’s body image, as well as drawings in support of LGBTI families on social media pages marked for viewing of people over

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*“I chose these two characters [gay and transgender characters] because the struggles of queer people move me deeply, and also because it’s a fresh, unexplored topic in Russian cinema. I didn’t really care about the ‘gay propaganda law’, as I knew that if someone under 18 would like to watch the film—they would find a way to do that (online).”*

KSENIA RATUSHNAYA, FREEMUSE INTERVIEW (ONLINE), 24 JANUARY 2021.

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*Ksenia Ratushnaya at the film set. Credit: Kristina Vanuni, curtesy of Ksenia Ratushnaya*

18 years old.<sup>13</sup> The charges against her sparked protests during which dozens of participants were arrested.<sup>14</sup> For example, activist Daria Apakhonchich from St. Petersburg was arrested on 4 August and fined 10,000 rubles (around 110 euros) for violating the law on public gatherings during a 17 July performance in support of Tsvetkova.<sup>15</sup>

As a party to the European Convention on Human Rights, as well as ICCPR and ICESCR, Russia is obligated to respect the right to freedom of expression and assembly. Freemuse calls on Russian authorities to amend the law on public gatherings and bring it in line with internationally established standards, as well as to urgently repeal the Federal law which aims to “protect children from information advocating for a denial of traditional family values”. The authorities should refrain from pursuing politically motivated cases against critics because they have a chilling effect on artists, signalling that they should remain silent to avoid legal prosecution and receive financial support from the state.



*Ksenia Ratushnaya at the Moscow premiere of the Outlaw. Credit: Gennady Avramenko, curtesy of Ksenia Ratushnaya*



# TURKEY:

## SANCTIONS AGAINST ARTISTS FOR SUPPORTING KURDISH CAUSE AND OPPOSING PRESIDENT ERDOĞAN

- Government authorities continued to be a major obstacle for the exercise of artistic freedoms in Turkey, being responsible for 90 percent of all cases of violations Freemuse documented in 2020.
- Kurdish artists and cultural centres were particularly vulnerable to targeting by state authorities.
- A vague framework of anti-terror law and criminalised insults against the president were behind more than half of the documented violations.

Since the 2016 attempted coup, which led to arrests and imprisonment of thousands of people, including long-standing human rights defenders and critics of the government with no history of violence, freedom of artistic expression has continuously been curbed in Turkey. President Recep Tayyip Erdoğan's regime uses different strategies to curtail political dissent expressed through art and cultural activities. Artists suffer legal prosecution under the 1991 Anti-Terror Law (no. 3713/TMK) and Article 299 of the Turkish Penal Code (Insulting the President of the Republic), both laws that have been used to legitimise state repression against opposing ideas and individuals.<sup>1</sup> Independent cultural institutions, especially those producing art deemed opposing to the government, are disproportionately discriminated during allocations of state financial support.<sup>2</sup>

Kurdish artists are particularly vulnerable. They face a variety of obstacles to express themselves artistically for fear of prosecution alongside economic hardships caused by limited opportunities to perform. As a result, many have felt that they have no option but to flee Turkey.<sup>3</sup> The turmoil in regions where the pro-Kurdish Peoples' Democratic Party is in power (because of investigations on terrorism-related charges against local mayors and the government's appointment of trustee mayors)<sup>4</sup> has further had an unfavourable impact on the Kurdish artistic scene. This is exacerbated by the shutting down of dozens of Kurdish cultural centres over the past four years.<sup>5</sup>

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*"These laws [Anti-Terror Law and Article 299 of the Penal Code] have an oppressive effect on artists, leading to self-censorship. In the face of the overall uncertainty of what could be seen as a terrorism-related crime and the threat of being unjustly prosecuted, activists and artists are now forced to think twice while producing their art."*

MELIS GEBEŞ, FREEMUSE INTERVIEW, 11 NOVEMBER 2020

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## KURDISH ARTISTS IN COURTS ON ANTI-TERRORISM AND INSULT CHARGES

Through 2020, Kurdish artists continued to face prosecution for “inciting terrorism” and “insulting the president”, sometimes undergoing simultaneous trials on different charges. Singer and filmmaker Hozan Canê was arrested in June 2018 for her documentary 74. *Şengal Fermanı*, which included footage of Kurdish military officers who fought ISIS in Syria in 2014. She was sentenced to six years and three months in prison on 14 November 2018 on the grounds of “membership of a terrorist organisation” and “spreading propaganda for an illegal organisation”.<sup>6</sup> While in prison, in September 2019, she was additionally charged for “insulting the president” because of comics shared on a Facebook page under her name, for which another year could be added to Cane’s sentence.<sup>7</sup> On 30 September 2020, Canê was released from prison due to the “disproportionality of long detention” although she remains banned from travelling.<sup>8</sup> The trial against her continues, and, if convicted, she faces a minimum of five years of imprisonment, of which she has already served two.

Popular Kurdish folk musician Ferhat Tunç has been under constant scrutiny by the authorities since 2012 when he was first convicted under anti-terror legislation. Since then, he has been subjected to many other prosecutions on accusations of terrorist propaganda and insulting the president. The artist, who has been in exile in Germany since 2019, faces up to 20 years in prison for “openly inciting people to hatred and enmity” through comments he made on his social media accounts about military operations in Afrin, Northwest of Syria<sup>9</sup> and has been on parallel trials for social media posts which were deemed insulting of President Erdoğan.<sup>10</sup> On 8 September, additional charges were brought in absentia against Tunç over the artwork for his *Marches and Lamentations (Marşlar ve Ağıtlar)* album, which features three leftist revolutionaries from the 1970s in Turkey.<sup>11</sup>



Cover for the Ferhat Tunç’s album *Marches and Lamentations*. Credit: Ferhat Tunç on Instagram

## CONSTANT PRESSURE ON CULTURAL CENTRES DEEMED ANTI-GOVERNMENT

The İdil Cultural Center based in Istanbul, which is used by the popular music and socialist collective Grup Yorum and their associates, has long been subjected to frequent police raids, which often result in musical instruments and other utilities being destroyed. Freemuse research demonstrates that the İdil Cultural Center had been raided 14 times since 2018—including three raids in 2020. Grup Yorum is a hugely popular and prolific folk-rock band whose concerts are constantly banned in Turkey because of their radical-left, anti-capitalist, and anti-imperialist stances. In the past four years, the attacks on the group have increased, resulting in the Ministry of Interior listing their members as terrorists and at least 30 of them being detained on terrorism-related charges.<sup>12</sup> On 5 August, during the police raid of the İdil Cultural Center, six band members who were rehearsing for an upcoming concert in Istanbul were detained.<sup>13</sup> The centre was raided two more times in October: on 14 October when four people were arrested and on 30 October when a total of 13 group members and centre staff were taken into custody.<sup>14</sup>

Another target in 2020 was the Mesopotamia Cultural Center (Mezopotamya Kültür Merkezi - MKM), which was established in Istanbul by a group of Kurdish and Turkish intellectuals and artists in 1991 under the motto “free life, revolutionary art” and which has grown to be a focal point of Anatolian and Kurdish artistic production. On 18 August, the MKM was evicted by the local authority from premises that had been their centre since 2002. The authorities justified this as part of a city gentrification plan, which required that the building be restored. Although the MKM had won the tender for the re-building on three separate occasions, the municipality refused to grant the contract in 2020 and treated them as “squatters”, leading to concerns that the decision was politically motivated.<sup>15</sup> MKM is now based elsewhere in the neighbourhood. MKM musician Hüseyin İldan told Freemuse that they plan to continue with art production despite these hurdles, because “[they] have to boost the public’s morale and keep the hope alive”.<sup>16</sup>

*Although being the most marginalised, Kurdish people are at the same time the most politically dynamic segment of Turkish society. Authorities are trying to circumvent this dynamism and that’s why they turn against Kurdish art. Being in this field for 30 years, for us this is neither the first nor the last incident of oppression.*

HÜSEYİN İLDAN, FREEMUSE INTERVIEW, 12 NOVEMBER 2020.

Freemuse has over many years raised concerns about the misuse of anti-terror laws by Turkish judiciary against artistic and creative works which have no direct connection with nor propagate

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*“After each raid, they need to get their things together and acquire new musical equipment. It is not possible to meet these needs and concentrate only on music. Additionally, each and every group member is under the threat of investigation. This also influences individuals and makes it difficult to focus solely on art.”*

ÖĞÜZHAN TOPALKARA, GRUP YORUM LAWYER, FREEMUSE INTERVIEW, 10 DECEMBER 2020.

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terrorism. The authorities should refrain from this practice of stifling critical expressions. The vagueness of the legal framework enables censorship of art and exposes artists to convictions for expressing political opinions creatively or otherwise. Freemuse also calls on Turkish authorities to repeal the Penal Code—Article 299 used for silencing criticism against President Erdoğan. This legislation has no place in a democracy where heads of state should be subject to scrutiny and challenge without fear of consequence.

# UGANDA:

## ATTACKS ON OPPOSITION-ALIGNED ARTISTS AS ELECTIONS NEARED

- In 2020, artistic freedom in Uganda was heavily affected by increasing tensions, violence and deaths as January 2021 Presidential elections neared.
- Musician turned politician, Bobi Wine, and his supporters found themselves targets of oppression.
- COVID-19 regulations were widely used to suppress freedom of expression and assembly, as well as engagement in the election process.

The campaign for Uganda's general elections, held on 14 January 2021, created an environment of extreme volatility for the exercise of human rights and fundamental freedoms. President Yoweri Museveni, who has been in power since 1986, employed such "tools as cronyism, co-optation, draconian legislation, and the use of lethal force to quell dissent and peaceful protest," in his efforts to assure a sixth term.<sup>1</sup> The situation took a lethal turn on 18 and 19 November, when, following the arrest of the musician turned politician Bobi Wine, 54 people were killed in clashes between demonstrators and police.<sup>2</sup> On 11 November, the Electoral Commission introduced a new election code of conduct citing non-compliance with COVID-19 regulations by candidates and banned campaign processions.<sup>3</sup> Dismas Nkunda, CEO of the Atrocities Watch Africa, told Freemuse that the authorities banned all public gatherings but those organised by the government, and that participants at the opposition's public events were sprayed with teargas and shot at.<sup>4</sup> The situation in the country urged 11 UN experts to jointly call for an end to the violence, the release of

prisoners and denouncing the misuse of pandemic restrictions to curb dissent.<sup>5</sup> In such an atmosphere, artists whose support to opposition was evident or assumed increasingly became targets of arrests and arbitrary detentions, violations which constituted 70 percent of all cases Freemuse documented in Uganda in 2020.

### TARGETING BOBI WINE AND HIS SUPPORTERS

Bobi Wine is a popular Afrobeats musician, who, since the early 2000s, risen to fame through his music addressing social and political issues. In 2017, he won a seat in parliament in the Wakiso District, Uganda's Central Region. In 2020, he took leadership of the National Unity Platform and became its presidential candidate for the upcoming elections. Over the years, he was arrested on multiple

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*"It is sobering to consider the fact that whereas the government's disputed death toll from the novel coronavirus stands at 300, the cumulative total of Ugandans who have been killed by errant and trigger-happy police officers, soldiers, and other shadowy units, as well as those who, because of government's mishandling of the economy, have lost their livelihoods and commercial ventures, may well be several times the death toll."*

ANDREW KARAMAGI, FREEMUSE INTERVIEW (ONLINE), 8 JANUARY 2021.

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occasions for his songs and for activism. As Oscar Ssenyonga, a dancer and choreographer, told Freemuse, Wine is widely viewed as representing an awakening of Ugandan political consciousness and thus, particularly vulnerable to the president's suppression strategies.<sup>6</sup>

Attacks on Wine escalated as the election neared. On 3 November, he was dragged out of his car, pepper-sprayed and bundled into a police van where he was reportedly subjected to beatings and abuse.<sup>7</sup> He was again arrested on 18 November and held for two days before he was released on bail. He faces charges under Section 171 of the Penal Code for "negligent conduct likely to spread infectious diseases, obstruction, incitement to violence and holding unauthorised assemblies".<sup>8</sup> In December, Wine accused military police of murder of one of his bodyguards after deliberately running him over. The police denied the act, arguing that the incident was an accident.<sup>9</sup>

At least two artists associated with Wine were arrested in 2020. On 24 February, journalist and filmmaker Bwayo Moses was arrested in Kampala for filming a documentary showing the musician composing a new piece of music. Although released after two days, he is still facing charges of "unlawful assembly and the singing of a song subverting or promoting the subversion of the government of Uganda".<sup>10</sup> In September, dancehall artist Richard

Kasendwa, popularly known as Ziza Bafana, was arrested upon returning from Tanzania where he had chanted the 'People Power' slogan linked to Bobi Wine during a concert performance.<sup>11</sup> The authorities argued that he violated the COVID-19 regulations by travelling abroad without permission, despite the only legal requirement for returnees being that they complete mandatory quarantine, to which Ziza Bafana had complied.

## CRIMINALISING ARTISTS ADDRESSING POLITICAL ISSUES

The trajectory of political discourse during the election campaign in Uganda had broader implications on the abilities of artists to exercise their rights to freedom of expression. As society became highly polarised because of political tensions, artists suffered consequences for getting involved in political debates. They were targeted under the COVID-19 regulations, but also for "promoting sectarianism".

On 24 July, four comedians of the Bizonto group were detained for a satirical skit which was implicitly critical of the unmeritorious appointment of public officials based on their ethnic identity. In the skit,



Four members of the Bizonto Comedy group were detained because of their satirical skit. Credit: Courtesy of Bizonto Comedy

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*“The arrest was so humiliating. Searching our homes and driving us like killers was another problem... We never felt the same. We can’t move freely due to scar calls we always receive. The charges are not dropped yet. We were told to keep reporting and our equipment is still with them [police] and everything they got from us including uniforms and phones.”*

SSERWANJA JULIUS, FREEMUSE INTERVIEW (ONLINE),  
8 JANUARY 2020.

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they argued that the President Museveni and some people leading key institutions managing detentions, elections, law enforcement and finance come from the same region in Uganda. The satirical skit was deemed as “deliberately promoting sectarianism and causing hatred during an election period”.<sup>12</sup> The comedians were detained for four days and released on condition that they availed themselves to the police on 30 July.<sup>13</sup> The Director of Bizonto Comedy, Sserwanja Julius, told Freemuse that despite complying to the reporting requirements since July 2020, charges against the group have not been dropped, and their confiscated equipment, phones and uniforms, are yet to be returned.<sup>14</sup>

Some artists were subject to multiple arrests. Parliamentary election candidate, writer and academic Dr Stella Nyanzi was arrested twice in July for convening gatherings allegedly violating COVID-19 public assembly regulations. One gathering was a press conference on the economic impact on traders under lockdown<sup>15</sup> and the other on the death of a student who had defied a COVID-19 curfew at the hands of police.<sup>16</sup>

Author Kakwenza Rukimbashaija was also arrested twice in 2020. In April, he was detained for seven days under COVID-19-related accusations of “an act aimed to spread a disease”.<sup>17</sup> He believes that he was under interrogation because of his novel *The Greedy Barbarians* which deals with high-level corruption in a fictitious country. Although his case was dismissed, he was again arrested in September and held for three days on charges of “inciting violence and promoting sectarianism”. This time, the questioning centred on his book *Banana Republic: Where Writing is Treasonous* in which he details torture that he claims he suffered while detained in April.<sup>18</sup> He was released on the condition that he report to police weekly.

As a signatory to the ICCPR in 1995 and ICESCR in 1987, Uganda has legal obligations to guarantee its citizens freedom of expression, association, and peaceful assembly. However, these rights have been severely curtailed for a considerable period. The employment of the extreme and lethal violence by police and military during protests is against established standards for legitimate use of force. The government should stop misusing laws ostensibly aimed to protect the population against violence. It also should refrain from restraining dissent and hindering participation of opposition candidates in the election process on any grounds, including through regulations meant to curb the pandemic.

# USA:

## ARTISTIC FREEDOM IN A TIME OF SOCIAL UNREST AND DIVISIVE ELECTIONS

- More than 50 percent of the violations included discrimination based on race and ethnicity.
- As the Black Lives Matter movement grew, art displaying police brutality came under scrutiny.
- Censorship in museums affected artists and their works that depicted political and social issues deemed sensitive or controversial.

In an election year that sparked contestation over the Executive Office, politically vocal artists in the USA reported a lack of guarantees to their right to artistic freedom. In 2020, Freemuse research found that some schools, museums, and galleries censored art with political commentary on the country's past and present. The scrutiny some cultural institutions applied in approving exhibitions significantly impacted visual art deemed insensitive, exploitative, or traumatising.<sup>1</sup> More than a half of documented censorship cases dealt with the issue of institutionalised racism in the country. This trend ran in parallel with the nationwide Black Lives Matter (BLM) protests that erupted after the death of George Floyd on 25 May in Minneapolis, Minnesota at the hands of law enforcement.

### NO PLACE FOR DEPICTING POLICE BRUTALITY IN ART

The deaths of African Americans Breonna Taylor and George Floyd at the hands of police officers in March and May respectively sparked protests of police brutality, both in the USA and worldwide, and represented a sweeping movement to draw attention to perpetual racial discrimination. In the USA, these protests were met with restrictions on freedom of movement and assembly through curfews,<sup>2</sup> which followed looting and property destruction, as well as the destruction, defacing, and damaging of racially insensitive monuments.<sup>3</sup> At the same time, several cases of censorship of artwork depicting police violence were documented throughout the country.

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*"My syndicate tells me that editors are less willing to publish strong political cartoons—even in this historic political season. I have continued to draw strong opinions despite this trend."*

DAVID FITZSIMMONS, FREEMUSE INTERVIEW (ONLINE),  
27 OCTOBER 2020.

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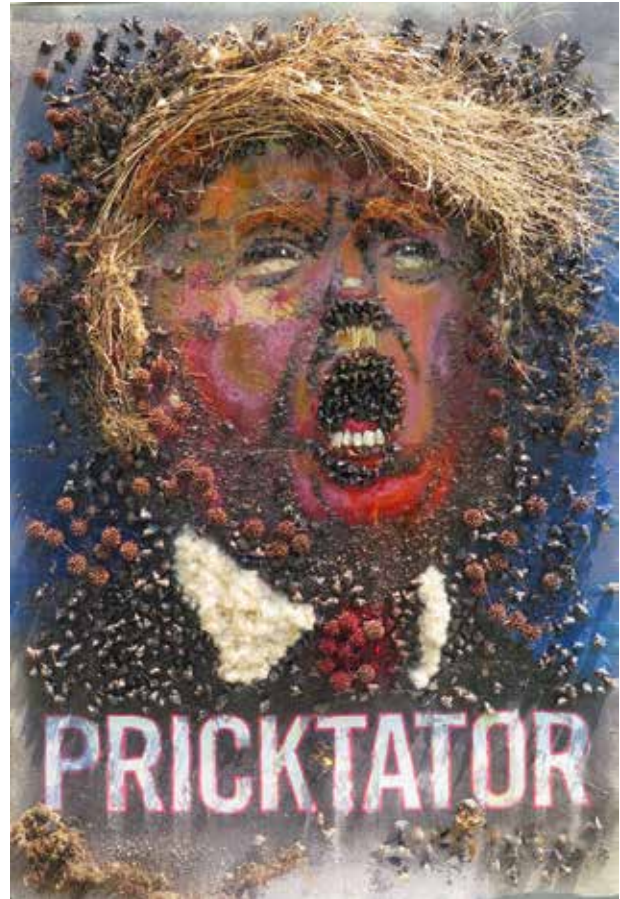
On 1 August, the Wylie Independent School District in Texas removed from its website a cartoon by David Fitzsimmons entitled *George Floyd* after the National Fraternal Order of Police (law enforcement officers' association) complained that it was "abhorrent and disturbing".<sup>4</sup> The cartoon which depicted the Ku Klux Klan (KKK), cowboys, sheriffs, and slave traders kneeling on the neck of a Black man (resembling the way George Floyd was killed) was part of a class assignment addressing the oppression of Black people throughout history. In a conversation with Freemuse, Fitzsimmons asserted that the police association "mischaracterised his cartoon as an attack on all law enforcement," adding that since its removal from the school website, he had received numerous hate mail.<sup>5</sup>

In March, the Museum of Contemporary Art Cleveland (MoCA) cancelled visual artist Shaun Leonardo's exhibition *The Breath of Empty Space* which depicted police killings of African American and Latino men. MoCA claimed that it was "not prepared to engage with the lived experiences of pain and trauma that the work evokes" and that there had been objections to the exhibition from local Black activists and museum staff.<sup>6</sup> Leonardo, who identifies as Afro-Latino, argued that it was "institutional white fragility [that] led to an act of censorship".<sup>7</sup> In June, when the story surfaced, MoCA Director Jill Snyder apologised to the artist and resigned, whilst the museum announced plans for anti-racism education among its staff.<sup>8</sup>

The above-mentioned case exemplifies the practice which emerged following the 2017 controversy over Dana Schutz's painting *Open Casket* at the Whitney Biennial, accused of "transmuting Black suffering into profit and fun".<sup>9</sup> Since then, museums and galleries have employed a more vigorous process when approving exhibitions, including evaluating the potential impact they could have on different communities. Whilst the dialogue with potentially affected communities on how to frame narratives around the art can have positive effects related to the reception of exhibitions, four museums and galleries in the USA and UK decided to postpone the exhibition *Philip Guston Now* from 2020 to 2022 because it needed "to be framed by additional perspectives and voices".<sup>10</sup> This included including engaging a Black curator on the white artist's (Philip Guston) exhibition which contains KKK imagery. Svetlana Mintcheva, Director of Programmes at the National Coalition against Censorship, told Freemuse that she supports diversifying voices in curating, but also believes that it is not a good practice to "ban one part of population from commenting on joint history, such as interracial violence, by which we are all complexly affected."<sup>11</sup>

## CULTURAL INSTITUTIONS VERSUS POLITICS

Freemuse also found that some cultural institutions banned artwork that was either political in nature or represented political debates. On 11 July, the Howland Cultural Centre in Beacon, New York removed one of Patricia Isaza's two pieces of art in the *Members Art Show and Sale* exhibition. Although both artworks were accepted, the artist discovered that her portrait of the President Trump entitled *Pricktator* was not on display during the opening day, because the US Internal Revenue Service forbids explicit endorsement of, or opposition to, candidates in an election race by tax exempt non-profits with 501(c)(3) status.<sup>12</sup> The artist told Freemuse that her artwork was created in 2018 and is in no way connected



*Pricktator* by Patricia Isaza. Credit: Courtesy of Patricia Isaza

with the 2020 elections. Isaza created it from pieces collected in the Hudson River, which, in her words, turned into a swamp because of 'polluters' allowed to pollute the river under the Trump administration.<sup>13</sup> Her piece was reinstated after a thorough internal process and consultations with lawyers, but had to include a disclaimer at the entrance to the gallery.

The exhibition *Theater of Operations: The Gulf Wars, 1991–2011* which was on display at the New York Museum of Modern Art (MoMA) from November 2019 until March 2020 also led to censorship. Censorship occurred in the context of protests MoMA has been facing since October 2019, when protesters demanded that its trustee Larry Fink divest himself from private prison companies, notorious for ill-treatment of inmates.<sup>14</sup> On 11 January, Iraqi-American artist Michael Rakowitz paused his video *RETURN* and added a note in which he expressed solidarity with protests. The MoMA responded by un-pausing the video and removing the note.<sup>15</sup> Furthermore, Berlin-based Iraqi artist Ali Yass told Freemuse that he protested against Larry Fink, as well as Leon Black (chairman of MoMA's Board of Trustees), over his involvement with Blackwater Security Consulting (now Academi), a security company who shot and



killed Iraqi civilians in the Nisour Square massacre.<sup>16</sup> He permitted local activists to tear up his poster displayed at the exhibition on the day of its closing, but MoMA removed it beforehand claiming concerns over “its safety”.<sup>17</sup>

The 2020 censorship cases documented in the USA violate freedom of expression, especially for artists whose work deal with sensitive and controversial topics or which include parody or critique. Criticising or mocking political figures cannot be considered legitimate grounds for limiting freedom of expression.<sup>18</sup> Artwork with political commentaries or depictions of actual events should not be banned, but rather engaged with in public debate and dialogue that includes potentially affected communities.

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*“Removing my work before the exhibition officially finished was a gross and unacceptable exercise of power... Negating the will/agency of the artist is surely not about safety. There was no room for misunderstanding since I stated publicly and clearly in my statement before the action what my intention was.”*

ALI YASS, FREEMUSE INTERVIEW (ONLINE), 23 DECEMBER 2020.

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Berlin-based Iraqi artist Ali Yass was censored by MoMA in New York City. Credit: Sebastian Wells, courtesy of Ali Yass

# RECOMMENDATIONS

Challenges to artistic freedom are multifaceted and require multiple actors to work together constructively at the international, regional, and national levels. Freemuse therefore addresses the following recommendations to governments, appropriate statutory bodies, civil society organisations and the United Nations, and other international and regional inter-governmental bodies to realise the universality and indivisibility of human rights, specifically the right to artistic freedom.

## ALL GOVERNMENTS:

1. Should uphold the full array of states' obligations to respect, protect and fulfil the right of every person to freedom of artistic expression and creativity and access to cultural rights without discrimination on any grounds. This principle should be taken as the core driver of all developments of law, policies and measures related to freedom of artistic expression and creativity.
2. Should abolish and amend legislation, executive orders, and by-laws which prohibit and restrict artists from taking part in any dimension of artistic life and the performance of their respective art forms.
3. Must harmonise national legislation on freedom of expression and cultural rights with international human rights standards. States should ensure that any restrictions imposed on artistic expression are in accordance with Article 19(3) of the ICCPR. Restrictions must be provided by the law, serve a legitimate aim, be proven proportionate against the benefits of the restriction and necessary for the protection of the legitimate aim.
4. Should abolish censorship boards and other prior censorship mechanisms. Classification bodies should be independent, include representatives from the cultural sector in their membership, their terms of reference, rules of procedure and activities should be made public, and effective appeal mechanisms should be put in place.
5. Should ensure that artist syndicates and other professional bodies are strongly encouraged to actively apply human rights principles when adopting and implementing their internal policies, aiming to protect the rights of their members, instead of imposing undue restrictions.
6. 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.
7. Should develop national strategies and action plans to protect artists and freedom of artistic expression, developing these based on best practice and lessons learned applied for the protection of journalists and media freedom. Donor governments should also develop international strategies and action plans to protect artists worldwide.
8. Should ensure that non-state actors—including political organisations, religious groups, private individuals—which are found to have used hate speech, online and offline threats or acts of violence (including the abduction of artists and acts of vandalism or destruction targeting artwork) in an attempt to instigate acts of censorship, must face prompt, impartial and effective investigations in accordance with international standards.
9. Should avoid the criminalisation of the expressions—artistic and otherwise—and apply criminal law only in cases of severe breaches of regulations governing free speech.
10. Should ensure the immediate release of all artists in administrative or arbitrary detention, those serving unlawfully rendered prisons sentences, and drop all charges brought against them on illegitimate grounds.

## ON THE RATIFICATION AND IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS

11. Should ratify and fully implement the following international human rights instruments so that they can strengthen the promotion and protection of rights to artistic expression and creativity:
  - a) The International Covenant on Civil and Political Rights and its Optional Protocol, without reservations.
  - b) The International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, without reservations.

- c) The 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.
- d) The 1980 UNESCO Recommendation Concerning the Status of the Artist.
- e) The UN Convention on the Elimination of all Forms of Discrimination against Women and its Optional Protocol, without reservations.

## ON THE RIGHT TO INSULT

- 12. Must ensure that artists be able to freely participate in public debates about the way authorities run the state, national security, public morality, and other issues of public importance. Artists, especially visual and performing artists who use humour, satire, and parody, should not be subject to undue or arbitrary restrictions on the right to freedom of expression on these grounds.
- 13. Must review and repeal laws or provisions penalising insult to heads of states (including foreign heads of states), other state officials (including military and law enforcement), and political figures, national institutions and emblems.
- 14. Should abolish blasphemy laws which often prescribe heavy sanctions, including death penalties, for insulting religion and religious figures. States should not allow that the offence of insult to religious feelings be used as a vehicle for repressing freedom of expression.

## ON THE RIGHT TO PROTEST

- 15. Should respect the right of artists to dissent, and use political, religious, economic, and national symbols as a counter-discourse to dominant powers and to express their own beliefs and world visions. The use of fiction must be understood and respected as a crucial element of the freedom indispensable for creative expressions.
- 16. Must review and amend all legal restrictions which impose undue restrictions on freedom of assembly, resulting in preventing artists from exercising the unhindered right to stage and take part in protests, demonstrations and other public actions aimed to raise awareness about issues of public importance.

## ON MEASURES TAKEN IN THE CONTEXT OF THE COVID-19 PANDEMIC

- 17. Should ensure that artistic freedom is fully respected, protected, and fulfilled during the

COVID-19 pandemic. States should refrain from restricting freedom of expression and assembly in the context of the pandemic through measures that are not meant to stop the spread of the virus, but rather to stifle political dissent and criticism of the way authorities handle the pandemic.

- 18. Release all artists detained and imprisoned under legislations implemented during the COVID-19 pandemic. This measure should be particularly applied to overcrowded and overpopulated prisons in order to reduce the risk of potential COVID-19 infections.
- 19. Must stop criminalising artistic expressions on the pretext of spreading misinformation, including those likely to cause the panic, and instead employ other effective measures to inform the public about crucial aspects of the COVID-19 pandemic.
- 20. Must ensure unhindered participation in public demonstrations and protests if participants adhere to social distancing and other prescribed measures.
- 21. Should aim that all national and international COVID-19 recovery packages allocate at least seven percent of the overall fund to provide essential relief funding to artists and cultural institutions in the first programming year. States should also engage in an open dialogue with artistic communities so that authorities are able to direct support to the arts and cultural industry during the COVID-19 pandemic and in the post-COVID-19 period. They should include all artists and cultural practitioners into government furlough or unemployment schemes, as well as commit to re-opening and financially supporting cultural spaces after lockdown measures end.

## ON COUNTERTERROR

- 22. Must ensure that the measures primarily intended to counter terrorism are not used to suppress forms of artistic expression, including peaceful political commentary.
- 23. Must ensure that no provisions within domestic counterterrorism legislation violate state obligations under international human rights law, specifically Article 19 of the ICCPR. These laws should only criminalise expressions that encourage others to commit a criminal act with an intent to incite them to commit such an act and with a reasonable likelihood that they would carry it out.
- 24. Should repeal or amend legislation which prohibit 'glorifying terrorism', 'insult victims of terrorisms' and other vaguely worded offences aiming to protect national security without compromising the right to freedom of expression.
- 25. Should ensure that artists who are reasonably suspected of involvement in a recognisable

terrorism-related crime are charged and prosecuted in an ordinary criminal proceeding, only where sufficient evidence exists, in line with international standards.

## ON SEXUAL, GENDER AND RACIAL DISCRIMINATION

26. Must urgently review and repeal laws and discriminatory provisions criminalising same sex relations which place undue restrictions on freedom of expression, including artistic expression. States must uphold the findings of the Venice Commission's 2013 report that LGBTI anti-propaganda laws are incompatible with international human rights standards by being ambiguous and including blanket restrictions aimed at legitimate expressions of sexual orientation, gender identity and expression.
27. Must 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 are often used to restrict the dissemination of information on LGBTI topics.
28. Must urgently review and repeal laws which impose undue restrictions on women's equal participation in cultural life and assure that principles of gender equality and non-discrimination are consistently applied in all laws and policies governing the cultural sector.
29. 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 addressed towards artists based on grounds of their sex, race, sexual orientation, and gender identity.
30. Should conduct prompt, effective, and impartial investigations in cases of violence exercised against artists based on their sex, race, sexual orientation, and gender identity, and punish perpetrators in line with national legislation.

## ON DIGITAL RIGHTS GOVERNING FREEDOM OF EXPRESSION

31. Must apply human rights protections as stipulated under Article 19 of the ICCPR equally in the offline and online context. When applying cybercrime laws to penalise expressions posted online, governments should uphold international standards governing freedom of expression and refrain from unlawfully criminalising artists' dissenting voices expressed in the digital space.
32. Should refrain from initiating legal prosecution cases against online film streaming platforms

and policing film content available on these platforms, illegitimately invoking violations against public morality and public order.

33. Must treat threats of violence and sexual abuses in the online context equally to those in offline spaces. Specialised units within law enforcement tasked to combat cybercrime should investigate those threats promptly, effectively, and impartially, and relevant prosecution and judiciary bodies should ensure that perpetrators are identified and sanctioned in line with national laws.
34. Should hold social media companies accountable for implementing policies which respect the right to free expression especially through: (a) revising community guidelines so that they are consistent with relevant international human rights standards; (b) granting artists whose content has been removed the right to appeal through a fair and transparent process in which they 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 media companies remove content and their reasons for this removal.

## ON STRENGTHENING OF ARTS AND CULTURAL INSTITUTIONS

35. Should ensure a plural and diverse political environment for exercising artistic freedom by strengthening the mandates of relevant arts and culture institutions and entities. These institutions should maintain their independence and ensure transparency in all decision making (including programmatic, operational, funding and recruitment of senior positions, and maintaining checks and balances on any appointment of individuals based on their political, religious, or corporate affiliation).
36. Must ensure effective measures to protect artists and cultural workers from precarious working conditions and that the nature of the gig economy does not prevent artists from continuing to work in the sector.
37. Should carefully consider the implications of any new state fiscal measures, policies or wider reforms targeted at the arts and culture sector. States should additionally ensure that any changes to governmental fiscal policy, including tax regulations, industry subsidies or grants be carried out only after transparent and informed consultations with the sector. Changes in state policy 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.

38. Should consult with civil society organisations and other relevant stakeholders (including artists focused on expression containing LGBTI and feminist themes) working in the field of freedom of expression and artistic freedom—through a transparent, enabling and fully informed processes—before drafting and submitting their URP reports submitted to the UN Human Rights Council and Quadrennial Periodic Reports submissions to UNESCO. These reports, as well as the government’s cultural policy, should be made easily accessible to the public.
39. In cooperation with relevant national human rights bodies, governments should establish mechanisms through which artists can report unlawful restrictions of artistic freedom of expression. These mechanisms 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.

## SOCIAL MEDIA PLATFORMS:

40. Should adopt and implement internal regulations ensuring that freedom of expression on their platforms are guided by the international human rights law, and not the varying laws of national states or their own private interests.
41. Should engage in extensive consultations with civil society organisations and experts in the field of digital rights, artistic expression, and other relevant experts to harmonise their community guidelines with international human rights standards. Freemuse reiterates the 2018 call of the then-UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression 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”.
42. Must unequivocally and publicly condemn online attacks on artists, especially when artists are targeted based on their sex, race, sexual orientation, and gender identity. Social media platforms should approach this issue based on

the premise that online violence is an extension of offline violence. Companies should allocate a sufficient operational budget which allows them to respond to the nature, frequency and scale of the sex, race, and gender-specific violence adequately and responsibly, including training and equipping moderators with operational guidance in line with international standards governing violence.

## UNITED NATIONS AND OTHER INTERNATIONAL AND REGIONAL INTER-GOVERNMENTAL MECHANISMS:

43. Should include freedom of artistic expression in all relevant debates, mechanisms and formulations focusing on freedom of expression.
44. Should play a convening role, bringing member states together to develop international and regional strategies and action plans to protect artists and freedom of artistic expression. As a matter of priority, they should use available international and regional mechanisms to influence member states to refrain from subjecting artists to legal prosecution and arbitrary arrests.
45. Should provide technical assistance to member states in which legal frameworks governing freedom of expression and artistic expression need strengthening. They should encourage that member states be able to bring their legislation in line with international standards and in cooperation with relevant implementing bodies, including UNESCO and regional inter-governmental organisations.
46. Regional inter-governmental bodies, such as the Council of Europe, the 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.
47. UNESCO should support and ensure that

states parties to the 2005 Convention on the Promotion and Protection of the Diversity of Cultural Expressions report on violations of artistic freedom committed by both state and non-state actors. UNESCO and the Convention Intergovernmental Committee should formally accept information and complementary reports from civil society organisations in addition to state reports and make enough time and space available for meaningful exchanges with civil society organisations.

## CULTURAL ORGANISATIONS:

48. Should ensure that their funding strategies are based on core ethical principles, guided by transparency and accountability and that diverse decision-making panels are instituted. They should ensure that funders are not able to steer internal policies or interfere with artistic freedoms in individual projects.
49. Should introduce sectoral checks and balances to ensure that cultural organisations remain accountable, whilst an independent peer review engagement is duly encouraged in conformity with transparent terms of reference and rules of procedure.
50. Should ensure that national cultural bodies regulate and implement transparent accountability mechanisms to govern syndicates and professional artists' organisations so that they neither restrict artistic freedom nor punish artists arbitrarily. These bodies should 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. Artists should be able to submit complaints and receive reparations in a fair, impartial, and effective manner based on principles of equality and non-discrimination.

## CIVIL SOCIETY BODIES:

51. Should continue to systematically monitor, document, and raise awareness about different forms of interference in cultural sector and artistic expression, including focusing on undue restrictions imposed through national laws and practices.
52. Should strengthen their engagement with relevant authorities at international, regional, and national level to expose illegitimate restrictions on artistic freedom.

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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.

Freemuse wishes to thank all who contributed to the research, design and editing of this report.

It is important that we acknowledge the incredible work and contributions of those, who for safety reasons, we cannot acknowledge in this report. Their efforts as human rights defenders are an inspiration to us all.

At the time of digital publication, Freemuse is finalising the full list of accreditations. This will be updated presently.

