

A LITERATURE STUDY



ARTISTIC FREEDOM

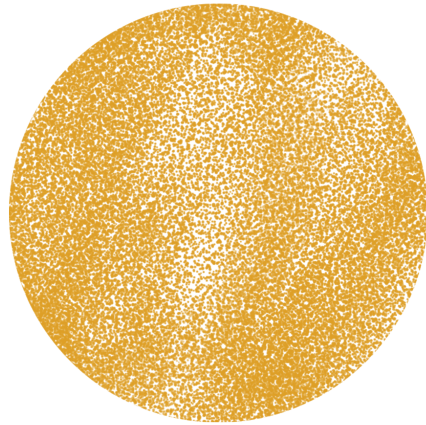
in Indonesia



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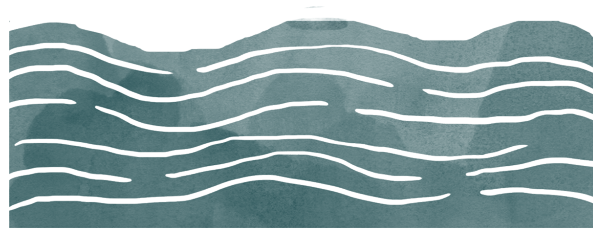
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ARTISTIC FREEDOM

in Indonesia



2010-
2020

Artistic Freedom in Indonesia 2010- 2020: A Literature Study

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Foreword

Artistic freedom has been a deep concern for many members of Koalisi Seni, long before its initiation in 2010. The contradictory policies on artistic freedom along with religious and ethnic fanaticism for the last 10 years in Indonesia have pushed artists to develop strategies, in which self-censorship is one of the most frequent. These uncertainties hurt the arts ecosystem as a whole. Artwork distributions become more difficult, limited, and risky for those involved. Low appreciation of the arts results in minimum empathy towards diversity of ideas. Reflecting on experiences of Koalisi Seni members, the State's continued failure in upholding artistic freedom created distrust and scepticism towards the government.

However, Koalisi Seni believes multi-stakeholders dialogues are still necessary, and these need to be supported with data. We welcome the invitation from UNESCO to commence this study about artistic freedom in Indonesia. We believe this study will ground other research in the future. The tight-clasped state ideology needs to be understood deeper and further to identify entry points towards a more democratic society.

As previous studies on artistic freedom are very limited, this preliminary study attempts to collect data on violations of artistic freedom that have been written in the media and reported by human rights organizations in the past ten years. Systemic problems are then identified as urgent issues that need to be addressed in promoting artistic freedom.

Lastly, we hope the conditions illustrated in this study would be useful as a reference for artistic freedom monitoring training. It will surely be timely and long-awaited.

Jakarta, 27 July 2020

Margareta W Artanti
Secretary, Executive Board
Koalisi Seni

About Koalisi Seni

Koalisi Seni (The Indonesian Arts Coalition) is an association that strives to foster and promote a healthy art ecosystem. This is achieved through policy advocacy in the arts sector, advocating for an arts endowment fund, as well as strengthening knowledge management and networks among the organization's members.

Founded in 2012, Koalisi Seni now has 254 members comprising various organizations and individuals in the arts and culture sector across 20 provinces in Indonesia.

Until 2020, Koalisi Seni has carried out various activities aimed at advancing the arts ecosystem. This includes a campaign to disseminate information about Government Regulation 93/2013 on tax incentives for donations in the arts and culture sector, establishing four "Cultural Hotspots" in Eastern Indonesia from 2015 through 2017, advocating for the enactment of the Cultural Bill into Law Number 5 of 2017 on the Advancement of Culture, as well as encouraging arts and cultural philanthropy through the Philanthropy Cluster for Arts and Culture. Koalisi Seni was also involved in facilitating the 2018 and 2019 Indonesian Music Conference in Ambon and Bandung respectively. Furthermore, the Coalition was actively involved in the drafting of a National Cultural Strategy through several Cultural Pre-Congress forums, publishing *The Impacts of Art on Society*, a book aimed at encouraging public support for arts and culture, as well as actively advocating for the creation of the Arts Endowment Fund.

Koalisi Seni is also actively conducting research and policy studies in the arts and culture as part of its advocacy. These include a 2014 study on arts and culture budget management in the Ministry of Education and Culture and the Ministry of Tourism and Creative Economy; a study on arts funding in three countries: Brazil, Australia, and United States; a 2015 research on the Sustainability of Arts Institutions in 8 Indonesian Cities; as well as a 2018 research project titled *Art as a Method for Critical Thinking: A Case Study of Mari Berbagi Seni*.

About Researchers

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Hafez Gumay

Hafez has been a researcher at Koalisi Seni since 2014. His current day-to-day responsibilities include executing Koalisi Seni's policy advocacy programs — specifically overseeing the drafting of the Law on the Advancement of Culture and its implementing regulations, advocating for the establishment of an arts endowment fund, as well as reviewing the Music Bill. Hafez joined Koalisi Seni upon graduating with a bachelor's degree in law from the University of Indonesia. He completed a Master's of Law Program at the University of Indonesia with a concentration in Human Rights and Good Governance.

Eduard Lazarus

Edu is tasked with arts and cultural policy research. A graduate of Communication Studies at the University of Indonesia (2017), he was a writer and editor for Remotivi - Center for Media Studies. In 2016, he published a policy research on the performance of the Indonesian Broadcasting Commission. He is also currently a part-time editor for New Naratif. His primary interests include cultural studies, psychopolitics, and social change.

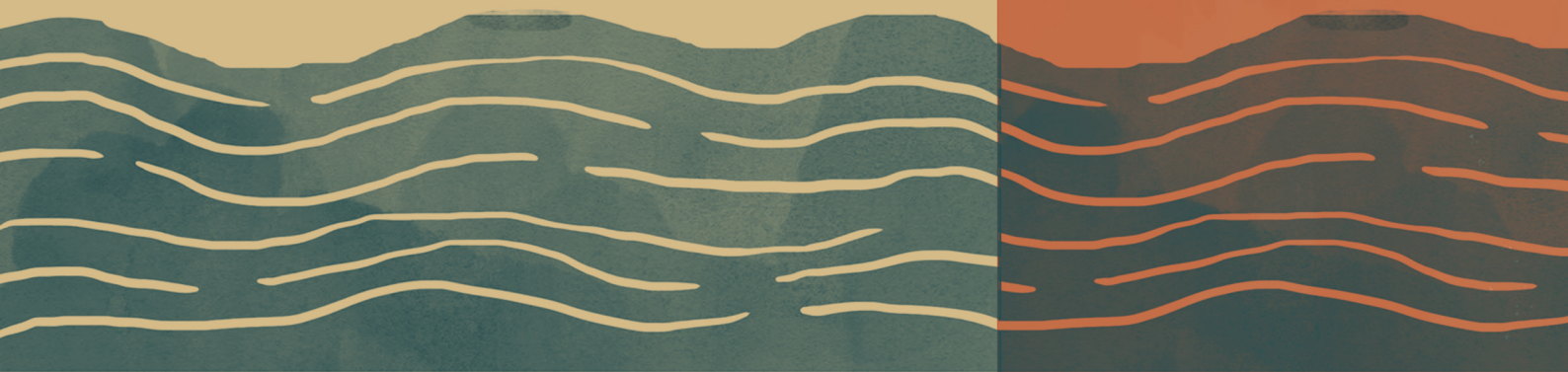
Reisky Handika

Reisky is in charge of the music ecosystem program and is also part of the research team at Koalisi Seni. Prior to joining Koalisi Seni, Reisky has worked with the non-profit Kopernik Foundation and the research institution Abdul Latif Jameel Poverty Action Lab Southeast Asia (J-PAL SEA). Having graduated with a bachelor's degree in international relations at the University of Indonesia, Reisky plans to continue his studies in visual anthropology.

Ratri Ninditya

Upon retiring as a copywriter, Ninin pursued her master's degree in Gender and Cultural Studies at the University of Sydney before joining Koalisi Seni as a policy researcher in August 2019. Ninin has also interned as a policy researcher at ACON, a Sydney-based NGO that advocates for and promotes health and inclusion for the LGBTIQ community. She has a bachelor's degree in Communications from the University of Indonesia.

Preface



Background

More than two decades after the fall of the authoritarian New Order regime, the government's effort to guarantee artistic freedom still leaves a lot to be desired. The failure is closely related to the government's equally slow progress in protecting human rights. Many say the country has actually gone backwards in this respect in the last few years. According to Gumay (2018), artistic freedom is a reflection of a country's success in protecting human rights. Indonesia's report card in this aspect is still "in the red" (Adyatama 2019). According to a 2018 report from the National Commission for Human Rights (Komisi Nasional Hak Asasi Manusia or Komnas HAM), the euphoria around freedom of expression in the Reformasi era has ironically resulted in a "new authoritarianism borne out of legitimised means" (Anam et al. 2019). Instead of protecting minorities, law enforcement has become a way to shut down ideas that contradict those of the majority. Apart from that, the state has also used identity politics as a means to erase or silence subversive voices.

Under Susilo Bambang Yudhoyono's two-term presidency (2009-2014), only four bills were passed out of twelve that were drafted based on international human rights laws (KontraS 2014). This is despite Yudhoyono promising stricter law enforcement at the beginning of his second term. The Commission for the Disappeared and Victims of Violence (KontraS) reported the government tends to turn a blind eye to discrimination against minority groups, while cracking down on terrorism (KontraS 2014, p. 25). There was no effort to solve human rights violations, both past and present. Yudhoyono's government also offered no reparation for victims of violations.

This state of affairs continued under President Joko "Jokowi" Widodo's current administration, which began in 2014. Jokowi had promised to solve past crimes against humanity in his first term but has so far done little to make good on that promise. His government initially made a promising overture by organizing the "1965 Symposium" in April 2016 to investigate the mass killings of Indonesian communists in 1965. In an anti-climax, the symposium was opened with a statement from state officials that there was no need for the government to apologize to the families of the

victims and none of the recommendations from the symposium were ever followed up. Jokowi made an about-turn in his second term by completely ignoring the thorny problem of human rights violations. Investigations into serious crimes against humanity in the past invariably stalled. Many government officials made disparaging remarks about the issue, including Presidential Chief of Staff Moeldoko who refused to acknowledge the killings and torture of civilians in Paniai, Papua, allegedly by soldiers of the Indonesian Military (Tentara Nasional Indonesia or TNI) according to Komnas HAM, as serious human rights crimes (Nur Hakim 2020). Hate speech abounded, even originating from President Jokowi's official Twitter account, which in April 2019 mentioned the "legalization of LGBT" as an example of fake news (Widodo 2019). Amnesty International Indonesia (2018) declared 2017 as the year of "politics of hatred" in Indonesia. A continuing stigma against Communism was regularly used as an excuse to silence critics of the government. Meanwhile, intimidation against sexual minority groups – raids, persecution, arrests – skyrocketed. The Jokowi government's laser-eyed focus on investment and infrastructure development was not only responsible for the appearance of new human rights crimes but also for a largely normative effort to solve cases of human rights violations (Anam et al. 2019) and for the lack of assistance in the recovery of victims from their collective trauma. The aforementioned politics of hatred, manifested in identity politics and the government's lackadaisical attitude in solving past human rights crimes, is directly reflected in other cases where artistic freedom is either suppressed or violated.

Artistic freedom is part of human rights, but in a country where those rights continue to be ignored, it barely has any leverage. There are very few studies about the state of artistic freedom in Indonesia, even when it continues to be a target of harassment. Since it only commands attention from a tiny portion of the community, cases where artistic freedom is violated often go unreported.

Cases of violations of artistic freedom tend to be filed by organizations under a more general category: violations of freedom of expression. These organizations include the Indonesian Legal Aid Foundation (Yayasan Lembaga Bantuan Hukum Indonesia or YLBHI) and Southeast Asia Freedom of Expression Network (SAFENet). Komnas HAM and Amnesty International Indonesia have also reported some cases of human rights violations in the arts. But currently no organization

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or foundation makes it their priority to investigate or analyze violations of artistic freedom.

Lack of data is a classic problem in Indonesia, particularly in the arts. No one has ever collected comprehensive data on the country's art workers or organizations. The data that exists is rarely updated. The latest national data on art workers or the arts sector is only available from a report on the development of the country's creative economy, published in 2019 by the Creative Economy Agency (Badan Ekonomi Kreatif or Bekraf, now absorbed into the Ministry of Tourism and Creative Economy) and data on human resources, agencies and tangible and intangible cultural heritage collected by the General Directorate of Culture.

The absence of the state in efforts to solve past and present human rights violations, on top of the lack of data, studies, and organizations supporting artistic freedom, are the biggest obstacles in improving artistic freedom in Indonesia in a systematic way. Further studies on the conditions and perceptions of artistic freedom in Indonesia involving all the stakeholders in the arts industry need to begin with a system-wide inventory of the violations that have already happened.

Objectives

This study will portray and archive cases of violations of artistic freedom in the arts sector. It will provide an illustration of the conditions of artistic freedom in Indonesia by investigating violations of the artists' rights and the failure of the state to respect, protect, and fulfill artistic freedom. It will also investigate the most common excuses used in cases of violations of artistic freedom to show that socio-historical conditions and politics have for a long time determined how artistic practices are perceived in Indonesia.

Methodology

As a starting point for a more wide-ranging study, this literature review begins by collecting data on violations of artistic freedom that have been reported or written in the media. The review will use secondary sources, including online news articles, annual reports from YLBHI, and a list of violations of freedom of expression and freedom of association compiled by SAFENET. It will also use press releases, annual reports, and articles uploaded on the Komnas HAM, Amnesty International Indonesia, and KontraS websites.

To capture the current condition of artistic freedom in Indonesia, this literature review will focus on violations that happened in the last ten years, from 2010 to 2020, beginning from the second term of Yudhoyono's presidency and extending into the second term of the Jokowi administration. During this period public scrutiny on human rights issues has increased, as the government keeps ignoring new cases of human rights crimes and failing to improve law enforcement.

The study will use the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, an instrument of international law, especially its Artistic Freedom articles, as a guideline to analyse the cases. We will also examine a series of Indonesian laws and regulations related to artistic freedom to show how far government policies are meant to support it and how comprehensive their implementation has been.

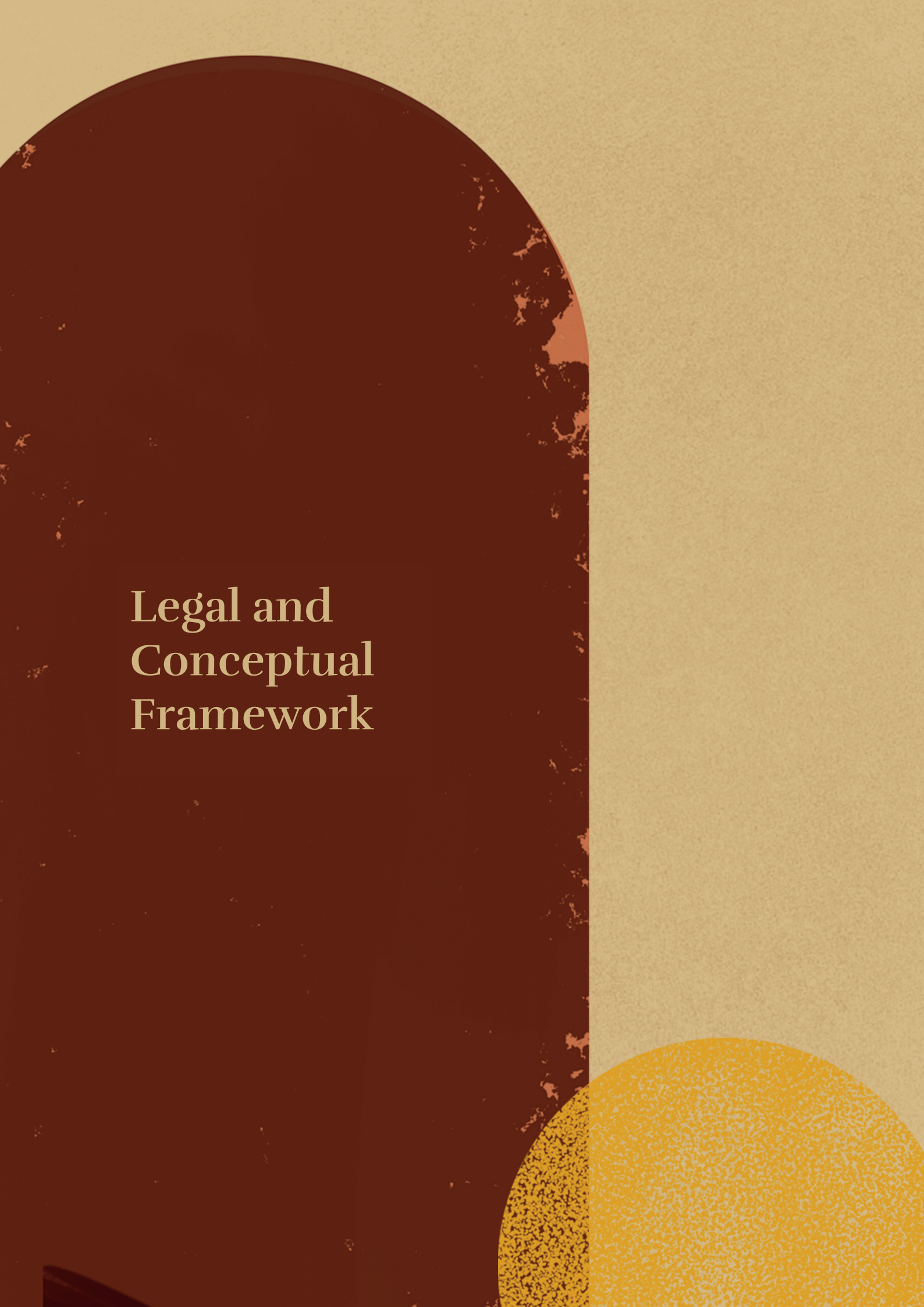
Research Limitations

There is currently no public or civil society entity dedicated to monitoring and supporting artistic freedom in Indonesia. For this reason, most of the data used in this research are taken from news articles and reports from human rights organizations.

Consequently, most of the cases of violations of artistic freedom recorded in this study happened during exhibitions or other events, such as film screenings, art exhibitions, and art festivals.

Another consequence is that many of the cases involved high-profile events that were more likely to be reported by the media, such as art events involving famous artists, related to contemporary issues, or involving violators who earned considerable media attention for their action.

This literature review will not consider violations that happened online. Indonesian laws are still far from adequate in regulating online activities, reflecting a lack of understanding on how online media and platforms have developed in the internet age. Online violations of artistic freedom warrant its own study with a different methodology.



Legal and Conceptual Framework

8 Defining Artistic Freedom

UNESCO defines artistic freedom as the freedom to imagine, create and distribute diverse cultural expressions free of governmental censorship, political interference or the pressures of non-state actors. It includes the right of all citizens to have access to these works and is essential for the wellbeing of societies.

Unlike other forms of human rights or other forms of fundamental freedom, artistic freedom cannot stand on its own. Before anyone can enjoy artistic freedom, they must be able to enjoy other basic rights first. It is the responsibility of the state to provide these basic rights. UNESCO specifies six main components of artistic freedom: (1) The right to create without censorship or intimidation; (2) The right to have artistic work supported, distributed and remunerated; (3) The right to freedom of movement; (4) The right to freedom of association; (5) The right to the protection of social and economic rights; and (6) The right to participate in cultural life.

1. The right to create without censorship or intimidation

This right is a corollary from the right to freedom of expression – which every artist needs to be able to explore their creativity. This right can be said to be the most fundamental component of artistic freedom.

The first formal definition of the right to freedom of expression was contained in Article 19 of the Universal Declaration of Human Rights (UDHR), which states that everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. This definition is reinforced by Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which states that everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

Furthermore, Article 19 of the ICCPR also regulates the limitations of the right to freedom of expression through a rule that states the exercise of the right to freedom for expression carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary for: respect of the rights or reputations of

others, the protection of national security or of public order, or of public health or morals.

In a report for the United Nations Human Rights Council, Former UN Special Rapporteur on Cultural Rights Shaheed (2013) mentioned a series of obligations that a state has to fulfill before it could be allowed to limit the right to freedom of expression of its citizens. First, a state has to have a clear law to act as a guideline for officials and also for its citizens to allow them to enjoy freedom of expression and the responsibilities that come with it. Second, a state has to provide an appeal mechanism that anyone whose freedom of expression has been restricted can use, for example one that allows the producers of a film to exercise their right of appeal against censorship. Lastly, a state must regulate the use of public space for art activities. This is a crucial point since art performance in a public space has the potential to create conflicts between different rights, for example between the right to freedom of expression and the right of children to be protected from spectacles that might hinder their development.

2. The right to have artistic work supported, distributed and remunerated

This right is a corollary of several different rights.

The right to have artistic work supported and distributed is a corollary of the right to freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. It is what artists need to be able to share their work with the public and what the public needs to be able to access the work of the artist. Right to freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers in itself is an extension of the freedom of expression as articulated in Article 19 of the UDHR and Article 19 of the ICCPR.

Specifically, interpretations related to the distribution of artistic works contained in Article 19 of the ICCPR are discussed in the ICCPR General Comment No. 34, in particular point number 11 and point number 12. Point number 11 states that everyone has the right to express and receipt of communications of every form of idea and opinion capable of transmission to others, including cultural and artistic expression. Furthermore, point number 12 states that the state must provide protection to all forms of expression and the means of their dissemination. Such forms include spoken, written and sign language and such non-verbal expressions as

images and objects of art, including all forms of audio-visual as well as electronic and internet-based modes of expression.

Meanwhile, the right to have one's artistic work remunerated is a combination of at least two basic rights, namely the right to just and favourable remuneration and right to benefit from intellectual property protection.

The right to just and favourable remuneration was defined formally for the first time in Article 23, point 3 of the UDHR, which says everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. The rule was reinforced by Article 7, point a of the ICESCR, which states that the States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure remuneration which provides all workers.

The right to benefit from intellectual property protection was formally defined for the first time in Article 27, point 2 of the UDHR, which states that everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author. The rule was later reinforced by Article 15, point 1c of the ICESCR which states the States Parties to the present Covenant recognize the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

3. The right to freedom of movement

This is the right every artist needs to be able to travel everywhere around the world for shows, exhibitions, or residencies.

The right to freedom of movement was formally defined for the first time in Article 13 of the UDHR. It has two dimensions, domestic and international. As for freedom of movement in your own country, it is said that everyone has the right to freedom of movement and residence within the borders of each state. Meanwhile, international freedom of movement means everyone has the right to leave any country, including his own, and to return to his country.

The ICCPR reinforces the right to freedom of movement by adding regulations on the limitations of and the mechanism to restrict an individual's freedom of movement. Article 12, point 3 of the ICCPR states that restrictions must be done by law, are necessary to protect national security, public order, public health or morals

or the rights and freedoms of others. Furthermore, article 13 of the ICCPR also regulates the rights of individuals to receive explanation or to appeal to the authorities when they are extradited from a country.

4. The right to freedom of association

The right to freedom of association is a right afforded to every individual so they can, for example, form art collectives.

The right is formally defined for the first time in Article 20 of the UDHR, which states that everyone has the right to freedom of peaceful assembly and association, including the right not to be forced to join any association. This regulation is strengthened by Article 22 of the ICCPR, which states that everyone shall have the right to freedom of association with others.

5. The right to the protection of social and economic rights

The right to the protection of social and economic rights is the right afforded to artists to receive the equal amount of social and economic support as those afforded to their fellow citizens.

The right was formally defined for the first time in Article 22 of the UDHR, which states that everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State. The regulation is reinforced by Article 9 of the ICESCR, which states that The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

6. The right to participate in cultural life

The right to participate in cultural life is the right of all people, but especially vulnerable groups, to take part in artistic activities as part of the larger community.

In general, the right to participate in cultural life is guaranteed in Article 27, point 1 of the UDHR, which states that everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. The phrase “enjoy the arts” included in this article underlines the fact that everyone has the same right to enjoy works of art. The regulation is further reinforced by Article 15, point 1a of the

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ICESCR, which requires all States Parties to the present Covenant recognize the right of everyone to take part in cultural life.

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Furthermore, the right to participate in cultural life is also acknowledged in other international human rights laws related to the protection of vulnerable groups, among them:

Convention on the
Elimination of all
Forms of Discrimination
Against Women

Article 13
point C

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular, the right to participate in recreational activities, sports and all aspects of cultural life.

Convention on
the Rights of the
Child

Article 31

States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Declaration on
the Rights of
Indigenous Peoples

Article 11
Point 1

Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

State Obligations to Artistic Freedom

Even though an agreement has never been reached on a basic typological division of state obligations for human rights, Asbjorn Eide's three typologies of state obligations – obligations to respect, protect, and fulfill – have been widely adopted in many international human rights instruments (Eide 1999; Eide, Krause & Rosas 2001; Schutter 2014).

In general, Asbjorn Eide's concept of tripartite typology of states' obligations could be explained as follows:

The obligation to respect requires states to avoid actions that could violate an individual's human rights or take away his freedom (Amnesty International 2005; Koch 2009). In essence, this type of accountability is akin to accountability over "negative rights" that obligates states to never interfere in how individuals fulfill their human rights (Sepulveda 2003, p. 158).

The obligation to protect requires states to do everything they can to prevent an individual or a group from committing actions that could result in the violations of human rights and freedom (Amnesty International 2005; Koch 2009). There are at least two things that a state must do to fulfill its obligation to protect (Sepulveda 2003, p. 161). One, a state must raise public awareness on the inviolability of every individual's public rights. Two, it must create laws and the required law enforcement agencies to prevent violations of basic rights at all levels of society.

The obligation to fulfill requires states to do everything necessary to guarantee the right of every citizen to be given their basic rights as defined by international human rights instruments (Amnesty International 2005; Koch 2009). These are rights that cannot be fulfilled without intervention and support from the state. The obligation to fulfill is crucial during emergency situations when individuals can no longer obtain their basic rights, for example in times of natural disaster, war, or during an economic crisis (Sepulveda 2003, p. 162).

The following are brief illustrations on how the concept of state accountability for human rights, as explained before, could be applied to the right to create without censorship or intimidation.

- 1 The obligation to respect the right to create without censorship or intimidation demands that a state always respects and never takes away the freedom of individuals to create art as a form of self-expression. For example, a state should never be allowed to stop directors from making films that criticize a ruling regime.
- 2 The obligation to protect the right to create without censorship or intimidation demands that a state must do all it can to prevent anyone from taking away the freedom of individuals to create art as a form of self-expression. For example, a state must be able to provide security for a live music event despite threats by groups or individuals to cancel it without a legitimate reason – as demanded by human rights instruments and local laws based on the principles of human rights.
- 3 The obligation to fulfill the right to create without censorship or intimidation demands that a state does whatever it takes to improve every individual's enjoyment of their freedom to create art as a form of self-expression. For example, a state must provide adequate infrastructures at playhouses to allow theatre companies to stage their shows.

Regulations Related to Artistic Freedom in Indonesia

Supporting Regulations

The legal foundation for the state's responsibility to fulfill and protect human rights in Indonesia is contained in the 1945 Constitution and in a series of articles of Law Number 39 of 1999 on Human Rights. Article 28, point 4 of the 1945 Constitution states that "the protection, progress, enforcement, and fulfillment of human rights are the responsibility of the state, in this case the government". This principle is strengthened by the nearly identical Article 8 of Law Number 39 of 1999, which states that "the protection, progress, enforcement, and fulfillment of human rights are largely the responsibility of the government". Furthermore, Article 71 of Law Number 39 of 1999 sets out rules for the extent of the government's responsibility by stating that "it is the obligation and responsibility of the government to respect, protect, enforce, and support human rights as regulated by this law, other laws and regulations, and international laws on human rights that have been ratified by the Republic of Indonesia".

Meanwhile, Indonesia also has other laws and regulations that specifically acknowledge human rights related to artistic freedom. There are at least three laws of this ilk, including Law Number 39 of 1999 on Human Rights, Law Number 5 of 2017 on the Advancement of Culture, and Law Number 35 of 2014 on the Revisions to Law Number 23 of 2002 on Child Protection.

Article 13 of Law Number 39 of 1999 on Human Rights acknowledges the right of every Indonesian citizen to create art. The article states that "every individual has the right to develop and gain advantages from science and technology and art and culture accorded by human dignity for their own advancement and the advancement of their fellow citizens and the rest of humankind". This piece of regulation clearly states that every Indonesian citizen has the right to create and gain advantages from culture and the arts.

Apart from Article 13, Law Number 39 of 1999 also contains other articles that guarantee the fulfillment of basic rights required for artistic freedom. Article 23 point 2 states that every Indonesian citizen has the right to freedom of expression crucial in the creation of art: "Everyone is free to hold, express, and share opinions according to their conscience, verbally or in writing on print or

electronic media as long as they adhere to religious values, standards of decency, public order and interest, and help maintain the integrity of the republic”.

Article 24 paragraph 1 of Law Number 39 of 1999 states that “Every citizen has the right to congregate, organize meetings, and associate for peaceful purposes”. This regulation guarantees that every citizen of Indonesia is free to form organizations and associations, a basic right that has great implications in the life of artists in the country, for example, every artist has the right to form their own art collective. Lastly, Law Number 39 of 1999 also guarantees the freedom of every individual to relocate, which allows artists to attend residencies or organize shows in different cities. This regulation is derived from Article 27 point 1 of the Constitution, which says, “Every citizen of Indonesia has the right to move, relocate, and live everywhere within the territory of the Republic of Indonesia”, and Article 27 point 2, which says “Every citizen of Indonesia has the right to leave and re-enter the territory of the Republic of Indonesia following the relevant regulations”.

Law Number 5 of 2017 on the Advancement of Culture also guarantees rights related to the arts, especially the right to freedom of expression. This policy is reflected in some articles of the law, including Article 3 point h, which explicitly states that the development of culture in Indonesia follows the principle of free expression. Article 41 of the same law also guarantees the right to freedom of expression and the right to protection of a cultural expression. These pro-arts policies are reinforced by Articles 43 and 44, which give the responsibility of protecting the right to freedom of expression and the right to protection of a cultural expression to the central government and regional governments.

Law Number 35 of 2014 on Revisions to Law Number 23 of 2002 on Child Protection focuses on fulfilling the basic rights of Indonesian children, who are considered as a vulnerable group in society and must be protected. Article 56, point 1e of the law states that “The duty of care for children is the responsibility of the central government and regional governments, the implementation of which must include the provision of support and assistance to children so they are free to rest, play, have fun, be creative, and engage in the arts and culture”. The wordings of the law show that the state has accommodated protection for children so they are able to participate actively in the arts.

Furthermore, to strengthen the above regulations, the Indonesian government has also adopted a series of international human rights instruments as part of its state laws, including:

a

Law Number 12 of 2005 on Ratification of International Covenant on Civil and Political Rights.

b

Law Number 11 of 2005 on Ratification of International Covenant on Economic, Social and Cultural Rights.

c

Indonesia signed the Phom Penh Statement on the Adoption of the ASEAN Human Rights Declaration on the occasion of the 21st ASEAN Summit in Phnom Penh, Cambodia.

I7

Legal and Conceptual Framework

d

Presidential Decree Number 36 of 1990 on Ratification of Convention on the Rights of the Child.

e

Presidential Regulation Number 78 of 2011 on Ratification of Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

Unsupportive Regulations

Even though Indonesia already has laws that protect artistic freedom, as explained above, its justice system also has regulations that give loopholes to the state to restrict it.

One existing regulation that has consistently threatened artistic freedom in Indonesia is the Provisional People's Consultative Assembly Decree No. XXV/MPRS/1966 Year 1966, which disbanded the Indonesian Communist Party, declared it as a banned organization in the Republic of Indonesia, and banned all activities that could be construed as spreading the teachings of Communism and Marxism-Leninism. The decree was issued after the 30th September Movement coup d'état attempt in 1965 that was blamed on the Indonesian Communist Party and since then no artwork or art events has been allowed to carry Communist or Communist-

related themes. There have been attempts to revoke the decree but all of them were to no avail since the government has failed to make any ground in solving or finding a resolution for the mass-killings of Indonesian communists that followed the coup d'état attempt or initiating a reconciliation with the victims of the bloody tragedy.

Another threat to artistic freedom in Indonesia is the country's anti-pornography regulations contained in Law Number 44 of 2008 on Pornography.

Law Number 44 of 2008 on Pornography

The regulation is in essence a blanket ban on anyone producing, directing, reproducing, copying, distributing, broadcasting, importing, exporting, offering, buying and selling, lending, or providing pornographic content containing nudity and sexual activities.

The law has allowed the government to censor or ban artworks that show nudity and portray sexual activities. Artists who produce such work risk time in jail.

Furthermore, this Pornography Law has also been used as a legal basis to block internet access to websites that the government deems as pornographic.

Not content with censoring and banning pornography, Indonesia also has the draconian Law Number 32 of 2002 on Broadcasting.

Law Number 32 of 2002 on Broadcasting

The law gives the government a legal basis to censor radio and television content. This state power is manifested in a government agency called the Indonesian Broadcasting Commission (Komisi Penyiaran Indonesia or KPI), which is tasked with monitoring all content being broadcast on radio and television in Indonesia.

This Broadcasting Law also requires radio and television stations to apply internal censorship when they find content that might transgress the regulations.

This requirement has forced radio and television stations to obscure or cut parts of a film or a song they fear could be construed as pornographic content to avoid the wrath of the KPI.

Even though all of the above laws affect artistic freedom in Indonesia, their effects are in principle the consequences of general laws. But Indonesia also has a regulation that directly threatens artistic freedom in the form of the Law Number 33 of 2009 on Film. The law mostly regulates how the film industry in Indonesia should be managed, but it contains a chapter that specifically regulates film censorship and makes it compulsory. This Film Law requires all Indonesian films to acquire a letter of approval from the Indonesian Censorship Board (Lembaga Sensor Film or LSF) before they can be released to the general public. The LSF is answerable directly to the president through the Minister of Education and Culture. The agency is regulated by the Government Regulation No. 18/2014 on the Indonesian Censorship Board.

**According to
Law Number 33
of 2009 on Film
censorship in practice
comprises the
following activities:**

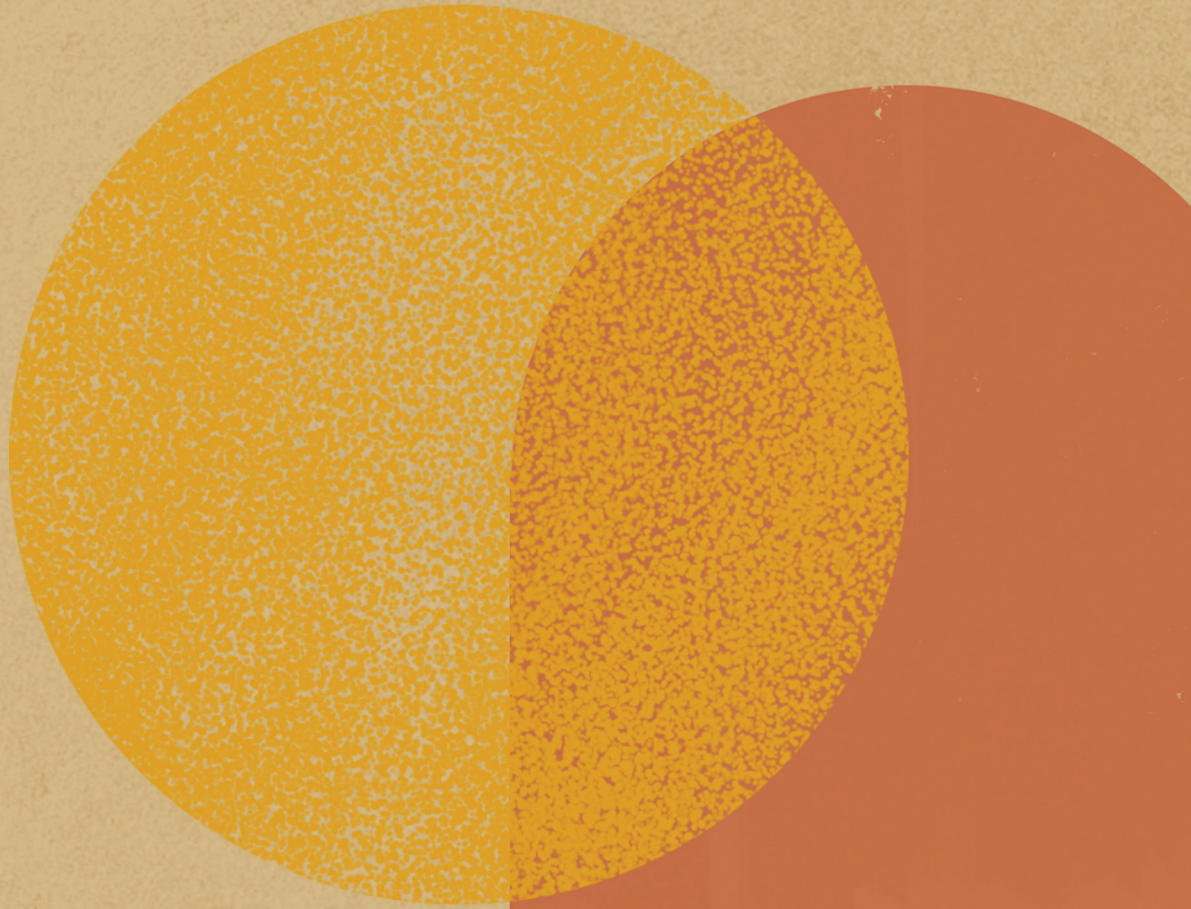
The analysis and judgement of the themes, pictures, scenes, sounds, and subtitles of a film that are intended for a general release

Making a decision on whether or not a film and its trailer can be released to the general public

Deciding on the age classification for a film

The censorship process involves a dialogue with the filmmaker. When the LSF decides a film is not fit for a general release, the filmmaker will be asked to modify the film. The criteria for censorship that the LSF adheres to are exceedingly normative and include the prohibition of any scenes that might show the following:

- Explicit use of drugs that viewers might imitate easily
- Vulgar and excessive sexual desires
- Disrespect of religion
- Encouragement to break the law



Findings and Analysis

General Overview

Data collected online – from SAFENET and three annual reports from the Indonesian Legal Aid Foundation (Yayasan Lembaga Bantuan Hukum Indonesia or YLBHI) – show at least 45 violations of artistic freedom in Indonesia since 2010 that can be subjected to analysis to provide an overall picture of the state of artistic freedom in the country. SAFENET is a network of digital rights defenders in Southeast Asia which was established after the enactment of Law No. 11 of 2008 on Information and Electronic Transactions.

2I

Findings
and
Analysis

No.	Case	Location	Year	Arts Sector	Accusations	Rights Violated	Violators
1.	The province-wide ban to establish movie theatres in Aceh	Aceh	2010 -	Film	Religion (contravening the Sharia law)	<ul style="list-style-type: none"> • The right to participate in cultural life • The right to have artistic work supported, distributed, and remunerated 	Aceh Province Government Sharia Legislative Council
2	Annual intimidations towards Q! Film Festival until its disbandment in 2017	Jakarta	2010-2017	Film	LGBT	<ul style="list-style-type: none"> • The right to have artistic work supported, distributed, and remunerated • The right to freedom of association • The right to participate in cultural life 	Mass Organization: Islamic Defenders Front (FPI)
3	The forced demolition of Tiga Mojang (Three Virgins) statue	Bekasi, West Java	2010	Visual Arts	Religion (Islam vs Christianity, Islamic Iconoclasm)	<ul style="list-style-type: none"> • The right to create without censorship or intimidation 	Mass Organization: Bekasi Anti Apostasy Forum
4	Protests against a Buddha statue with Gus Dur's (Indonesia's fourth President) face	Magelang, Central Java	2010	Visual Arts	Religion (Alleged blasphemy of Buddha)	<ul style="list-style-type: none"> • The right to create without censorship or intimidation 	Mass Organization: Theravada Indonesia Executive Board

No.	Case	Location	Year	Arts Sector	Accusations	Rights Violated	Violators
5	The burning of wayang statues in Purwakarta	Purwakarta, West Java	2011	Visual Arts	Religion (Islamic Iconoclasm)	<ul style="list-style-type: none"> • The right to create without censorship or intimidation 	Mass Organization: Citizens for Purwakarta
6	The raid on a punk rock concert and mass arrests of punk communities in Aceh	Aceh	2011	Music	Religion (contravening the Sharia law)	<ul style="list-style-type: none"> • The right to have artistic work supported, distributed, and remunerated • The right to freedom of association • The right to participate in cultural life • The right to create without censorship or intimidation 	Police Sharia Police
7	The ban on Lady Gaga's concert	Indonesia	2012	Music	Religion (Allegations of satanism and nudity)	<ul style="list-style-type: none"> • The right to freedom of movement • The right to create without censorship or intimidation 	Police FPI
8	Protests against the film "Cinta Tapi Beda"	Jakarta	2012	Film	Religion (Depiction of Muslim Minang identity)	<ul style="list-style-type: none"> • The right to create without censorship or intimidation 	Mass Organization: Minangnese Youth Association Minangnese in Jakarta Cultural Group
9	The prohibition for adult women to dance in Aceh Province	Aceh	2013 -	Dance	Religion (contravening the Sharia law)	<ul style="list-style-type: none"> • The right to participate in cultural life 	North Aceh Regent Sharia Legislative Council
10	Attack and the banning of "Senyap" screening	Sunan Kalijaga State Islamic University, Yogyakarta	2014	Film	Communism	<ul style="list-style-type: none"> • The right to have artistic work supported, distributed, and remunerated 	Religious mass organization Police

No.	Case	Location	Year	Arts Sector	Accusations	Rights Violated	Violators
11	Intimidation and the banning of "Senyap" screening	Brawijaya University, Malang	2014	Film	Communism	• The right to have artistic work supported, distributed, and remunerated	Military District Command 0833/ Bhaladika Jaya
12	The banning of "Senyap" screening.	Gadjah Mada University, Yogyakarta	2014	Film	Communism	• The right to have artistic work supported, distributed, and remunerated	Mass organizations
13	The banning of "Senyap" film screening.	Airlangga University, Surabaya	2014	Film	Communism	• The right to have artistic work supported, distributed, and remunerated	Airlangga University Rectorate
14	The ban to screen "Noah" in Indonesian movie theatres	Indonesia	2014	Film	Religion	• The right to have artistic work supported, distributed, and remunerated	Film Censorship Board
15	The banning of "50 Tahun Memori 1965" dramatic reading	Taman Ismail Marzuki, Jakarta	2015	Theatre	Communism	• The right to create without censorship or intimidation	Police Jakarta Tourism and Culture Office Mass Organization: "Keluarga Besar Teater Jakarta Peduli FTJ"
16	The banning of Martinus Miroto's Dance Performance "Maknawi Kidung Maria"	Tembi Cultural House, Yogyakarta	2015	Dance	Religion (accusations of spreading Christianity)	• The right to create without censorship or intimidation • The right to participate in cultural life	Police Mass Organization
17	The banning of "Prahara Tanah Bongkaran" screening and discussion	Seventeen of August University, Banyuwangi	2015	Film	Land Reform	• The right to have artistic work supported, distributed, and remunerated	Police Banyuwangi Regent/ Municipalities Rectorate

No.	Case	Location	Year	Arts Sector	Accusations	Rights Violated	Violators
18	The banning of "Senyap" film screening, discussions, and art exhibitions at Ubud Writers Festival 2015	Ubud Reading Park, Bali	2015	Film, Literature, Visual Arts	Communism	<ul style="list-style-type: none"> • The right to participate in cultural life • The right to have artistic work supported, distributed, and remunerated • The right to create without censorship or intimidation 	Police
19	The banning of "Samin vs Semen" and "Alkinemokiye" screening	Brawijaya University, Malang	2015	Film	Politics	<ul style="list-style-type: none"> • The right to have artistic work supported, distributed, and remunerated 	Dean Office
20	Forced cancellation of the annual Transgender and Bissu Games in South Sulawesi	Soppeng, South Sulawesi	2016	Dance, Fashion	LGBT (LGBT people were not allowed to express Muslim identities)	<ul style="list-style-type: none"> • The right to create without censorship or intimidation • The right to freedom of association • The right to participate in cultural life 	Police
21	The banning of "Pulau Buru: Tanah Air Beta" screening	Indonesian Alliance of Journalists Office, Yogyakarta	2016	Film	Communism	<ul style="list-style-type: none"> • The right to have artistic work supported, distributed, and remunerated 	Police Mass Organization: Family of Retired Police and Military Officers Forum
22	The banning of "Belok Kiri Festival"	Taman Ismail Marzuki, Jakarta	2016	Visual Arts, Film	Communism	<ul style="list-style-type: none"> • The right to have artistic work supported, distributed, and remunerated • The right to create without censorship or intimidation 	Mass Organizations: Islamic Student Association, FPI Police
23	The banning of Tan Malaka's monologue "Saya Rusa Berbulu Merah"	French Cultural Center IFI, Bandung	2016	Theatre	Communism	<ul style="list-style-type: none"> • The right to create without censorship or intimidation 	Mass Organizations: FPI, Islamic Community Forum (FUI), Islamic Reformist Movement (Garis)

No.	Case	Location	Year	Arts Sector	Accusations	Rights Violated	Violators
24	The banning of "Pulau Buru: Tanah Air Beta" screening	Goethe Institut, Jakarta	2016	Film	Communism	<ul style="list-style-type: none"> The right to have artistic work supported, distributed, and remunerated 	Police Mass Organization
25	The attack on "Lady Fast"	Survive Garage, Yogyakarta	2016	Visual Arts	Feminism, LGBT, Communism	<ul style="list-style-type: none"> The right to create without censorship or intimidation The right to freedom of association The right to participate in cultural life 	Police Mass Organizations: FUI, Front of Islamic Jihad (FJI)
26	The shutdown of ASEAN Literary Festival 2016	Taman Ismail Marzuki, Jakarta	2016	Literature, Theatre	Feminism, LGBT, Communism	<ul style="list-style-type: none"> The right to have artistic work supported, distributed, and remunerated The right to create without censorship or intimidation 	Police Mass Organizations: FUI, FJI
27	The banning of "Jakarta Unfair" and "Jihad Selfie" screenings	Taman Ismail Marzuki, Jakarta	2016	Film	Land Reform, Depiction of Islam	<ul style="list-style-type: none"> The right to have artistic work supported, distributed, and remunerated 	Taman Ismail Marzuki's Technical Administrator
28	Forced confiscations of 9 artworks at "Idola Remaja Nyeni" exhibition	Independent Art Space and Management, Yogyakarta	2016	Visual Arts	LGBT	<ul style="list-style-type: none"> The right to create without censorship or intimidation The right to have artistic work supported, distributed, and remunerated 	Police Mass Organization
29	The raid during "Tragedi Mei 1998" film screening and music concert	Djoeang 45 Building, Solo	2016	Film, Music	Communism	<ul style="list-style-type: none"> The right to participate in cultural life The right to create without censorship or intimidation The right to have artistic work supported, distributed, and remunerated 	Police Mass Organization

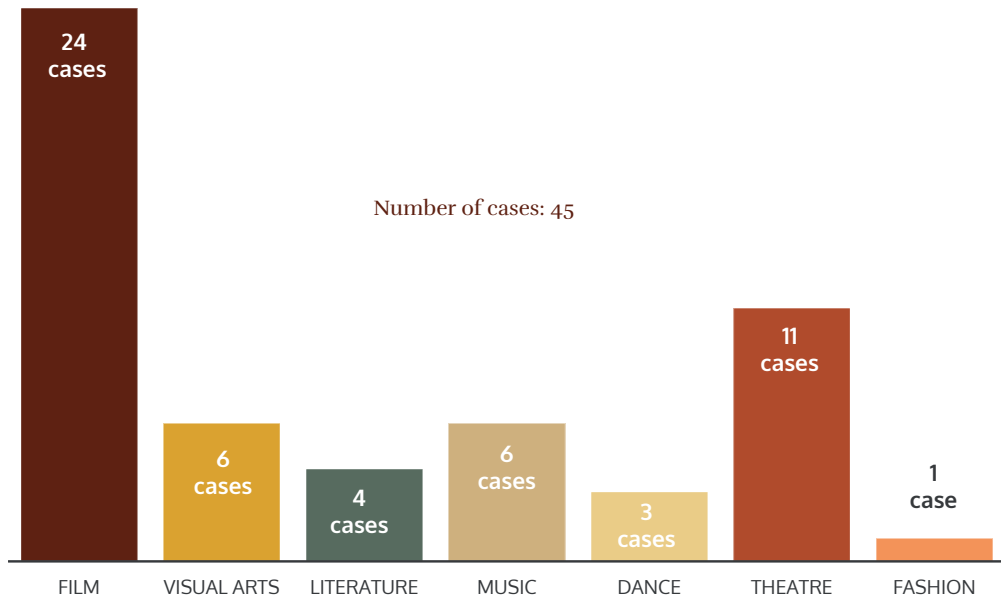
No.	Case	Location	Year	Arts Sector	Accusations	Rights Violated	Violators
30	The ban towards Widji Thukul-inspired art exhibition "Aku Masih Utuh dan Kata-kata Belum Binas"	Human Rights Center of State Islamic University, Yogyakarta	2017	Visual Arts, Literature	Communism	<ul style="list-style-type: none"> The right to have artistic work supported, distributed, and remunerated 	Mass Organization: The Pancasila Youth (PP) Police
31	The ban towards Widji Thukul-inspired art exhibition "Aku Masih Utuh dan Kata-kata Belum Binas"	Sarikat Islam Building, Semarang	2017	Visual Arts, Literature	Communism	<ul style="list-style-type: none"> The right to create without censorship or intimidation The right to have artistic work supported, distributed, and remunerated 	Mass Organization: PP
32	The raid of "Asik-Asik Aksi".	Indonesian Legal Aid Office, Jakarta	2017	Music, Literature	Communism	<ul style="list-style-type: none"> The right to create without censorship or intimidation 	Mass Organization: Family of retired Police and Military Officers Forum, Champions and Lawyers Revive (Bang Japar), Betawi
33	Protests against the Guan Yu (a deified Chinese historical figure) in Kwan Sing Bio Temple	Tuban, East Java	2017	Visual Arts	Religion (Islam vs. Confucious, Islamic Iconoclasm)	<ul style="list-style-type: none"> The right to participate in cultural life The right to create without censorship or intimidation 	Mass Organization
34	Protests against Gandrung Sewu Festival	Boom Beach, Banyuwangi (managed by State-owned enterprise Pelindo 3)	2018	Dance	Religion (Javanese rituals vs. Islam)	<ul style="list-style-type: none"> Hak untuk ikut serta dalam kehidupan kebudayaan Hak untuk berkarya tanpa sensor atau intimidasi 	Mass Organization: FPI
35	The banning of "Tanah Istimewa" art exhibition	Galeri Lorong, Yogyakarta	2018	Visual Arts, Film	Land Reform	<ul style="list-style-type: none"> The right to participate in cultural life The right to freedom of association The right to have artistic work supported, distributed, and remunerated The right to create without censorship or intimidation 	Police Hamlet Head

No.	Case	Location	Year	Arts Sector	Accusations	Rights Violated	Violators
36	The banning of Slank's concert	Aceh	2018	Music	Religion (contravening the Sharia law)	<ul style="list-style-type: none"> • The right to participate in cultural life • The right to create without censorship or intimidation 	Regent Islamic Parson FPI
37	The banning of "Maha Guru Tan Malaka" screening	Padang	2018	Film	Communism	<ul style="list-style-type: none"> • The right to have artistic work supported, distributed, and remunerated 	Police Military Residents
38	Protests against the screening of "212 The Power of Love" in cinema	Palangkaraya	2018	Film	Religion (Conservative Islam vs. Indigenous Dayak)	<ul style="list-style-type: none"> • The right to have artistic work supported, distributed, and remunerated 	Mass Organization: Central Borneo Dayak Youth Forum
39	The forced disbandment of "Suara USU" student press	University of North Sumatra, Medan	2019	Literature	LGBT	<ul style="list-style-type: none"> • The right to participate in cultural life • The right to freedom of association • The right to create without censorship or intimidation 	University of North Sumatra Rectorate
40	The ban to screen "Kucumbu Tubuh Indahku" in cinemas	Depok, West Java	2019	Film	LGBT	<ul style="list-style-type: none"> • The right to participate in cultural life • The right to have artistic work supported, distributed, and remunerated • The right to create without censorship or intimidation 	Mayor of Depok City
41	The ban to screen "Kucumbu Tubuh Indahku" in cinemas	Kubu Raya, Kalimantan Barat	2019	Film	LGBT	<ul style="list-style-type: none"> • The right to participate in cultural life • The right to have artistic work supported, distributed, and remunerated • The right to create without censorship or intimidation 	Kubu Raya Regent

No.	Case	Location	Year	Arts Sector	Accusations	Rights Violated	Violators
42	The ban to screen "Kucumbu Tubuh Indahku" in cinemas	Palembang, Sumatera Selatan	2019	Film	LGBT	<ul style="list-style-type: none"> • The right to participate in cultural life • The right to have artistic work supported, distributed, and remunerated • The right to create without censorship or intimidation 	Regional government
43	The banning of "Kucumbu Tubuh Indahku" screening and discussion at Kota Lama Semarang Festival	Semarang, Central Java	2019	Film	LGBT	<ul style="list-style-type: none"> • The right to participate in cultural life • The right to have artistic work supported, distributed, and remunerated • The right to create without censorship or intimidation 	Mass Organization: FPI
44	Ban on "Kucumbu Tubuh Indahku" film screening	Garut, West Java	2019	Film	LGBT	<ul style="list-style-type: none"> • The right to participate in cultural life • The right to have artistic work supported, distributed, and remunerated • The right to create without censorship or intimidation 	Garut Regent
45	The raid on Base Jam concert	Taman Ratu Safiatuddin, Aceh	2019	Music	Religion (contravening the Sharia law)	<ul style="list-style-type: none"> • The right to participate in cultural life • The right to create without censorship or intimidation 	General mass Mass Organization Regional Culture and Tourism Agency

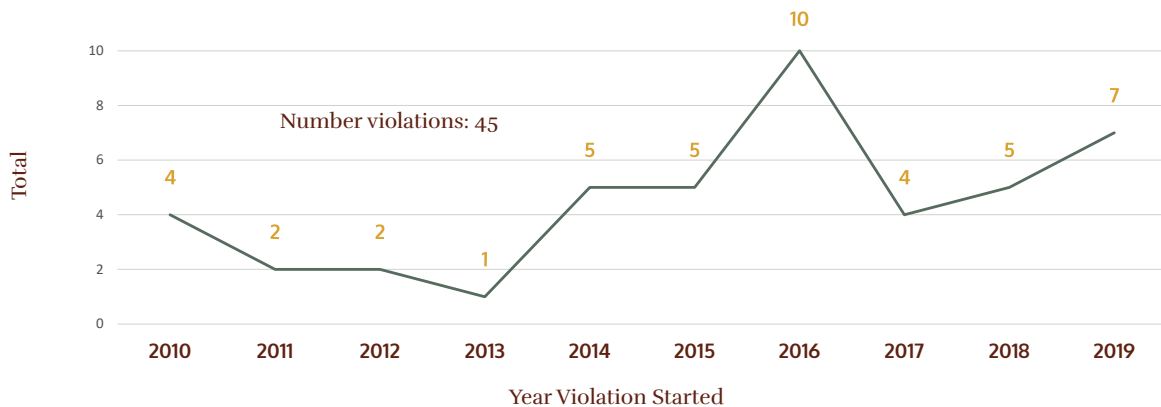
These cases do not represent all incidents in Indonesia where artistic freedom is being transgressed, so consequently they do not tell us which art forms are most vulnerable to transgression or what types of violations of artistic freedom happened most frequently in the last decade. But they do point to some general patterns: what type of artistic freedom is being violated, who violated them, and what reasons are being used by the violators to justify their actions. These three categories will be used for further analyses to give an overall picture of artistic freedom in Indonesia.

Number of Cases Based on Art Sectors



It should be noted that the list of artistic disciplines that have experienced violations of artistic freedom have been tabulated with a “multi-tagging” system, i.e. during one event more than one art form might experience transgressions of artistic freedom. For example, at the Ubud Writers Festival in 2015 there were violations of artistic freedom during a film screening, a literary discussion, and an art installation exhibition.

Violation Trend



Analysis Based on Rights Violations

Using the definition and scope of artistic freedom from UNESCO's 2005 Conventions on the Protection and Promotion of the Diversity of Cultural Expressions, we found a total of 84 violations of artistic freedom in 45 separate cases. The list uses a multi-tagging system, i.e. each case can contain more than one violation.



There were more violations to the right to create without censorship or intimidation than to the other types of artistic freedom – a total 64.4 percent of the cases, or 29 out of 45 cases. We found most of the cases involved works of performance art (play, dance, music) and fine art. Works of art in these two disciplines are difficult to reproduce or distribute, so banning a show or a work has many direct effects on the artist. In performance art, every play, every dance show, every concert must be regarded as a separate piece of work. The same thing goes in fine art: when a work is destroyed – e.g., the burning of statues in Purwakarta in 2011-2016 – the artist loses a unique and irreplaceable work each time.

The second-highest number of violations happened to the right to have artistic work supported, distributed, and remunerated – a total of 62.2 percent of the cases, or 28 out of 45 cases. Most of the violations occurred within the film industry. In 22 out of 28 cases, the violations involved intimidation, a film ban, or cancellations of film screenings in cinemas or other art spaces. One case involved a structural problem that prevents access to the art form itself: the ban on cinemas in Aceh, issued in 2004 in adherence to the province's Sharia law (Wowkeren 2020).

There was one case of a violation to the right to freedom of movement in the last decade: pressures being applied by a mass organization, the Islamic Defenders Front (FPI), to cancel a Lady Gaga concert at the Gelora Bung Karno stadium in Jakarta in 2011 (BBC Indonesia 2012). It

must be noted though that online media monitoring used in this research tends to net only cases that were reported widely in the media.

We also found that violations to the right to freedom of association are often inextricably linked to violations to the right to participate in cultural life, or the right to participate in art activities in one's community. All six violations to the right to freedom of association we found also involved violations to the right to participate in cultural life.

The common factor in both types of violation was that they happened to minority groups: in four of the six cases, the victims were sexual minority groups or organizations who voiced the grievances of these sexual minority groups. The cases involved intimidation against the Q! Film Festival that led to its disbandment (Child 2010; DetikNews 2010a; QFilmFestival 2017), the cancellation of a sporting and art event for the Bissu transgender people of South Sulawesi (YLBHI 2017), the cancellation of the Lady Fast event by the police (BBC Indonesia 2016), and the suppression of a student newspaper, Suara USU from the University of North Sumatra, that published a lesbian short story on their website (Widhana 2019). There were also the disbandment of a punk collective in Aceh (BBC Indonesia 2011) for allegedly contravening the Sharia law and the cancellation of a grassroots art exhibition called "Special Land" that was held in solidarity with communities who were evicted from their land during the development of a new international airport in Kulonprogo, Yogyakarta (Maharani 2018).

However, we did not find any violation of the right to the protection of social and economic rights. Artists are afforded the same social rights as other citizens through the social insurance service BPJS. Meanwhile, the protection of artists' moral and economic rights, especially over the copyrights attached to their works, is not commonly perceived as part of human rights.

State Role in Upholding Right to Artistic Freedom

32

Artistic
Freedom
in Indonesia
2010-2020

Based on the cases we have compiled, we were able to identify the perpetrators of violations against artistic freedom. They include: local governments, military authorities, the police, religious and militant community organizations, rectorates of higher education institutions, and playhouse managers.

State Failures to Uphold the Obligation to Respect

States often cite “maintaining public order” as an excuse to commit direct violations. A 2018 report by the National Commission for Human Rights (Komisi Nasional Hak Asasi Manusia or Komnas HAM) mentioned that efforts to protect and uphold human rights are often stymied by public order regulations (2019). More specifically, the pretext of public order is often used to repress artistic freedom, as seen in many cases of violations against artistic freedom that we have compiled.

Some examples of the state failures to uphold its obligation to respect artistic freedom can be found in the following cases:

i. Violations by Municipal/Local Governments

Restrictions imposed by local governments demonstrate that violations of artistic freedom can happen through legitimate means. The special autonomy status enjoyed by the Aceh government has enabled legitimized forms of violations against artistic freedom, as in the case of the prohibition of female dancers above the age of 18 (Ma 2013) and the provincial government’s move to ban public cinema (Wowkeren 2020). Even in regions without special autonomy status, executive orders from local authorities can come in the form of Official Instructions, such as when the Depok municipal government banned the screening of the controversial film *Kucumbu Tubuh Indahku* (Memories of My Body) (Saputri 2019) or when the Bekasi district government ordered the demolition of the *Tiga Mojang* (Three Virgins) statue (ANTARA News 2010).

Prohibitions of artistic expressions tend to be decided unilaterally, giving little to no room for negotiation with organizers or dissenting members of the public. This is evident in the case of the cinema ban in Aceh. A case study by Usman (2020) revealed that some local residents actually agreed to reopen the cinemas. Furthermore, these prohibitions are usually enacted without any prior substantial review of the artworks or events in question. When local authorities in Depok banned the screening of *Kucumbu Tubuh Indahku*, the decision appeared to have been made arbitrarily without weighing the traditional

Indonesian elements that were highlighted in the film. Instead, authorities focused solely on the LGBT aspect of the story, which they inevitably used to justify the ban.

In addition, the cases we recorded also indicated the government's hostility towards criticisms coming from minority groups and, on the other hand, its lenient attitude towards mass organizations. During the banning of Tanah Istimewa (Special Land), an exhibition held in solidarity with victims of forced land eviction in Yogyakarta, the head of the local township accepted police recommendation to cancel the event as "[it] does not support government programs and causes public unrest." The executive order was delivered over the phone (Maharani 2018). At the 17 August 1945 University in Banyuwangi, the local government and police came to campus premises to stop the screening and discussion of Prahara Tanah Bongkoran (Tragedy of Eviction) on the grounds that the film could potentially cause conflicts on the eve of a local election (Arifianto 2015).

The government's more lenient stance towards mass organizations is apparent in the forced closure of Q! Film Festival. Jero Wacik, who was Minister of Tourism and Culture at the time, recommended that the festival be shut down following constant threats and attacks against festival organizers by mass organizations (DetikNews 2010b). Local authorities had to shut down a Base Jam concert in Aceh after repeated urges from mass organizations to ban the event, even as the concert was taking place (Razali 2019). The provincial government of Jakarta through its Office of Culture and Tourism issued an instruction to ban a script reading of 50 Tahun Memori 1965 (1965: 50 Years of Memories) at the demands of mass organizations and at the request of the Regional Police (DKJ 2015).

In the case of the concert ban in Aceh, the government did not present a united front. However, it is specifically the government's absence in protecting artists and organizers that has caused the greatest harm.

2. Violations by Military/Police

The shutdown of art events by law enforcement authorities are often done under the pretext of "public safety." Time and time again, authorities resort to intimidation, repression, and even physical violence, as seen in the arrest of members of a punk community in Aceh. Sixty four people were captured and "rehabilitated" at the State Police School after they attended a punk concert (Ramadhan 2011). Upon arrest, they were "re-educated" using violent tactics such as forcing them to stand under the sun, shaving their heads, and confiscating their earrings and other "punk" accessories (Wallach 2014, pp. 154-5). This went on for thirteen days. In one instance during the attack on the

Lady Fast festival in Yogyakarta, a sound of gunshot was heard (BBC Indonesia 2016).

Authorities also used intimidation tactics to stop the screening and discussion of *Prahara Tanah Bongkoran* in Banyuwangi and the screening of *Pulau Buru: Tanah Air Beta* (Buru: My Island Home) in Yogyakarta, where in both instances they came to campus premises to confront the organizers. In the latter, as many as 20 police officers came to exert pressure on the students who organized the screening (Arifianto 2015).

In some instances, the police/military claimed to have acted based on “citizen complaints”, such as in the shutdown of *Idola Remaja Nyeni* (Teen Idols Do Art) painting exhibition, where authorities also confiscated the artworks (Rimba 2016). However, most of the pressure would usually come from political or religious mass organizations. Authorities shut down the sports and arts event *Porseni Waria-Bissu* in Soppeng after a complaint was lodged by the local Muslim Society Forum (Fitriani 2017).

It is also not uncommon for authorities to be involved directly in intimidating organizers together with mass organizations. During the shutdown of the ASEAN Literary Festival, police pressured organizers to cancel the event after Islamic mass organizations condemned the festival’s decision to highlight the 1965 mass-killings of Indonesian communists and LGBT topics (Rappler 2016). These actions indicate the tendency of police and military authorities to immediately take the side of certain groups without giving the others an opportunity to defend their case.

Physical violence has also occurred as a result of escalating tensions, usually when an art event is forcibly shut down by mass organizations at the presence and support of the police, as was the case in the attack at Lady Fast. Witnesses heard gunshots being fired, and members of mass organizations threatened to physically attack participants (BBC Indonesia 2016).

In almost all of the cases we have recorded, the events were ultimately canceled. Among the exceptions to the rule was the screening of *Senyap* (The Look of Silence) in Malang, where organizers managed to negotiate with the authorities. The event continued but with military supervision (Widianto 2014). The script reading of *50 Tahun Memori 1965* in Jakarta was moved to a later date after the police initially banned the event (DKJ 2015). A screening and discussion of *Maha Guru Tan Malaka* (Tan Malaka My Guru) in LBH Padang proceeded smoothly despite police coming to the LBH office demanding to see event permits — an unnecessary move given that the event took place within the LBH office and not in a public space (Candra 2018).

Prohibition is not always the first tactic employed by authorities. At the *Porseni Waria-Bissu* event in Soppeng, the police initially tried to complicate the permit

application process (Fitriani 2017). In some cases, the police would later reverse their decision to approve the organizer's permit application. This is usually done following pressure from mass organizations, as in the case of the banning of Lady Gaga's concert in Jakarta (BBC Indonesia 2012).

Law enforcement agencies have the authority to issue permits for publicly held activities, including art events. This is stipulated in Government Regulation 60/2017 on the Procedures for the Licensing and Supervision of Public Crowds, Other Public Activities, and Notification of Political Activities. Article 3 of the regulation states that "public crowd activities" include all activities involving crowds, public spectacles, and convoys on public roads; whereas Article 5 states that "Every organizer of public activity and other community events that may threaten public safety must own a Permit."

With these rules in place, even film screening events must first obtain a permit from the police — although it is unclear how a film screening could endanger public safety. In practice, obtaining a police permit is required not just for film screenings, but also dance shows, as in the case of Tari Maknawi Kidung Maria (The Meaning of Mary's Song) performance which the police ultimately banned (Maharani 2015).

The police are authorized to demand for a permit only where public safety is concerned; by definition, organizers have no obligation to apply for a permit if they have no reason to believe that their event could endanger public safety. Problems could also arise when organizers are required to request a permit at the latest 14 days before the event, while police may only grant the request or demand a permit on the day of the event. This happened in the case of the Tanah Istimewa exhibition: the police waited until the afternoon of the first day of the event to demand a permit (Maharani 2018). These cases illustrate how the pretext of "public safety" grants excessive authority to the police to decide which art events can be given permission, which ones are to be refused, and which ones should be forcibly cancelled.

Ironically, it has been proven time and again that the police were unable to protect organizers from attacks by mass organizations, such as during the Tragedi Mei 1998 (May 1998 Tragedy) screening and music concert in Solo, where mass organizations came to the venue to incite trouble. During the screening of Pulau Buru Tanah Air Beta at the office of the Indonesian Alliance of Journalists in Yogyakarta, members of the mass organizations came to the venue demanding that the event be stopped. The police, who were supposed to keep watch and maintain security, instead demanded for a permit and supported the intruders' request to cancel the event, even after organizers had filed their public event notice (Permana 2016).

State Failures to Uphold the Obligation to Protect

In most cases, the state's failures take the form of not actively protecting its citizens from human rights violations committed by a third party — in other words, a demonstration of wilful ignorance. In the cases we found, these third parties can be mass organizations, university rectorates/deanships, and playhouse managers.

I. Violations by Mass Organizations

Based on the cases we have recorded, mass organizations are perhaps the most frequent perpetrators of violations against artistic freedom. In our analysis, we found that the organizations who committed these violations are mostly militant and religious-based groups, and in some cases, organizations who refer to themselves as families of retired police and military officers. There is one instance in which the violation was committed by an artists' organization, and one case where an indigenous organization shut down a screening of an Islamic-themed film (Benke 2018).

When mass organizations carry out intimidation, forceful shutdowns, or attacks against artists and art events, the state is rarely there to protect the victims. Their absence is evident in many cases, such as during Andreas Iswinarto's exhibition about the disappeared poet Widji Thukul, when mass organization Pemuda Pancasila came to forcibly shut down the event. The police were initially present at the venue to make inquiries about the exhibition, but were conveniently absent when Pemuda Pancasila came to intimidate organizers (Yuwono 2017). Even when the police were present, they did nothing to protect the organizers or artists. During the screening of *Senyap* at the Sunan Kalijaga State Islamic University, the police tried to prevent mass organizations from invading the premises by closing the gate. However, they managed to get inside and pressured university officials to cancel the screening.

The state's failure to uphold its obligation to protect artistic freedom, as evident in the tendency of police and state authorities to support and cave in to the demands of mass organizations, has strengthened and legitimized the hostility of mass organizations against art events. Mass organizations seem to be granted unfettered access to commit threats and intimidations.

As a result, militant mass organizations can simply disrupt art events using verbal and physical violence. During the Andreas Iswinarto exhibition, mass organizations came and forcefully took down the artworks on display. In the process, they also committed physical violence and shoved Andreas around. The group's leader at the time intimidated the organizers by shoving his finger onto one of them and yelled, "For as long as I hear Widji Thukul's name, mark my words: I will crush all of you" (Yuwono 2017). At *Lady Fast*, mass organizations

threw insults and made violent threats at the women participants (BBC Indonesia 2016). Similar acts were carried out during the attack against Asik-Asik Aksi (Fun-Fun Action) at the LBH Office although in this instance the police sided with the organizers (Hadi 2017; Tirto.id 2017).

Mass organizations are given the freedom to take down public artworks as they see fit, such as in the case of the destruction of the Kwan Sing Tee Koen temple statue in Tuban. Once again, lack of necessary permits became grounds for the statue's demolition by local authorities (Mahayu 2017). A similar case happened in Purwakarta, where mass organizations single-handedly took down a wayang golek statue (Berita Satu 2011).

Pressures and threats by mass organizations, coupled by the absence of police/military authorities in enforcing protection, have forced artists and organizers to cave in and ultimately cancel their arts events.

2. Violations by rectorates of higher education institutions

In our research, we identified four cases where the perpetrators of violations against artistic freedom were university rectorates and/or deanships. During the screening of *Senyap* at UIN Sunan Kalijaga, it was evident that the university acted out of pressure from mass organizations to cancel the event. This case demonstrates the ripple effect caused by the state's wilful ignorance against abuses by mass organizations, which in turn causes fear on the part of the university.

On the other hand, university management often shows reluctance to approve art events deemed to show a critical stance towards the government. The dean's office of Brawijaya University in Malang banned the screening of *Samin vs. Semen* (Samin vs. Cement Companies) and *Alkinemokiye* during Labor Day on the grounds that the films were "provocative" (Widiyanto 2015).

The rectorate of the University of North Sumatra (Universitas Sumatra Utara or USU) banned its student newspaper *Suara USU* after a short story titled "When They Denied My Presence Next to Her" was published on the media's online edition (Sinaga 2019). The piece, which was a tragic story about a lesbian woman, was condemned by the university's rectorate and other student organizations for "promoting LGBTs." The rectorate issued a decree to expel the 18 students who were members of *Suara USU*, and the publication's website was subsequently revoked by the hosting provider.

LGBT activist and linguistics professor Dede Oetomo spoke out in response to the USU case and argued that the word “promotion” was often prejudicially used to label artworks that raised themes of nonbinary sexuality. According to Oetomo, sexual orientation is not something that can be “promoted” and let alone changed through persuasion (Oetomo 2019).

However, circumstances surrounding the banning of Suara USU and its short story publication show a more complex issue beyond academic homophobia. There is a longstanding culture of alumni patronage on student presses (Widhana 2019). It was pressure by the student alumni that pushed the rectorate’s office to take down the short story and ban the whole publication. Suara USU’s website was also banned and all members of the student newspaper were ultimately expelled.

These cases demonstrate the state’s refusal to intervene in obstructions against artistic freedom, which created an undemocratic environment within the university. This reinforces unequal power relations among students, university management, and alumni. The Directorate General of Higher Education also failed to uphold its responsibility to protect the student’s right to artistic freedom.

3. Violations by playhouse managers

Based on our research, we found that the technical administrator (Unit Pelaksana Teknis or UPT) of public playhouse Taman Ismail Marzuki had violated artistic freedom when it banned the screening of *Jihad Selfie* and *Jakarta Unfair* on the grounds of public safety (Juniman 2016). This shows the state’s willful ignorance towards violations of artistic freedom, as public safety concerns should be the domain of the state through its police apparatus. The UPT also evoked its status as a non-independent unit under the auspices of the Provincial Government of Jakarta, an attempt to justify their reluctance to show artworks that feature criticisms against the government.

State Failures to Uphold the Obligation to Fulfill Artistic Freedom

The state’s failures to uphold the obligation to fulfill artistic freedom are not immediately apparent from the cases of violations that we have compiled. As such, we looked into general indicators such as the availability of infrastructure for the arts, and the fulfillment of social protection for art workers.

There are still very few state-funded higher education institutions for the arts. Indonesian Art Institutes are only established in Padang Panjang, Yogyakarta, Surakarta, and Denpasar. Meanwhile, the Indonesian Cultural and Arts Institutes are only present in Aceh, Bandung, and Papua. Public arts facilities and buildings that are somewhat decent and operational can only be found in certain cities in

Java and Sumatra, such as the Jakarta Arts House (Gedung Kesenian Jakarta or GKJ); Auditorium of Performing Arts at the Indonesian Art Institutes (Institut Seni Indonesia or ISI) in Yogyakarta; Auditorium of Music Performance under the management of the Vocational High School of Music in Medan; and the Performance House at ISI Padang Panjang.

The Social Security Administrative Body (Badan Penyelenggara Jaminan Sosial or BPJS) is the state agency responsible for fulfilling social security obligations, which include healthcare protection and occupational hazards insurance, pensions, retirement, and life insurance. The system is not guaranteed as a given, but is based on paid monthly fees. Citizens can enter the scheme although there is no scheme designed specifically for art workers.

It can therefore be concluded that despite efforts that may lead to ensuring obligations to fulfill artistic freedom, the state is far from accomplishing them.

The State's Active Role in Upholding Obligation to Protect

We found very few cases where the state was present and successful in carrying out its obligation to protect artistic freedom by ensuring that art activities continue to run safely.

Swift government intervention has proven important, as seen in the case of the Tan Malaka monologue theater performance . When the show was rejected by mass organizations, Bandung Mayor Ridwan Kamil personally guaranteed the safety of participants and organizers by instructing the police to secure the premises (Siswadi 2016).

In addition, economic reasons can become an effective argument for protecting art shows. When mass organization Islamic Defenders Front (Front Pembela Islam or FPI) rejected the Gandrung Sewu Festival, Banyuwangi District Head Azwar Anas maintained that the event would revive the local economy as a culinary tourist attraction (Flo 2018). FPI subsequently backtracked and responded that their rejection to the show was merely a recommendation and with that, the annual local festival took place undisturbed (Fanani 2018).

In one instance, the police demonstrated a serious effort to enforce protection during an art event, although tensions ultimately escalated into physical violence. During the Asik-Asik Aksi event organized by the LBH office, mass organizations surrounded the premises. After a difficult mediation process, the police managed to push back agitators. However, the police quickly became a target themselves, and a violent clash erupted, forcing them to throw tear gas, blast water cannon, and deploy barracuda units. The clash resulted in several injuries (Tirto.id 2017).

Censorship in Indonesia

The strict criteria to pass the requirements for censorship may have forced filmmakers to use self-censorship as a strategy. Perhaps one case resembling self-censorship that we found was in the production of the film *Something in the Way*. The production house decided against screening the film in Indonesia to avoid censorship by the Indonesian Censorship Board (Lembaga Sensor Film or LSF) (Fathurrozak 2018; MuvilaExclusive 2015). Instead, the film was submitted to various film festivals overseas — a strategy commonly employed by Indonesian filmmakers. In addition to festivals, films are also screened at small domestic cinemas with their own classification policy (Pasaribu 2010). At any rate, it is difficult to track the practice of self-censorship, especially given the scope of this literature review.

There are times when the censorship board's decision to deny a screening was based on controversial reasons. *Noah* did not pass censorship as the film depicted the story of Prophet Noah based on Biblical descriptions (Probo 2014), which would run counter to the Islamic version — the majority religion in Indonesia.

The growth of digital film platforms has increased public attention on the supervisory role of the Indonesian Broadcasting Commission (Komisi Penyiaran Indonesia or KPI). The Commission has said that it would also supervise digital channels, although it later retracted the statement (CNN Indonesia 2019).

Accusations

Between 2010 and 2020, Indonesia has had two presidents who both made promises to improve human rights in the country. But in reality, none of them has made much effort to make good on those promises: even now, artistic freedom in Indonesia is still constantly under threat.

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Findings
and
Analysis

According to the data we have collected, in 17 of the 45 cases where artistic freedom was being violated, art events or activities were canceled for allegedly promoting Communism. Two other accusations that were frequently thrown at art events and used as excuses to ban them were charges of promoting the interest of religious expression (in 16 cases) and of the lesbian, gay, bisexual, and transexual (LGBT) community (in 11 cases). There were other accusations, including charges of inciting agrarian and political conflicts, but the number of incidents were few. It must be noted, however, that we collected our data using a multi-tagging system, which meant each violation can involve several different accusations. An example of an art event that received several different accusations before being banned was the Lady Fast event in Yogyakarta in 2016. The event was accused of promoting Feminism, Communism, and LGBT interests.

The discussion below will be focused on three main accusations often leveled at art events: promoting Communism, promoting religious expression, and promoting LGBT values.

Historical Amnesia

Since independence, Indonesia has gone through a series of phases in the formation of its national identity, a process that has marginalised many expressions of identity that have existed long before colonial times.

Heryanto (2014) described the erasure of the Indonesian collective memory as “historical amnesia” – a rupture in the nation’s collective memories of important historical events. The New Order regime systemically erased these collective memories by manufacturing traumas about the past through a series of cultural interventions. A strong example is how the regime systematically and continuously developed a narrative of Communism – and of the Indonesian Communist Party – as the “bad guy” of Indonesian modern history through the propaganda film *The Betrayal of G30S/PKI*, which was broadcast on national television on the evening of 30 September every year. The formation, through a manufactured narrative, of Indonesia’s national identity using a film, an art product, proves that art can become an effective instrument to deliver political propaganda. Art produced by artists is no longer just a piece of entertainment, but also contributes to the development of discourses in society (Koalisi Seni 2017).

The political elites of the New Order regime exploited that rupture in our collective memory to form a national identity that's vehemently anti-communist and stridently heteronormative. The regime met its demise two decades ago, but even now there's still no safe space for Indonesians to discuss and deconstruct "taboo" issues – communism, the 1965-66 mass killings, heteronormativity – without fear of persecution or retribution. The historical amnesia handed down by the New Order regime is alive and well.

The concept of historical amnesia explains how Communism, religion, the LGBT community, and other "sensitive" issues have been used as excuses to justify violations of human rights, including the restriction of artistic freedom. Historical amnesia has become an effective tool for the state to form a narrow-minded view of our national identity. Identity politics is used to associate Communism with amorality and irreligiosity, the antithesis of a moral and pious nationalism. The state has been using the same narrative to control its subjects and preserve the oligarchy.

Restrictions of Artistic Freedom as a Form of Cultural Violence

The exploitation and curtailment of collective memory is a form of state violence directed against its own citizens. Galtung, in an article titled "Cultural Violence", mentioned three major categories of state violence: direct violence, structural violence, and cultural violence (Herlambang 2015). The three, according to Galtung, are inseparable and in practice are inextricably linked.

Direct violence is armed violence committed by the state which led to loss of human lives. Structural violence, or indirect violence, is repressive or exploitative actions committed by a section of society against another group. It leads to social and political injustice affecting vulnerable groups in society.

Direct and indirect violence are sustained and legitimised through cultural practices. Cultural products meant for the consumption of the general public help justify these types of violence by slowly changing society's moral values and ideologies and in the end shaping the common perception that sees violence as something normal and natural. For this reason, Galtung argued there was another, third type of violence – cultural violence – which assimilated direct and indirect violence.

Galtung's thesis on the different types of state violence goes some way to explain sectarian conflicts in Indonesia fought over religion, politics, and art. Culture as a system of ideas, action, and human creativity has become a "battlefield" on which the beliefs of groups who wield power in society are legitimised. The current condition in Indonesia is made worse by the fact the old oligarchy has held on

to its power, even installing known war criminals in strategic positions in the government. This is the main reason why Indonesia is still unable to guarantee artistic freedom for all its citizens – the legacy of a past regime that has found ways to survive.

In the following sections, we will explain how communism, religious expression, and the LGBT community often attract censure from intolerant groups. Why are they always blamed whenever artistic freedom is being violated? Why do intolerant groups often use them as an excuse to cancel art events?

Communism

An attempted coup d'état against President Soekarno on 30 September 1965, subsequently blamed on the Indonesian Communist Party, became one of the most important episodes in modern Indonesian history, ushering in General Soeharto as the leader of the New Order regime that ruled the country for the next 30 years and in one fell swoop obliterating the Indonesian Communist Party and Communism as an ideology. Soeharto's rise to power marked the start of the state's use of identity politics to stigmatise Communism and use it as a scapegoat for national problems.

Since the New Order gained power, the MPRS Decree No. 25/1966 has been used to legitimise and normalise all forms of state violence by arguing that they had to be deployed to stop the spread of Communism, Marxism, and Leninism. To achieve this result, the government used all channels available to them, including the art world, a process Herlambang (2015) called out as cultural violence – a form of violence that normalises the repression of all forms of artistic expressions that touch on at least one of the above -isms.

Nevertheless, violations of human rights also produce resistance and attempts at defending them. The pressures of everyday living prompt the creation of art that side with the marginalised and vulnerable, allowing art to become less esoteric and find a wider public, not just the privileged few. Take as an example the phenomenon of political and politicized art under the New Order regime. Even when it is repressed, subversive artworks are still being produced. As Sugiharto said, art will continue to watch over the society it thrives in (Bahurekso 2016). Every time freedom is threatened, art will exercise its role as a "yellow traffic light", cautioning those whose actions might endanger that very freedom.

Since Reformasi in 1998, the government still has not been able to guarantee Indonesians the freedom to develop new discourses around Communism to paper over the cracks in our collective memory. It still tries to repress all expressions of interest in the subject of Communism. This is despite the government issuing another People's Consultative Assembly decree, No. 1/2003, which re-evaluated the earlier anti-communist MPRS decree No. 25/1966. Article 2 point 2 of the 2003 decree states that attempts at enforcing the earlier decree must be "done according to a sense of justice and by respecting the principles of democracy and human rights". But, according to the data collected by this study on the repression of artistic freedom in the last ten years, this decree has never been implemented properly.

One case that involved accusations of promoting Communism was a canceled screening of the documentary film "Buru: My Island Home" at the office of the Alliance of Independent Journalists in Yogyakarta during a celebration of World Press Freedom Day in 2016 (Permana 2016). The cancellation was prompted by a request from members of the Communication Forum for Children of Veterans, Soldiers of the Indonesian Military, and Police Officers.

Religious Issues

Around 88 percent of Indonesia's 240 million population are Muslims, which means the country is the biggest Muslim-majority country in the world. But under the New Order, Muslims were not allowed to express their Islamic political views except privately, and only one Islamic political party was allowed to contest elections and function as a receptacle for the aspirations and ideologies of different Muslim groups. The political pressures applied on Islam for more than three decades suddenly disappeared after Reformasi, an era of openness when previously silenced groups finally had a chance to show their strength. One of those groups was hardline Islamist group, who used the opportunity to instigate a kind of "Islamic Spring", which has become an important variable in Indonesia's rocky journey towards democracy.

The brand of Islam that resurfaced after Reformasi is often called "populist Islam" (Hadiz & Ong 2020). It's a heterogeneous group that counts as its members both the urban middle-class and the non-urban poor. They are united by the same goal to access the power of the state and resources that can give them advantages over other groups. They are nationalists but are never anti-capitalistic or anti-democratic in the pursuit of their agendas.

The new political constellation after Reformasi opened up a number of new political spaces and allowed populist Islam to develop their political power.

As mentioned above, the New Order had repressed political Islam and exiled it from power politics to neuter its influence. As a result, the regime faced no opposition from what could potentially be its greatest enemy. The Reformasi era allowed previously silenced groups to express their political opinion, which led to a resurgence of a populist and political Islam. One of the ways populist-political Islam gained support from the public was by exploiting and politicizing the issue of sex as something that threatened the identity of the nation and its ideology. The group started to spread the idea that non-heteronormative sexual acts were at the roots of the country's problems (Wijaya 2020). As part of a conscious strategy, populist-political Islamic groups entered government to push for laws and regulations that could legitimise their ideologies. Consequently, the New Order's heteronormative national ideology found its protectors in groups that it used to repress. This was the reason why many violations of artistic freedom started with accusations thrown at religious minority groups and the LGBT community. The targeting of LGBT groups will be discussed further in the next chapter.

The revival of populist-political Islam after the fall of Soeharto was marked by three phenomena: 1. The emergence of a sustained effort to incorporate Islamic laws into the regulations of the state, 2. The emergence of new ways of praying that were often related to socio-cultural values (or the trend for "Islamic consumerism"), and 3. The revival of Islamic militants (Paramaditha 2018). These new trends often involved different actors with opposing ideologies even though all of them belonged to the populist-political Islam camp. All of them put forward the idea of Islam as a national identity in a post-authoritarian Indonesia. One of the most successful populist-political Islam groups, who consistently proposed the idea of Islam as a national identity, was the Prosperous Justice Party (Partai Keadilan Sejahtera or PKS), who managed to force the government's hand to implement Sharia laws in a number of provinces and to draft the Anti-Pornography bill. Then there was the Islamic Defenders Front, a mass organization that routinely protested and attacked groups that they thought of as "deviant", including Muslim Ahmadis and, yet again, the LGBT community. Attacks committed by this group were always justified over moral grounds.

The revival of these populist-political Islamic groups, whose goal is to create a national identity after their own image, is the main reason why artistic freedom continues to suffer in Indonesia. Reformasi offered a stage for previously repressed groups to have their moment in the sun (Paramaditha 2018). Sectarian conflicts became inevitable, as each group believed the cause they championed in this post-authoritarian democratic era was the only truth. Now, as religious groups gain an even stronger foothold and influence in the law, government institutions, and almost all aspects of everyday life, the Indonesian public starts

to experience a new phase of life where religion dominates. Often, religious values have long enough reach to affect the realm of art, which often leads to bans and event cancellations.

One of the examples of violations of artistic freedom triggered by the rising religious conservatism was the destruction of the “Three Virgins” statues in the Harapan Indah housing estate in Bekasi, West Java. The statues by famous artist Nyoman Nuarta were claimed to be an insult to Islam since it was an explicit symbol of the Holy Trinity erected in a public space. It also featured the figures of three young women in “sexy clothes” (DetikNews 2012). There was also the destruction of wayang golek statues in Purwakarta, West Java. Several Islamist groups claimed the statues were blasphemous and contradicted Islamic teachings. The destroyed statues include “Arjuna Shoots an Arrow” and “Gatotkaca” which featured wayang characters from the Mahabharata (Berita Satu 2011).

Lesbian, Gay, Bisexual, and Transgender (LGBT) Issues

The re-emergence of the LGBT community happened at around the same time as the revival of populist Islam in Indonesia – after Reformasi. The LGBT community was also a group whose existence was repressed for more than three decades and only started to find its place in society in the post-Reformasi era.

The fall of Soeharto in 1998 allowed the emergence of many “new” voices that were silenced in the previous three decades. One of them was the LGBT community. Paramaditha (2018) argued that the democratization process during Reformasi allowed new ideas and discourses on artistic freedom to rise to the surface. Kusno (2010) described the move to decentralization after the fall of the New Order as “looseness in the center”, one of the characteristics of the era. Many communities were able to create new spaces to express their opinion or identity. One of them was the LGBT community.

Even under the New Order, the voice of the LGBT community as a “counterpublic” was never absent. The term counterpublic refers to the results of discourses or groups of people who feel themselves marginalised, ignored, silenced, or unrepresented in the public space (Asen 2002). These individuals, ignored by the dominant public narrative, would build a new narrative to counter it. The appearances of Lambda Indonesia, a newsletter by and for the LGBT community, and the GAYa Nusantara collective – both started by LGBT activist Dede Oetomo in 1980 and in the 1990s respectively – formed a counterpublic against mainstream values promoted by the New Order regime which believed that homosexuality was deviant. The regime attempted to enforce conservative gender roles: man as the breadwinner of the family, woman as housewife, and

children all living together in a happy nuclear family (Katjasungkana & Wieringa 2003). This attempt to enforce heteronormative values through the formation of conservative gender roles had the intention of preserving social stability behind it. These conservative values have remained to this day.

The negative sentiment directed at the LGBT community in Indonesia is not new. Even 82 years ago, when Indonesia was still colonized by the Dutch, gay people were already being persecuted. If a gay colonial official was outed, they would be sanctioned or fired. The cases were often referred to as *Zedenschandaal* (immoral scandal) (Adiprasetyo 2016). Colonial morality saw gay people as deviant creatures who deserved no place in society. Unfortunately, the same morality was preserved after Indonesia gained independence from the Dutch. A repressive attitude towards the LGBT community was one of the legacies of the colonial government to modern Indonesia.

Even in the Reformasi era, open discussions of LGBT issues are often still disallowed. Research and Technology Minister Muhammad Nasir once announced that “LGBT groups should not be given space to exist in our society, especially since they’ve already infiltrated our universities by joining study groups and public discussions” (Wijanarko 2016). The statement came after the launch of a counseling service for LGBT groups organized by the University of Indonesia’s Support Group and Resource Center on Sexuality Studies (SGRC). The LGBT community is still seen as an enemy of society and their presence is often used as an excuse to repress artistic freedom.

Controversies over the presence of the LGBT community point to what Cohen (2011) calls a “moral panic” – a situation where a certain group or condition is perceived as a threat against a society’s mainstream values. The group or condition will be considered deviant only because its values differ to the ones the society has been following. The general public only too readily sees them as deviant and holds them responsible for causing a moral panic just because their values contradict those of mainstream society that barely makes any effort to understand them.

One of the cases of violations of artistic freedom which involved accusations against the LGBT community was the forced cancellation of the Bissu Games in South Sulawesi, a sporting and art competition event for transgender people and the genderless Bissu people. This case will be discussed in full details in the following chapter.

Case Studies

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Artistic
Freedom
in Indonesia
2010-2020

The following cases are analysed through three different prisms that have been explained before: which rights have been transgressed, which state obligations have been omitted, and which accusations have been thrown at victims. The five cases were chosen to represent:

- The complexity of the accusations
- Their effects on art communities
- The effects of state intervention

Attack on Lady Fast

Lady Fast was intended to be an art exhibition and a concert organized by the women's collective Kolektif Betina held at the Survive Garage community art space in Yogyakarta on 2 April 2016. The organizers were forced to cancel the event after the space was raided by the police who had in tow members of two religious mass organizations, the Islamic Ummah Forum and the Islamic Jihad Front, who claimed the event was being conducted without a permit and had caused a public disturbance (BBC Indonesia 2016). Kolektif Betina said the event was going to feature discussions on a series of problems often faced by women in Indonesia, for example sexual violence. But the mass organizations accused the organizers of intending to spread Communist ideology and promoting gay lifestyles. A group of men had kicked down the door to the art space and verbally abused women who came to the event. A shot was heard during the altercation. At least four organizers were detained by the police to be interrogated. They were only released the day after.

The forced cancellation of the Lady Fast event

transgressed three rights related to artistic freedom:

- The right to create without censorship or intimidation
The cancellation took away the rights of the artists to express themselves through a music concert and to showcase their visual works in an exhibition.
- The right to freedom of association
The women's collective and organizers of the event, Kolektif Betina, had the right to discuss serious problems concerning their identity as women taken away from them. Instead, they were accused of promoting a deviant lifestyle and forced to cancel their event.
- The right to participate in cultural life
The intimidation and violence directed at the women artists from Kolektif Betina showed that women in Indonesia still have no equal rights when it comes to participation in cultural life.

In this particular case, the state failed to meet its obligation to respect and obligation to protect. The police failed to protect the Lady Fast art event from threats of cancellation that came from mass organizations. In fact, they had come with the groups to raid the event and force it to close. The police also failed to protect women artists from physical and verbal violence committed by members of the mass organizations. This incident also showed that the state often fails to protect women – one of the most vulnerable groups in society. The state consistently fails to implement Article 13c of the Convention on the Elimination of All Forms of Discrimination Against Women that gives equal right to every woman to participate in all aspects of cultural life, including the arts.

The raid on the Lady Fast event showed that Communism and LGBT issues are two powerful weapons often wielded by conservative groups to break up and cancel an art event. Accusing the event of promoting Communism and gay lifestyles, even though it was actually held to discuss problems facing women in Indonesia, was enough to get it cancelled.

Disbandment of Q! Film Festival

Q! Film Festival was the biggest queer film festival in Asia before it went on an indefinite hiatus in 2017. Its first event was held in 2002 when the spirit of Reformasi was strong and people were hungry for free expression after the fall of the authoritarian New Order regime in 1998. The atmosphere of the time allowed artists and art activists to experiment and create alternative spaces with different models of funding.

At the peak of its popularity, the festival was not only attended by the LGBT community but also by the straight urban middle-class. The organizers of the festival played down the LGBT label and identified themselves as cinephiles (Paramaditha 2018). The festival spread from Jakarta to Bandung, Yogyakarta, Surabaya, Makassar, and Denpasar. The Q! Film Festival became a form of cultural activism that not only raised awareness about human rights and HIV/AIDS prevention but also gave the general public a rare chance to enjoy high-quality non-mainstream films.

In 2010, another mass organization, the Islamic Defenders Front (FPI), staged demonstrations at cultural centers in Jakarta where Q! Film Festival screenings were being held – Goethe Institute, Erasmus Huis, Center Culturel Francais, and Japan Foundation (The Jakarta Post 2010). According to The Jakarta Post (2010), the protesters also threw anti-gay slurs and threatened to burn down buildings. After the protests, FPI reported the festival to the Jakarta Metropolitan Police.

The attack by FPI has a major implication for the festival. Its major partners, including the foreign cultural centers where most of their screenings were held, backed off after the police said they could not guarantee security for the event (Paramaditha 2018, p. 88). Since 2010, Q! Film Festival changed its strategy by showing stronger identification with LGBT activism. Support came from KontraS (Commission for the Disappeared and Victims of Violence) and non-government organizations who focused on human rights and feminism. The festival went underground and after a long struggle the organizers decided in 2017 to put it on an indefinite hiatus (QFilmFestival 2017).

The pressures applied to Q! Film Festival, which led to its effective disbandment, transgressed three rights linked to artistic freedom:

- The right to have artistic work supported, distributed, and remunerated
The attempts to close down the festival did not lead to an outright ban, but did close access for the organizers to screening spaces which in turn led to a significant fall in the number of festival goers in the long run. As an alternative viewing space, most of the films screened at Q! Film Festival did not appear in commercial cinemas. When there was no longer space to screen these films, they (and the filmmakers) lost their right to be supported, distributed, and appreciated by the public.
- The right to freedom of association
The festival succeeded in creating a safe space for different communities and organizations – individuals, gays, lesbians, transgender people, feminists, human rights activists, students (who often volunteered at the festival), and festival goers – who joined together in a large, loose alliance under the “cinophilia” label. The attack on the festival limited their movement and prevented them from forming new associations, be it to fight for greater distribution of “alternative films” or for LGBT rights advocacy.
- The right to participate in cultural life
The disbandment of the festival shut down a rare safe space for LGBT groups to participate in Indonesian cultural life.

In this particular case, the state failed to meet its obligation to respect artistic freedom. The Minister of Culture and Tourism at the time, Jero Wacik, defended FPI. He banned the film screenings, arguing the films had not passed censorship.

He used language that reduced the intimidation and attack by the FPI into a mere protest. He said their protest was justified since the films contradicted religious teachings (DetikNews 2010b). It could be said that in this case the state did not just fail to intervene but actually supported the mass organization's acts of intimidation. The failure of the state to meet its obligation to protect artistic freedom was also reflected in the police statement that the force could not guarantee security for the event. The police were not present during the demonstrations, but later welcomed the protesters when they submitted their complaints against the festival.

The very same political climate that provided a chance for LGBT groups to create new art spaces also gave room for previously repressed Islamist groups – including militant groups such as the FPI – to raise their voice, including by putting LGBT rights advocacy right at the opposite end of the spectrum with Islamic teachings – an often cited excuse to break up or ban LGBT-themed art and cultural events. An FPI representative claimed the films screened at Q! Film Festival had contained “pornography, including unnatural acts of homosexual love-making” (DetikNews 2010a). This type of identity politics has become one of the characteristics of violations of artistic freedom in the post-Reformasi era.

Forced Cancellation of Transgender and Bissu Games

Bissu are priests in the traditional Tolotang religion followed by the Bugis community in South Sulawesi. Bissu are genderless, and worshipped as half-man half-god beings who act as a bridge between the world of man and the world of gods.

Bissu are different from transgender people since Bissu do not use gender attributes at all. The Bugis believe in five different sexes (Koten 2017): 1. Oroane (man) 2. Makunrai (woman) 3. Calalai (women who present as men) 4. Calabai (men who present as women) 5. Bissu. The Bugis also believe Bissu are a commingling of the other four sexes.

The 23rd Transgender-Bissu Games was organized by the Transgender People/ Bissu Forum of South Sulawesi at the Gassis Watan Soppeng Field on 19-22 January 2017. Around 600 transgender people and Bissu were scheduled to attend the event, before it was rudely broken up by the police (Luviana 2017). This is despite the Games being an annual event to preserve the culture of transgender people and Bissu in South Sulawesi, and also a communal event to bring communities together through sports and art. The Games were to include a hajj costume pageant, a traditional costume pageant, a traditional dance

competition, a transgender and Bissu pageant, a cultural heritage float contest, a call to prayer competition, and a Koranic recital competition.

On the first day of the Games on 19 January, the transgender participants and the Bissu went through their scheduled activities as planned. But later that afternoon, as they were preparing for a street parade, the police came and put a stop to the activities. A warning shot was fired by one of the police officers at 5.18 p.m (Luviana 2017). The head of the Transgender-Bissu community in Soppeng, Ria, was taken to the local police station to be interrogated.

The Public Relations head of the South Sulawesi Police, Chief Comr. Dicky Sondai, said the organizers of the Games had applied for a permit from the police but not from the Ministry of Religious Affairs through the Soppeng District Office even though they had received a recommendation from the district head. According to the police, a permit from the Ministry was required since the Games featured a few events that incorporated religious activities. The police themselves were reluctant to issue a permit for the Games since they thought a few of the more religious events were offensive to Islam, including a Muslim modest wear show featuring male models in hijab and a call to prayer competition featuring men dressed as women. The Soppeng police also claimed they had received a complaint from the Soppeng Islamic Ummah Forum (Forum Umat Islam Soppeng or FUIS), who also objected to the Games. They claimed a total of 16 religious forums were ready to stage a demonstration if the Games were to go ahead.

Community organization Federasi Arus Pelangi said the organizers of the Games had already received a permit from the Soppeng District Head. They claimed it was the police who were making things difficult by asking for a list of names of the participants accompanied by photos of their coordinators from each district or city. The police reportedly also said they would only issue a permit if the organizers signed a letter – drafted by the police – guaranteeing that they would take responsibility for any incident that might happen during the Games. The organizers tried to persuade the district head, the head of the prosecutor's office, the local military head, the head of the local police, and representatives from the Soppeng Regional House of Representatives to allow the Games to go ahead in a discussion at the Soppeng District Library, but to no avail. The Games must not go on.

The Forced Cancellation of Transgender and Bissu Games

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pointed to a clash between tradition and religion that some Islamic groups in Indonesia continue to exploit. From the point of view of the organizers and the participants, the incident involved at least three violations of artistic freedom:

- The right to create without censorship or intimidation, as evidenced by the attempts by 16 religious mass organizations to intimidate and prevent the participants from taking part in sporting and artistic activities at the Games.
- The right to freedom of association, as shown by the attempt to break up the congregation organized by a well-known group that has organized similar happenings in the past.
- The right to participate in cultural life, as shown by the discriminative actions against vulnerable minority groups (transgender people and Bissu) which prevented them from taking part in a cultural event.

The chronology of events above showed that the state failed to meet its obligation to protect and guarantee the security of ordinary people. The police, as an extension of state power, in fact sided with the group intent at harassing the Games and were the ones to actually break up the Games.

Two things were highlighted by the forced cancellation of the Games: one, poor coordination between officials that led to difficulties in securing a permit for a cultural event; two, the repression of a local tradition that has old roots in the community: the culture of the Bissu.

Cancellation of the Maknawi Kidung Maria Dance Performance

On 23 July 2015, a dance performance titled "Maknawi Kidung Maria" (The Meaning of Mary's Song), choreographed by Martinus Miroto, in Yogyakarta was forcefully canceled by a religious mass organization (Maharani 2015). The dance performance was meant to form a part of the opening of a shadow puppet painting exhibition by Petrus Agus Herjaka inspired by the episode of Christ carrying the cross at Tembi Cultural House. But during rehearsal before the performance, members of a religious mass organization were seen gathering near Tembi. Rumors went around that they were there to break up the event since they thought the dance was a Catholic ritual. Not long after, the police came to Tembi and instead of offering protection for the dancers, they forbade the dance from being performed, arguing that the organizers had not secured a permit and that the performance would cause a ruckus.

The Cancellation of the Maknawi Kidung Maria Dance Performance

violated two rights linked to artistic freedom:

- The right to create without censorship or intimidation. Because in this case, it was the dance performance itself – the art form for the dancers to express themselves – that was prevented from going ahead. Also, by gathering near the space of the performance and spreading rumors that they were ready to attack, the members of the mass organization were obviously trying to intimidate the artists at Tembi.
- The right to participate in cultural life. The fact that an Islamist mass organization had protested against a dance performance for allegedly spreading the Catholic gospel was a clear example that the right to participate in cultural life is not yet enjoyed by every citizen of Indonesia. Members of the religious minorities are often prevented from enjoying their right to express their religious beliefs through art because the activities would be considered offensive by the religious majority. This happens despite the fact that every citizen by law has equal rights to participate in cultural life irrespective of their religion.

In this case, the state failed to meet its obligation to respect and obligation to protect. Both were left unfulfilled because the state, in the guise of the police, failed to repeal the threat of cancellation from members of a mass organization or protect the dancers so their performance can go ahead. Instead, the police demanded that the organizers of the performance cancel the performance because they had not secured a permit and argued without evidence that the performance would likely cause a public disturbance.

A supposed clash between the religious majority and the religious minorities still creates many problems in art communities in Indonesia. In this incident, the Islamic majority clashed with the Catholic minority. In other regions, similar clashes might involve followers of different religions.

Attempt to Cancel a Tan Malaka Monologue

An attempt to cancel a monologue of Tan Malaka, titled "I Am a Red Deer", at the French Cultural Center (IFi) in Bandung on 23 March 2016 was unexpectedly foiled by the mayor Ridwan Kamil, soon to become the governor of West Java (Siswadi 2016). Another mass organization had accused the performance of spreading Communism and asked for it to be canceled. On opening day, the police failed to intervene. But the next day, Kamil assured organizers that the performance could go ahead and that he had personally contacted the police to provide extra security. This case showed that the state needs to act fast when needed to protect a group of citizens whose rights were being threatened by another group.

The attempt to cancel the monologue constituted a violation to the right to create without censorship or intimidation. Had the show been canceled, the right of the artists to express themselves through the performance of the monologue would have been stripped away.

All in all, this was a unique incident. On the one hand, the state had failed to meet its obligation to protect since the police did not do anything to deter the mass organization from intimidating the artists and theatre goers on opening day. On the other hand, the next day the Bandung mayor was able to issue instructions to the police to send extra security to the show and make sure it went ahead without another incident.

One thing is clear, the protection of artistic freedom in Indonesia is not happening systematically. It needs the intervention of a high-ranking official with strong political backing to force the hand of the police to start protecting artistic freedom.

The incident also showed that an accusation of spreading Communist ideology remains the number one excuse for cancelling art events in Indonesia. Tan Malaka was a legendary Communist figure, so a monologue containing his own words simply had to be stopped.

Conclusions

This literature review shows there has never been any systematic effort to protect and preserve artistic freedom in Indonesia. Those who record cases of violations of artistic freedom do so under the more general rubric of defending human rights. Meanwhile, the media tend to report only cases that they think will gain them more page views or air time. Consequently, only art events in physical spaces are being monitored for possible violations. We need to develop a strategy to monitor the production of art and its exhibition in the digital world into a bonafide research methodology.

Identity politics gained a lot of traction in the post-Reformasi era and soon became a tool of the state to control its citizens. The fact that many art events in Indonesia were canceled after the organizers were accused of spreading communism, insulting a majority religion, or promoting the agenda of LGBT groups showed up the country's socio-political dynamics where art, intended or not, has become part of political expression for individuals and collectives. This state of affairs affects how people react to art. Historically, art in Indonesia has always been an effective medium to express individual or collective identity politics. This is why art is often attacked and deserves to be protected.

Contradictory policies on the protection and preservation of artistic freedom in Indonesia reflect the classic dilemma of a schizophrenic cultural policy that never stops kowtowing to dominant global trends but at the same time always appears to reject them as "Western cultural influences". Indonesia has already ratified many international human rights instruments and incorporated the defense of human rights as part of its Constitution. Indonesia also has laws that support human rights but also other regulations that open a loophole for their repression. This loophole, such as in the censorship policy, needs to revisit. This also means that ratifying laws, however pro-human rights they are, is not enough. There is an urgency to fight the ghosts of authoritarianism and the oligarchy in state policies and leadership. The state needs to develop an active role in solving past human rights abuses in just and comprehensive ways and to offer protection and suitable reparations for victims. Once these three strategies start to bear fruit, artistic freedom will be able to enjoy more shelter spaces.

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