

ARTS RIGHTS JUSTICE
OBSERVATORY STUDY I:
ARTS. PROTECTING AND
PROMOTING ARTISTIC
FREEDOM



ARTS



Imprint

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United Nations
Educational, Scientific and
Cultural Organization



UNESCO Chair
in Cultural Policy for the Arts in Development
University of Hildesheim, Germany

PREFACE

Artistic creation, artistic freedom and the role of artists must be considered alongside human rights and freedoms in society. To this end, the ARTS RIGHTS JUSTICE Programme seeks to convey and professionalise skills, ensure the exchange of knowledge, make the most of multiplier effects, and build expertise on the subject. Therefore, the aim of the ARTS RIGHTS JUSTICE Programme is to strengthen and expand structures for the promotion and protection of artistic freedom. The Programme also seeks to question, from a research perspective, how 'protection' and 'promotion' in this field can be and need to be differentiated.

The Programme was developed together with about 30 international expert institutions and individual experts. The Programme includes an annual Academy at Hildesheim Kulturcampus, Germany, which invites about 30 young professionals, artists, cultural managers, lawyers and human rights defenders from different geographical origins. The Academy is accompanied by the ARTS RIGHTS JUSTICE Laboratories, which are satellite workshops in different regions of the world. The Programme also includes the ARTS RIGHTS JUSTICE Observatory, which seeks to ensure that knowledge in the field of freedom of artistic expression is produced, systematically collected and made accessible, in order to facilitate, support and professionalise relevant research, self-education and activism. Therefore, the ARTS RIGHTS

JUSTICE Library aims to collect, create access to and disseminate documents related to the promotion and protection of artistic freedom around the globe. We securely host and facilitate access to all kinds of documents related to this field in the database of the University of Hildesheim. This Library is online and open access: www.arj-library.de.

The ARTS RIGHTS JUSTICE Programme forms part of the UNESCO Chair Cultural Policy for the Arts in Development in the Department of Cultural Policy, at the University of Hildesheim in Germany. This allocation means that research on the subjects mentioned above becomes part of international cultural policy research. The ARTS RIGHTS JUSTICE Studies Series is Hildesheim's contribution to responding to the existing need for research that protects and promotes artistic freedom worldwide. We view the content and results of the ARTS RIGHTS JUSTICE Studies Series as a means of re-thinking policies and actions, and we aim to widen the international discourse in this way.

www.arts-rights-justice.de

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**ARTS. PROTECTING
AND PROMOTING
ARTISTIC FREEDOM**

BY SARA WHYATT AND OLE REITOV

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INTRODUCTION

Conflicts over artistic expression frequently stem from tensions within societies, which are based on opposing political, social or religious views and traditions. Some of these conflicts spread beyond the local context. In a globalised world, with the worldwide use of social media and the spread of trolling and ‘fake news’, such controversies are easily broadcast from one corner of the world to another.

We live in a world where there are new ‘sensitivities’ and where old ones are reignited, and where groups in societies openly, and sometimes violently, express how they feel ‘offended’ by artistic expression that conflicts with their worldviews and ideologies.

Our world is dominated by political cynicism, and the rise of nationalism and neo-fascism, with politicians in democratic countries expressing their scepticism about or showing outright disrespect for international conven-

tions. However, the right to freedom of expression is a universal right. Criticising or even ridiculing politicians or religions is a basic human right, and this right should not be dismissed or criticised.

Addressing the UN Human Rights Council in 2013, the UN Special Rapporteur, Farida Shaheed, said she was *‘convinced that freedom of artistic expression and creativity cannot be dissociated from the right of all persons to enjoy the arts, as in many cases restrictions on artistic freedoms aim at denying people access to specific artworks. Hence, removing creative expressions from public access is a way to restrict artistic freedom’* (Shaheed, 2013, p. 3).

Using examples from all over the world, this study describes the complexity of challenges to artistic freedom.

[I am] convinced that freedom of artistic expression and creativity cannot be dissociated from the right of all persons to enjoy the arts, as in many cases restrictions on artistic freedoms aim at denying people access to specific artworks. Hence, removing creative expressions from public access is a way to restrict artistic freedom.

FARIDA SHAHEED

(2013)

The study is intended for use by professional human rights defenders, politicians, lawyers, students, artists, cultural organisers and anyone interested in defending the universality of the freedom of artistic expression.

We hope that this study will allow the reader to gain a deeper understanding of the major challenges and obstacles that, in the words of Farida Shaheed, '*impede the flourishing of artistic creativity*' (ibid., p. 3). We will explore why and how artistic freedom must be defended and protected, and why and how violations can and must be documented and monitored.

I.1

WHAT IS AN ARTIST?

One of the problems that is encountered when documenting artistic freedom is the lack of clarity about how to define an 'artist'. Some artistic activities are clearly 'artistic', for example, visual artists such as painters, sculptors, and art photographers, etc; performance artists, including actors, dancers and musicians of all kinds; and those working with the written word, such as fiction writers, poets, playwrights and screenwriters. However, in other areas, there is uncertainty: are designers, architects, documentary film-makers, and photographers, for example, also artists?

Others who are not immediately recognised as artists are those who do not create art as such, but facilitate it, and without whom the arts could not function. They are often referred to as cultural workers, and include administrators, managers, curators, festival directors, theatre managers, gallery owners, and those who run cultural centres – the list is extensive. Then there are the ‘intangible’ arts – sometimes music is placed under this category, but the category also includes oral story-telling, traditional crafts, social practices such as rituals (that may or may not have religious connotations), carnivals and street festivals.

Given the problem with defining artists and the arts, one needs to be clear about the parameters of one’s research and its limitations when documenting attacks on artistic freedom. Research and activism may be dictated by the constituency that one represents and thus one’s knowledge base. So, for example, Freemuse started as an organisation focusing on music censorship before broadening its scope to include other arts sectors. PEN International tends to focus on the written word, including assisting songwriters whose lyrics have created problems, but the organisation may not necessarily assist, for example, a concert pianist. Organisations working in specific sectors, such as film, may limit their scope in order to focus on their areas of expertise and will subsequently engage their members in other forms of advocacy.

Another issue that is unclear is whether a person is a ‘professional’ artist, which means that their sole income, or a significant part of their income, must come from their creative work. The precarious nature of work in the arts and cultural sector often makes this definition inappropriate. In most cases, the production of art is not a career that will provide a regular or sufficient income, and most artists will also conduct non-art related work to subsidise their creative activities. Therefore, artists themselves often do not define themselves as ‘professional’ artists. When an artwork is attacked, it should not matter whether it has been created by a professional artist or whether its creator derives no monetary gain. This also extends to the artistic merit of a work. Frequently, art that offends the state or the public is not necessarily ‘high quality’ art. When artists create something that provokes a response, ‘quality’ is often not their main concern.

Given the very broad definition of an artist, and the very different sectors that exist within the creative and cultural world of which artists form a part, it must be borne in mind that it is extremely difficult to gain in-depth knowledge and thus comprehensive documentation across all the arts and culture sectors.

WHAT IS ARTISTIC FREEDOM?

Artists and artistic productions have been censored and persecuted for thousands of years. The origin of the word 'censor' can be traced back to ancient Greece, as Norwegian author and rights activist Mette Newth writes: *'the office of censor [was] established in Rome in 443 BC. In Rome, as in the ancient Greek communities, the ideal of good governance included shaping the character of the people. Hence censorship was regarded as an honourable task. In China, the first censorship law was introduced in 300 AD' (Newth, 2010).*

Despite censorship and persecution – mostly conducted by states and religious authorities (frequently co-operating) – the importance of free speech and freedom of creativity was acknowledged already in 1789, when the French National Assembly adopted the 'Declaration of the Rights of Man', proclaiming that *'[t]he free communication of ideas and*

„In Rome, as in the ancient Greek communities, the ideal of good governance included shaping the character of the people. Hence censorship was regarded as an honourable task. “

METTE NEWTH

*opinions is one of the most precious of the rights of man. Every citizen may, accordingly, speak, write and print with freedom, but shall be responsible for such abuses of this freedom as shall be defined by law.'*¹

Today freedom of expression is a key right protected by international human rights instruments that protect fundamental freedoms. Thus – in principle – all persons enjoy the rights to freedom of expression and creativity, to participate in cultural life, and to enjoy the arts. Artists do not enjoy additional rights, but artistic freedom is recognised as falling under the category of freedom of expression and is thus similarly protected and guaranteed.

International law has protected these rights since the late 1940s, with the promulgation of the Universal Declaration on Human Rights. Nevertheless, these rights were immediately violated worldwide, from the so-called 'Eastern bloc' dominated by the Soviet Union, to China and the fascist regimes in southern Europe and Latin America, where all rights to freedom of expression were suppressed and violated. Even in the so-called 'Free World', artists experienced the censorship of artworks and marginalisation, especially in the USA, where those considered linked to the political left experienced discrimination.





The American Civil Liberties Union (ACLU), founded in 1920, defended these rights from an early stage. This is its statement on what artistic freedom includes in the USA:

The Supreme Court has interpreted the First Amendment's protection of artistic expression very broadly. It extends not only to books, theatrical works and paintings, but also to posters, television, music videos and comic books – whatever the human creative impulse produces.

Two fundamental principles come into play whenever a court must decide a case involving freedom of expression. The first is 'content neutrality' – the government cannot limit expression just because any listener, or even the majority of a community, is offended by its content. In the context of art and entertainment, this means tolerating some works that we might find offensive, insulting, outrageous – or just plain bad.

The second principle is that expression may be restricted only if it will clearly cause direct and imminent harm to an important societal interest. The classic example is falsely shouting fire in a crowded theatre and causing a stampede. Even then, the speech may be silenced or punished only if there is no other way to avert the harm.

Thus, the ACLU distinguishes between state violation of artistic freedom, on the one hand, and pressure from civil society organisations and corporations, on the other. To understand artistic freedom, it is therefore also necessary to define censorship . The ACLU offers the following definition:

Censorship, the suppression of words, images, or ideas that are 'offensive', happens whenever some people succeed in imposing their personal political or moral values on others. Censorship can be carried out by the government as well as private pressure groups. Censorship by the government is unconstitutional. In contrast, when private individuals or groups organize boycotts against stores that sell magazines of which they disapprove, their actions are protected by the First Amendment, although they can become dangerous in the extreme. Private pressure groups, not the government, promulgated and enforced the infamous Hollywood blacklists during the McCarthy period. But these private censorship campaigns are best countered by groups and individuals speaking out and organizing in defence of the threatened expression.

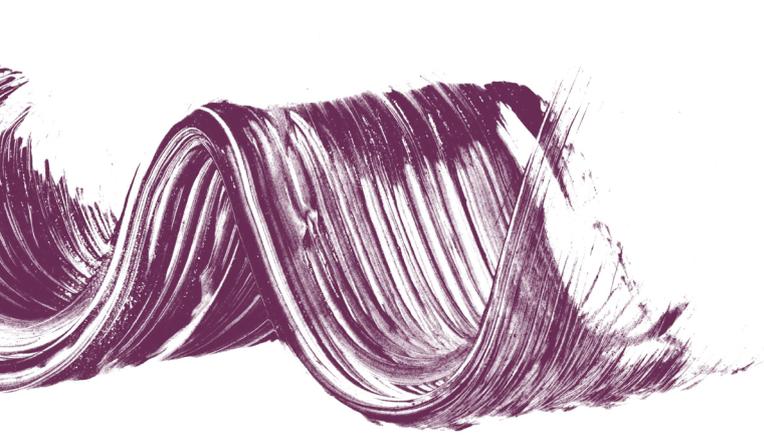
**AMERICAN CIVIL
LIBERTIES UNION**

*ACLU a., n.d.
Freedom of expression in the arts
and entertainment.*

Another US-based organisation, the National Coalition Against Censorship (NCAC) offers this definition of artistic freedom:

„Artistic freedom is about access to images and ideas, about the possibility to walk down the street or wander into an exhibition and be surprised, perhaps disturbed, to begin to think perhaps a little differently, to be confronted with something that makes it possible to break through the limitations of received opinion. And, yes, this is dangerous for any kind of rote dogma, whether it is religious or political, and that is why censors will continue to come from right, left, and center and try to control the imagination.’ (Mintcheva, 2018)

However, there is no universal definition of ‘artistic freedom’, nor is there a universal definition of ‘artist’. However, since 1980, the term ‘artistic freedom’ or ‘freedom of artistic expression’ has increasingly been used in discourse within the United Nations and by organisations and institutions documenting, discussing and advocating artists’ rights to freedom of expression.



II.1

STATUS OF THE ARTIST

The United Nations Educational, Scientific and Cultural Organization (UNESCO) 1980 Recommendation concerning the Status of the Artist is the first global document to specifically address artistic freedom. The document does not define artistic freedom, but several references are made to freedom of expression, and freedom of artistic expression and creativity in the preamble, as well as in the guiding principles of the document. The preamble reads as follows:

„Recognizing that the arts in their fullest and broadest definition are and should be an integral part of life and that it is necessary and appropriate for governments to help create and sustain not only a climate encouraging freedom of artistic expression but also the material conditions facilitating the release of this creative talent.

Considering further that this recognition of their status as persons actively engaged in cultural work should in no way compromise their freedom of creativity, expression and communication but should, on the contrary, confirm their dignity and integrity.’ (UNESCO, 1980, emphasis added)

The Recommendation concerning the Status of the Artist takes a holistic view of artists' rights. Thus, in the UNESCO definition of artistic freedom, these rights include several additional rights and can be summarised as:

- **the right to create without censorship or intimidation**
- **the right to have artistic work supported, distributed and remunerated**
- **the right to freedom of movement**
- **the right to freedom of association**
- **the right to the protection of social and economic rights**
- **the right to participate in cultural life.**

The Recommendation concerning Status of the Artist recommends that governments must take –

„All necessary steps to stimulate artistic creativity and the flowering of talent, in particular by adopting measures to secure greater freedom for artists, without which they cannot fulfil their mission, and to improve their status by acknowledging their right to enjoy the fruits of their work.’

To ensure that there is absolutely no doubt about the importance of artistic freedom,

the document provides that ‘Member States should see that artists are unequivocally accorded the protection provided for in this respect by international and national legislation concerning human rights.’

II.2

2005 UNESCO CONVENTION AND THE FARIDA SHAHEED REPORT

In 2005 the rights to artistic freedom were incorporated in the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions, which has been ratified by more than 145 countries since 2018.²

In March 2013, the United Nations (UN) Special Rapporteur in the field of cultural rights, Farida Shaheed, submitted a report entitled The Right to Freedom of Artistic Expression and Creativity (hereafter the Shaheed report) to the United Nations Human Rights Council. She referred to and recognised the UNESCO-related instruments, including the 1980 Recommendation and the 2005 Convention, observing that–

„these instruments help to create and sustain a climate encouraging freedom of artistic expression and the material conditions facilitating

the release of creative talents. It stresses that artists are to benefit from the rights and protection provided for in international and national legislation relating to human rights, in particular, fundamental freedoms of expression, information and communication.’ (Shaheed, 2013, p. 1)

The Shaheed report was to become one of the most important reference points for artists and organisations monitoring artistic freedom. Again, the report does not define ‘artistic freedom’, but, like the UNESCO documents, it places freedom of artistic expression and creativity into a larger context and, as described in the preamble to her report, ‘addresses the multi-faceted ways in which the right to the freedom indispensable for artistic expression and creativity may be curtailed’ (ibid.).

Farida Shaheed then reflects upon the ‘growing worldwide concern that artistic voices have been or are being silenced by various means and in different ways’ and addresses the laws and regulations restricting artistic freedoms. She also discusses the underlying motivations for these restrictions, which she describes as ‘most often political, religious, cultural or moral, or lie in economic interests, or are a combination of those.’ She encourages states to ‘critically review their legislation and practices imposing restrictions on the right to freedom of artistic expression and creativity, taking into consideration their obligations to respect, protect and fulfil this right’ (ibid.).

Soon after the presentation of the Shaheed report in 2013, more than 50 states, from both the Global North and the Global South, in collaboration with civil society organisations, prepared a resolution on artistic freedom. If the resolution had been adopted by the UN Human Rights Council, it would have become a formal UN text. However, the Organisation of Islamic Cooperation (OIC) contested the proposal. Rather than risking the failure of the resolution, the initiators issued a joint statement that reaffirmed the right to freedom of expression, including creative and artistic expression. Presented at the UN Human Rights Council, it reaffirmed that the 57 member states:

„Artistic expression connects us all, transcending borders and barriers.“

ORGANISATION OF ISLAMIC COOPERATION (OIC)

„Stand firm in our commitment to protect and promote the right to freedom of expression, including artistic and creative expression. In addition to being an integral part of the protected human right to freedom of expression, artistic and creative expression is critical to the human spirit, the development of vibrant cultures, and the functioning of democratic societies. Artistic expression connects us all, transcending borders and barriers.’

Once again, without defining 'artistic freedom', the statement notes that:

„Artistic expression can challenge us and change the way we view the world. Picasso’s painting Guernica and the poetry of Wilfred Owen vividly highlighted the horrors of twentieth-century warfare. Art can also highlight injustices and inspire opposition to it. Artists from different parts of the world challenged the Latin American dictatorships in the 1970s and 1980s through their poetry, music and visual arts.’

The signatories confirmed that they would ‘continue to engage in the promotion and protection of the right to freedom of expression, including artistic and creative expression, wherever it is threatened’ (U. S. Mission, Geneva, 2015). As important as this statement is, it should, however, be noted that violators of artistic freedom, such as Turkey, Hungary and Poland, were among the countries supporting the statement.

Earlier, in the same year as this statement was made, terrorists had attacked the office of the French satirical magazine Charlie Hebdo and killed several staff members. Soon after this, the Ministers of Culture of all the 28 member states of the European Union issued a joint statement: *‘We unanimously express our belief that artistic freedom and freedom of*

expression stand firm and unflinching at the heart of our common European values’ (European Commission, 2015).

Several declarations supporting artistic freedom have followed and, as before, none of them have defined 'artistic freedom'. However, these declarations and statements are in general based on the principles of international human rights conventions, the UNESCO documents and the Shaheed report.

An example of such declarations is the Nordic Ministers of Culture 2015 'Declaration on Promoting Diversity of Cultural Expressions and Artistic Freedom in the Digital Age' on UNESCO World Press Freedom Day, hosted that year in Helsinki, Finland. Welcoming *‘the important steps taken by UNESCO, not least through the first Global Report on the implementation of the 2005 Convention, to enhance global monitoring in areas such as artistic freedom’*, the Nordic Ministers acknowledged UNESCO’s efforts to develop *‘the tools needed to monitor artistic freedom as part of our national, regional and UNESCO’s normative systems.’* The Ministers confirmed that the Council would *‘stand firm in fighting threats against freedom of [cultural] expression ... [and] ... uphold these values in our countries and in Nordic as well as in European and international policy-making and cooperation’ (Nordic Council of Ministers, 2015).*

DEVELOPMENTS IN DOCUMENTATION AND ADVOCACY ON ARTISTIC FREEDOM

As mentioned in the previous sections, art has been under attack for centuries from state actors and non-state actors alike. However, organised advocacy for artistic freedom is a newer phenomenon.

Non-governmental organisations (NGOs), as we know them today, were first established in the eighteenth and nineteenth centuries, when the anti-slavery and early suffrage movements came into being. The definition itself became current only in 1945, when the UN needed to distinguish between intergovernmental specialised agencies and international private organisations who were participating at the UN. At the UN, virtually all types of private bodies

can be recognised as NGOs. They must be independent from government control, must not seek to challenge governments as political parties, and must be non-profit-making and non-criminal (Willets, n.d.). By definition, NGOs are not allied with and are independent of governments, although some do accept government funding, usually under 'arm's-length' conditions where such funds come without conditions or government interventions. It is this independence that gives NGOs strength and authority.

Civil society organisations (CSOs) are groups or organisations that work in the interests of citizens. Like NGOs, they are independent from

government and are non-profit-making, and include trade unions, church groups and other agencies that provide services to society for little or no return. There is at times an overlap between NGOs and CSOs, but for the purpose of this report, we regard CSOs as organisations working at a local or national level, while NGOs have a regional or global remit.

III.1

ARTS RIGHTS NGOS: THE PIONEERS

A broad range of organisations operates in the local, regional and global context in very specific fields. A few shall be described in the following section to illustrate the extent of the sector.

III.1.1 PEN International (1921)

In the aftermath of the Great War and arising from the belief that, through the exchange of literature and ideas, future disasters could be averted, PEN International was established in 1921.

PEN was the first NGO established to defend freedom of expression, and remains a key documenter and advocate, together with several other international NGOs working for media freedom.

Initially founded with 25 mainly European centres, PEN quickly expanded its membership into the Americas, the Middle East and Asia, and now, as it nears its centenary, PEN has over 140 centres in more than 100 countries world-wide.

Although established as an organisation to promote international literary exchange, from the outset PEN highlighted the inextricable link between literature and freedom of expression (PEN International, n.d.).

This principle forms the core of its work today. This came into particular focus in the late 1930s, with the rise of fascism, book burnings and the subsequent exile of many German writers. The organisation's concerns and advocacy grew after the Second World War ended and the Cold War set in, as did its membership. The brief euphoria after the fall of the Berlin Wall and the establishing of democracy movements elsewhere in the world in the late 1980s did not last long, as calls for Salman Rushdie's execution for *The Satanic Verses* led to him going into hiding for more than ten years before he was able to re-emerge into relative normality.

However, this incident has repercussions today, 30 years on, as writer Kenan Malik notes:

„The controversy over The Satanic Verses brought into focus issues that have since become defining problems of the age – the nature of Islam, the meaning of multiculturalism, the boundaries of tolerance in a liberal society and the limits of free speech in a plural world. That, 30 years on, we still blindly wrestle with these issues reveals how little we have learned from the Rushdie affair. And how the lessons we have learned have often been the wrong ones. As Rushdie’s critics lost the battle but won the war. The Satanic Verses continues to be published. Yet the argument that it is morally wrong to offend other peoples and cultures has become widely accepted in the three decades since.’ (Malik, 2018)

As Malik suggests, the ‘Rushdie affair’ ushered in a new era of attacks on and threats against artists from extreme Islamists, and subsequently from other religious fundamentalists. PEN was at the forefront of a coalition to defend Rushdie, and subsequently to campaign against attacks by extremists – religious, political and criminal – on writers around the world, a mission that it continues to this day.

EARLY PEN ADVOCACY

PEN's earliest interventions for artistic freedom came in 1933 when its Congress passed a resolution condemning the book burnings in Nazi Germany. A schism arose between the PEN Congress and the German PEN when the latter protested about Ernst Toller, a German Jewish writer, being given the floor. He was allowed to speak, and the German delegation walked out.

Although at the time most PEN Centres were Europe-based, their concern for fellow writers was truly global. The first PEN resolutions specifically naming imprisoned writers were passed in 1935. One condemned the arrest of the Haitian writer, Jacques Roumain, a communist writer who had campaigned against the US occupation of his country. The other resolution referred to the arrests of the writers Ludwig Renn and Carl Ossietzky in Germany. Ossietzky was supposed to be awarded the Nobel Peace Prize in 1935 but he was unable to receive the award; news of this was banned in Germany. He died in prison in 1938.

Hungarian-born author, Arthur Koestler, was imprisoned in Spain for six months in 1937. He had travelled to Spain as a war correspondent, but was captured in Málaga when it fell to the Nationalists. PEN members lobbied for his release. Although Koestler was initially sentenced to death, he was released in exchange for a prisoner held by the Loyalists, an experience he later wrote about in *Dialogue with Death*.

Spanish poet Federico García Lorca was executed shortly after his arrest; tragically, PEN received the telegram informing the organisation of the danger he faced too late. A resolution at the 1937 PEN Congress in Paris paid homage to Lorca and expressed dismay to the people of Spain about his death. This response on PEN's part, in fact, was likely a factor in the positive outcome of Koestler's case.

SOURCES: DOWD, SIOBHAN (1996) *THIS PRISON WHERE I LIVE: THE PEN ANTHOLOGY OF IMPRISONED WRITERS AND PEN INTERNATIONAL 'OUR HISTORY'* [HTTPS://PEN-INTERNATIONAL.ORG/WHO-WE-ARE/HISTORY](https://pen-international.org/who-we-are/history))

PEN International was the first organisation to start consistently documenting cases. This started soon after World War II when members of PEN living in exile from countries that had come under the reign of the Soviet bloc on the one hand, and fascist regimes, on the other, gathered information about colleagues in their own countries, which was published in lists annexed to PEN's reports at their regular (at that time) biannual meetings. In 1960 PEN set up the Writers in Prison Committee at its headquarters in London to monitor the attacks, to provide advice, and to coordinate PEN member advocacy on their behalf. In the mid-1980s, the list became a document in itself, at times listing almost 1,000 cases of writers and journalists whose freedom of expression had been threatened by state and non-state entities.

Today, as at its inception, PEN's focus is on the written word, be it in print or online, and its remit extends to journalists, as well as writers of fiction, poets, playwrights and other creative writers. Until recently its case list has listed between 900 and 1,000 cases at any one time.³ However, a review of its documentation resulted in PEN, in its 2017 and 2018 lists, focusing more on writers that were not already the subject of advocacy. This was done in recognition of the development of organisations working on media freedom, and the special role that PEN has played for writers of fiction and academic work, given the paucity of other

international organisations advocating on their behalf. PEN still remains a strong advocate of journalists, working alongside and supporting its media rights colleagues.

PEN was one of the first organisations to use its consultancy status at UNESCO, which brought with it consultancy status at other UN bodies, notably the UN Human Rights Council, to raise freedom of expression issues within the UN Human Rights Council, making representations at sessions in Geneva and New York, advising the special rapporteurs, and utilising the Council's complaints mechanisms to raise awareness of writers at risk. PEN was present at the beginning of the Universal Periodic Review Process, encouraging states to raise concerns about free expression when it was the turn of abusing states to present their reports to the Council. PEN similarly works with other regional bodies such as the European Union (EU), the Organisation for Security and Co-operation in Europe (OSCE), the Organisation of American States (OAS), and the African Commission on Human and People's Rights (ACHPR). Thus, through its use of freedom of expression mechanisms, PEN could be regarded as one of the first organisations to raise the profile of artistic freedom within the UN.



III.1.2 Index on Censorship (1972)

The establishment of the magazine (and now campaigning organisation) Index on Censorship was the result of outrage among writers and academics about the trial and imprisonment of their colleagues in the Soviet Union. In particular, a letter to the Times published in 1968 called for international condemnation of the trial of writers accused of 'anti-Soviet' propaganda. This led to a letter of support signed by leading British and US intellectuals and authors. These developments inspired the founders, who included poet Stephen Spender, to establish Index on Censorship, its title referring to the Catholic Church's index of forbidden books.

From the 1970s to the 1990s, Index published articles by leading writers, including Salman Rushdie, Doris Lessing, Arthur Miller and Noam Chomsky, on the repression of free speech in the Soviet bloc, under right-wing fascism in Greece, Portugal and Latin America, and in apartheid South Africa. Index also published letters from prison, such as letters from the Nigerian writer Ken Saro Wiwa in the early 1990s, the Hunger Strike Declaration by writers arrested during the 1989 Tiananmen Square protests, and, notably, excerpts from Vaclav Havel's banned play, *Conversation*, in the same year.

[We live in an increasingly] fragmented world, [in which] new and troubling questions have surfaced, some of them challenging the primacy of free expression itself: religious extremism; relative values and cultural difference; the rise of nationalism; the rewriting of history; hate speech; obscenity; freedom on the Internet.

INDEX ON CENSORSHIP

TO LEARN MORE ABOUT INDEX ON CENSORSHIP'S HISTORY AND CURRENT WORK GO TO:

WWW.INDEXONCENSORSHIP.ORG

With the end of communism and the fall of fascist regimes in the 1990s, Index's work turned to the new problems of an increasingly *'fragmented world, [in which] new and troubling questions have surfaced, some of them challenging the primacy of free expression itself: religious extremism; relative values and cultural difference; the rise of nationalism; the rewriting of history; hate speech; obscenity; freedom on the Internet.'*⁴

Initially Index did not see itself as a campaigning organisation, but in the early 2000s it took a new turn and joined forces with English PEN to campaign against libel tourism in the UK, in the report entitled *Free speech is not for sale*. Index has since campaigned against censorship in Afghanistan, Burma and Tunisia, among other countries, and has worked alongside partners such as the Mapping Media Freedom Project.⁵

While Index's main focus has been on writers and journalists, it has also published issues on the themes of music and film censorship and banned poetry. The 2011 *The Arts Issue* edition⁶ focused on artistic freedom in China, Turkey, Iran and the USA, and on issues such as religious offence, street art, and obscenity. In 2013 Index hosted a major conference, *Taking the offensive*, on artistic freedom of expression, which was 'the first cross-art-form, sector-wide, national conference on artistic freedom' in the UK. The conference brought together leading figures from the arts and

cultural sectors, artists and academics to discuss issues such as self-censorship; the social, political and legal challenges to artistic freedom of expression; the growing pressures around security and the resulting risk aversion; and the growing sensitivity to 'offence' (Farrington, 2013). This conference led to the publication of a series of guides on art and the law in the UK, covering topics that included terrorism, offence, child protection, race and religion. Index also runs a series of workshops – Rights, risks and reputations – for senior artistic directors, CEOs, senior management and trustees of arts organisations.⁷

III.1.3 Freemuse (1998): All that is banned is desired

Freemuse was established in 1998, initially focusing on the censorship of music and musicians, and then expanding its work to all art forms in 2011. Its founders, Ole Reitov, a music cum cultural broadcast journalist, and Marie Korpe, a broadcasting journalist and development expert, had worked in Asia and Africa for a period of 20 years, reporting on cultural, media, political and development issues. While working in Pakistan in 1979 and 1980, they observed strict music censorship under shariah law as applied by the pre-Taliban forces in the Afghan refugee camps

in Pakistan, and subsequently they worked in South Asia and East Africa. Their experiences led to them to question why, while there were organisations such as PEN working for writers' rights, there were none involved with promoting the rights of musicians and composers.

**„From the beginning,
Freemuse focused on the
extensive documentation and
publication of reports on
music censorship [...]
worldwide.“**

Having documented music and arts censorship in South Africa during apartheid and having observed attacks on musicians, such as the kidnapping of the Berber artist Lounes Matoub in 1994,⁸ the couple received financial support from the Danish Ministry of Culture to organise the first ever world conference on music censorship in Copenhagen in 1998. The conference brought together censored musicians, academics, journalists and human rights defenders, to debate and analyse issues including the censorship of music in Islamic states, the Christian right in the USA, nationalism and censorship in Europe, and mechanisms of censorship during apartheid.

The conference led to the establishing of Freemuse. Korpe, who organised the conference in collaboration with Index on Censorship, the Danish Institute for Human Rights, and Danish Broadcasting (Reitov's workplace) became Freemuse's first Executive Director, holding the position from 2000 to 2013. Reitov was Executive Director from 2013 to 2017.

From the beginning, Freemuse focused on the extensive documentation and publication of reports on music censorship in countries that included Afghanistan, Nigeria, Romania, Zimbabwe, Belarus, the USA and Turkey, as well as the systematic documentation and monitoring of the censorship of music worldwide. Freemuse organised two additional world conferences on music censorship in Copenhagen (2002) and Istanbul (2006). Freemuse also organised a two-day conference in Beirut in 2005, which brought together musicians from across the creative spectrum, as well as journalists, academics, cultural managers and even a censor from the region.

The conferences established an extensive network, and persecuted musicians gradually started asking Freemuse for support. From 2003 the organisation started campaigning for musicians at risk. In 2007, Freemuse was joined by representatives from the EU Parliament and the EU Commission in observing the trial of the Kurdish musician, Ferhat Tunç, in Izmir which led to his acquittal (Freemuse, 2007).

In conducting its work on musicians, Freemuse observed that attacks on artists and art forms were not being fully monitored, and in 2012 Freemuse organised the first world conference on the censorship of all art forms, not only music, in collaboration with the Norwegian Fritt Ord Foundation.⁹ Titled All that is banned is desired, the conference, which took place over two days, brought together 50 artists from countries as diverse as Burma, Palestine, the USA, the UK, South Africa, Pakistan, Mali and North Korea, together with more than one hundred human rights defenders and individuals involved in the arts. The conference placed the artists at the centre of the gathering, where they presented their work, shared their experiences of censorship, and discussed with human rights defenders the many strategies that have been developed to claim, defend and advance their freedoms as well as the freedoms of other artists.

This was the catalyst for Freemuse to establish its 'arts freedom' programme, now a key source of information on the repression of all art forms, publishing data and analyses, and conducting campaigns against censorship.

True to its human rights-centred approach, Freemuse gained consultative status with the UN in 2012 (Freemuse, 2012b) and has since worked closely with the UN Council on Human Rights. Reitov, on behalf of Freemuse, was a key advisor and contributor to Special

Rapporteur Farida Shaheed's 2013 seminal report on artistic freedom, and Freemuse has since made a series of submissions to the UN's Universal Periodic Review on countries that include Egypt, Turkey, Morocco, Zimbabwe and Bangladesh, in collaboration with local organisations as well as international organisations, such as PEN International.

Uniquely, Freemuse is the only international organisation that consistently monitors and provides data about attacks on all art forms.¹⁰ Its annual report, since 2013, has provided statistics that give details of attacks, by state and non-state entities, ranging from blacklists to killings. This allows for the identification of attacks on arts freedom, which in turn informs Freemuse's work and advocacy strategy, and increasingly the strategy of others.

Developments since 2012: An escalation of interest

UNESCO's 2018 Global Monitoring Report on the 2005 Convention noted that the apparent dramatic increase in the reported numbers of attacks on artistic freedom since 2014 was probably not due to an actual increase, but was rather a reflection of the growing numbers and capacity of organisations to monitor and advocate for artistic freedom. The creation of the new position of Special Rapporteur in the field of cultural rights at the United Nations,

and in particular Farida Shaheed's report on artistic freedom, published in 2013, is another contributing factor that has seen an increase in interventions in both the UN and other international forums (Whyatt, 2018).

III.1.4 The newcomers

Newer recruits to arts freedom advocacy include the **Arts Rights Justice Academy and Forum**, which in 2017 brought together arts professionals in a summer academy, with a focus on the protection and promotion of artistic freedom and specifically artists at risk, hosted by the Hildesheim University's UNESCO Chair, in Germany. The Academy is part of the Arts Rights Justice Programme, and works towards professionalising skills, exchanging knowledge and building expertise among arts professionals, arts lawyers and human rights defenders, with the goal of promoting and protecting artistic freedom. The concept has been developed together with 30 international expert institutions, and includes an annual academy at the Hildesheim Kulturcampus and a public forum in Berlin, Germany; a series of satellite workshops in the partner regions that serve as laboratories to widen and deepen the discourse; and an open access online library that aims to link research, training and the exchange of knowledge.¹¹

Also in the field is the US-based **ArtistSafety.net**, which describes itself as '*a network that provides case management for artists and culture workers at risk due to their work, as well as information services to projects and organisations in the arts, free expression, journalism, and human rights fields*' (ArtistsSafety.net, n.d.).

The New York-based **Artists at Risk Connection (ARC)** was set up as an interactive hub in September 2017 to curate resources online and thus to facilitate connections between threatened artists and those who support them. ARC's aims are to improve access to resources for artists at risk, to enhance connections between supporters of artistic freedom, and to raise awareness about artistic freedom.

There are few regional or national organisations dedicated to artistic freedom. Notable is the **National Coalition Against Censorship (NCAC)**, established in New York in 1973 in response to the obscenity case brought against Arthur Miller. The NCAC has since then campaigned for the protection of artists against attacks on their First Amendment rights, working through a coalition of about 50 non-profit organisations. The NCAC works with artists, curators, students, teachers and other cultural sectors to inform them about their rights and obligations, monitors and publicises attacks on this right

in the USA, and engages a network of activists to protect the freedom to artistic expression.

Artwatch Africa, part of the Arterial Network that was set up in 2007 to bring together artists, organisations and institutions involved in the African creative sector, aims to *'effect change in the areas of good governance, access to information, strengthening of civil society, and equality, non-discrimination and inclusion'* (Arterial Network, n.d.). Artwatch has monitored attacks on arts freedom and organised training and workshops for lawyers, cultural officers and arts professionals on artistic freedom. In 2017 it published *How free is free? Reflections on freedom of creative expression in Africa*¹² and continued to monitor cases that year. Artwatch appears to have been inactive since 2018.

In 2015 **Siyah Bant**, an Istanbul-based research organisation that produces reports on censorship of the arts, including articles on restrictions on cinema, film and arts festivals, hosted an event in Istanbul that brought together artists, rights activists and the media to watch a live UN webcast of Turkey's report to the UN Human Rights Council, followed by debate. The organisation later produced a guide for artists on national and international protection. This event, which was co-hosted with Freemuse, is an example of how collaboration between international and national rights groups can co-ordinate

and enhance expertise and knowledge on both sides. At the time of writing, Siyah Bant is inactive, and the administrators of the cultural organisation, Anadolu Kültür, which runs the DEPO art gallery which in turn hosts Siyah Bant, have been arrested and face prosecution on charges that appear to relate to their alleged involvement in the arts manifestations that were central to the 2013 Gezi protests. These were seen as encouraging foreign organisations to support the protests.

Other national CSOs that have engaged in artistic freedom include the **Association for Freedom of Thought and Expression (AFTE)** in Egypt, which worked with Freemuse in researching and submitting a report on artistic freedom in Egypt in 2014, and continues to monitor arts freedom. For example, AFTE intervened in the official crackdown on activities in the Bani Suef Cultural Palace (Ramadan, 2018). **Racines** is an organisation that brings together artists and arts and cultural organisations in Morocco to strengthen and support cultural rights. Racines has also worked with international partners to raise arts freedom issues in recent years, including a joint UN submission with Freemuse in 2016. One of its recent projects was providing support to street artists who were banned from performing at the Nations-Unie Square in Casablanca. However, like its Turkish counterpart, Siyah Bant, its work has been curtailed by political pressures, and in late 2018 it was shut down

by government order. At the time of writing there is an international campaign to revoke this action, engaging other arts freedom organisations, such as PEN America (PEN America, 2019).

The **Nhimbe Trust**, Zimbabwe, similarly works for cultural rights, and has reported on and taken artistic freedom in Zimbabwe to the UN Human Rights Council in collaboration with Freemuse in 2017.

III.2

RELOCATION: ARTISTS AT RISK

Recent initiatives on artistic freedom have focused on relocation of artists at risk. Most prominent among them is the **International Cities of Refuge Network (ICORN)**, set up in 2006 after the collapse of the Cities of Asylum Network that had been founded in 1993 by the International Parliament of Writers, set up in response to the assassination of Algerian writers, and was headed by leading writers, including Salman Rushdie, Wole Soyinka and Harold Pinter. When the Parliament of Writers dissolved, the Cities of Asylum Network was replaced by ICORN. With its base at the Stavanger Cultural Centre in Norway, ICORN

Arts Rights Justice Academy and Forum

[WWW.UNI-HILDESHEIM.DE/
ARTS-RIGHTS-JUSTICE](http://WWW.UNI-HILDESHEIM.DE/ARTS-RIGHTS-JUSTICE)

Artist at Risk Connection

WWW.ARTISTATRISKCONNECTION.ORG

National Coalition Against Censorship (NCAC)

WWW.NCAC.ORG

Siyah Bant

WWW.SIYAHBANT.ORG

Racines

WWW.RACINESCARREES.MA

Nhimbe Trust

WWW.NHIMBE.ORG

now has over 60 member cities in about 16 countries, providing more than 170 placements since its establishment in 2006. Most member cities are based in Europe, notably in Sweden and Norway, but there are also some member cities in North America, Mexico and Brazil. Initially ICORN cities provided placements only for writers, but in 2014 it expanded its mandate and now also serves artists from other arts sectors.

The **Artists Protection Fund** at the Mellon Foundation-backed International Institute for Education is a newer, US-based initiative founded in 2016, providing grants for threatened artists and finding hosts in academic and arts institutions. The **Artistic Freedom Initiative** is also based in the USA, and provides legal, advocacy and resettlement programmes for artists at risk, working with other US-based arts freedom organisations, including the ARC and ArtistSafety.net. The Helsinki-based **Artists at Risk** provides short-term residencies and supports the creativity of artists in exile. Since 2016, the **Malmö Safe Havens** annual conferences have brought together the global sector of NGOs, institutions, funders, activists and artists in the field of protecting persecuted and censored artists and scholars (Malmö stad, n.d.). The newest project to protect and promote threatened artists is the **Martin Roth Initiative**, managed by the Institut für Auslandsbeziehungen (Institute for Foreign Relations) and the Goethe-Institut.

This project was the result of a decision by the German Bundestag to invest internationally in the field of freedom of expression, in terms of paragraph 5 of the German Grundgesetz. The Martin Roth Initiative was set up in November 2018 and provides temporary residencies in Germany, and also develops and supports relocation projects for artists within their own regions.

Many of these relocation programmes work closely with NGOs that provide similar support for human rights defenders generally, such as **EU Protect Defenders** and the Uganda-based **Defend Defenders**. Several more organisations and programmes, both large and small, would have to be added here to show the complete sector.

Some relocation projects, such as ICORN, specifically do not make value judgements based on artistic merit, while the quality of work is important for others, notably those housed in arts institutions, and this has been a cause for comment and concern as to whether risk trumps quality. Human rights defender groups are also concerned that the focus on artists as human rights defenders may be creating a hierarchy of defenders, and that funds are being diverted to what is regarded as more 'sexy'. Organisations working on broad freedom of expression issues have similar concerns. At a recent conference hosted by the Martin Roth Initiative, which brought together

International Cities of Refuge Network (ICORN)

WWW.ICORN.ORG

Artist Protection Fund

WWW.IIE.ORG/EN/PROGRAMS/ARTIST-PROTECTION-FUND

Artistic Freedom Initiative

WWW.ARTISTICFREEDOMINITIATIVE.ORG/NYC

Artists at Risk

WWW.ARTISTSATRISK.ORG

Martin Roth Initiative

WWW.MARTIN-ROTH-INITIATIVE.DE

EU Protect Defenders

WWW.PROTECTDEFENDERS.EU

Defend Defenders

WWW.DEFENDDEFENDERS.ORG

individuals and organisations involved in relocating human rights defenders (HRDs) and artists, the HRDs pointed out that there was very little difference between the experience of an artist at risk for their work and activism and an HRD. The same laws are applied, the same response (or lack thereof) is received from governments, and the same visa restrictions are in place. Also, they both face difficulties in practising their professions while in exile.

The concern around financial diversion is the result of the assumption that there is a lot of money for these programmes, which is debatable. While it may be true that artists receive greater publicity, simply because of the nature of their work, this does not make their move to other countries any less complicated than that of a similarly high-profile human rights defender. Relocation programmes for artists bring added value because they are designed to support artists' special needs and they are run by people from the cultural and creative sectors who have a deep understanding of their requirements. Also, in lobbying the host countries and reaching out to them for support, the networks specifically target those in the cultural sector that would not appeal to or be accessible to others – in effect, an artist-to-artist support network. Yet concerns remain within the relocation programmes about the sustainability of the model: placements are usually for relatively short terms of up to two years, and these arrangements have implications for the artists'

futures in respect of their working and living conditions.

Another concern is that while positive outcomes from this intervention model are clearly signalled in the protection that is provided and in the artists' capacity to work without the restraints imposed by their home countries, it is uncertain whether such temporary arrangements are sustainable in respect of the artists' working and living conditions (Whyatt, 2018).

III.3

DEVELOPMENTS WITHIN INTERGO- VERNMENTAL ORGANISATIONS

United Nations Special Rapporteur

In March 2013, the first ever report on artistic freedom was published by the United Nations. The report was written by Farida Shaheed, the first UN Special Rapporteur in the field of cultural rights. Her position was created in 2011, as mentioned earlier. This report, entitled *The right to freedom of artistic expression and creativity*, has become the seminal commentary on and analysis of the multi-faceted ways in which artistic freedoms are indispensable for artistic expression and creativity.

The report outlines the many ways in which artistic freedom can be curtailed, identifying the laws and regulations that are applied, and the underlying motivations – political, religious, cultural, moral and economic – that lie behind attacks on artistic freedom. The report calls on states to review their legislation and practices to end restrictions on artistic freedom and to act against third party violence against and censorship of artists (Reitov, 2015). Importantly, the report calls on decision makers to take into consideration *'the nature of artistic creativity (as opposed to its value or merit), as well as the right of artists to dissent, to use political, religious and economic symbols as a counter discourse to dominant powers, and to express their own belief and world vision'* (Shaheed, 2013, p. 19).¹³



III.3.1

UNITED NATIONS HUMAN RIGHTS CONTROL

Since Farida Shaheed's 2013 report, references to artistic freedom have increased across the United Nations systems, also due to lobbying by NGOs. One example is the 2015 joint statement signed by 57 member states, entitled 'Reaffirming the Right to Freedom of Expression Including Creative and Artistic Expression' stated:

We stand firm in our commitment to protect and promote the right to freedom of expression, including artistic and creative expression. In addition to being an integral part of the protected human right to freedom of expression, artistic and creative expression is critical to the human spirit, the development of vibrant cultures, and the functioning of democratic societies. Artistic expression connects us all, transcending borders and barriers.

(U. S. MISSION, GENEVA, 2015)

However, it should be noted that only 30% of the UN member states signed this statement, so clearly there is still a long way to go.

III.3.2 UNESCO – Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)

UNESCO's 2005 Convention was adopted to address the challenges faced by a fast-evolving cultural sector, which is often beyond the reach of governance and legislation. The Convention gives states the right to adopt policies that support the creative industries, with four main goals: (1) supporting sustainable systems of government, (2) achieving a balanced flow of goods and services, and increased mobility for artists and cultural professionals, (3) integrating culture in sustainable development frameworks, and (4) promoting human rights and fundamental freedoms.

Through the Convention, UNESCO provides guidance and support to states to achieve these goals. In return, every four years, state parties – which now number over 140 – must report on their adherence to the Convention in Quadrennial Periodic Reports (QPRs). The Convention operates alongside UNESCO's 1980 Recommendation concerning the Status of the Artist, adopted in 1980, which states that *'freedom of expression and communication is the essential prerequisite for all artistic activities'* and *urges member states to 'see that artists are unequivocally accorded*

*the protection provided for in this respect by international and national legislation concerning human rights.'*¹⁴

Although other international instruments, such as the UN's International Covenant on Civil and Political Rights (1966), and the International Convention on Economic, Social and Cultural Rights (1966) do include freedom of expression as a fundamental right in general, the 2005 Convention, alongside the 1980 Recommendation concerning the Status of the Artist, is the only mechanism that promotes and supports artistic freedom in particular, and within the context of the wider promotion of the diversity of cultural expressions.

While artistic freedom is, naturally, a key facet of fundamental freedom as described in the Convention and as raised in chapters dedicated to the issue in the 2015 and 2018 Global Reports, in fact few states have reported in QPRs on what measures they have taken to protect this right. This is hardly surprising as, until recently, states were not explicitly asked to report on artistic freedom, so very few referred to it in their QPRs. With the recognition of this omission, new reporting criteria came into place in 2019 that now require states to report on artistic freedom. Also, states have a limited understanding of what artistic freedom is, and what measurement criteria should be used to evaluate progress. Even states with good freedom of expression records do not include

such criteria. So, there is still some way to go in developing an understanding and in identifying ways of strengthening artistic freedom as a fundamental right, within the 2005 Convention framework. This lack of knowledge has been recognised, and steps have been taken to address it, for example, through a new training module, provided alongside the revised QPR reporting requirements, which includes questions on artistic freedom. This strategy has been enhanced by the appointment of the first UNESCO Ambassador for artistic freedom, the musician and film-maker Deeyah Khan, whose own story includes the suppression of her right to freedom of expression. These developments within UNESCO are largely the result of lobbying by artistic freedom groups and their interactions with national delegations to intergovernmental organisations. Indeed, UNESCO's reports, training seminars, panels and workshops on artistic freedom are led by experts who have played key roles in the development of artistic freedom.

III.4

MOVING FORWARD

To summarise, especially since 2015, the number of NGOs and CSOs who are fully or partially engaged in promoting artistic freedom has grown. However, the sustainability of some of these projects is a matter for concern,

especially for those projects that rely on grant funding, which is usually relatively short term. The growth in particular of organisations that provide 'safe havens' is of course welcome, but what are needed are projects that strengthen and support artists, the arts and cultural institutions in their home countries, which in turn would strengthen legal and other protection frameworks to ensure that artists do not feel forced to leave. It cannot go unnoticed that, during the writing of this report, two national artistic freedom organisations have had their activities severely curtailed, which indicates the precarious nature of local advocacy for artistic freedom.

Positive moves in countries such as France, Germany, Norway, Denmark, Finland and Sweden are being made. These countries are addressing arts freedom through policy documents, and France is amending legislation in favour of artistic freedom.¹⁵

Finally, through its 2005 Convention, UNESCO is gradually providing a means by which states can better understand artistic freedom, and its importance in the cultural economy overall. UNESCO is also providing guidance to governments, NGOs and CSOs on how to protect this important right. The combination of international NGOs, intergovernmental bodies, and, most importantly, CSOs and individuals working in the cultural sectors nationally, is a promising indication of further positive change to come.

CHALLENGES TO ARTISTIC FREEDOM

All censorships exist to prevent anyone from challenging current conceptions and existing institutions. All progress is initiated by challenging current conceptions and executed by supplanting existing institutions. Consequently, the first condition of progress is the removal of censorship.

“

George Bernard Shaw

IRISH/BRITISH PLAYWRIGHT
(FROM MRS. WARREN'S PROFESSION, 1898)

Fundamentalist and extremist ideologies, when aiming at forcing or coercing people into specific world visions, beliefs systems and cultural practices, are a threat to human rights, and more specifically to cultural rights.

“

Karima Bennoune

UN SPECIAL RAPPOREUR IN THE FIELD OF
CULTURAL RIGHTS (2017) ¹⁶

Censorship and the banning of artists and artistic expression is not a recent phenomenon. Whenever an artistic expression is shared with others, it will often create a reaction – frequently telling us as much about the receiver (whether a system censoring artistic expression or an audience) as about the artist.

Regulation and censorship may be imposed and enforced by the police, religious and political interest groups, para-military groups or militias, self-appointed guardians of morality and taste, within families, by the corporate sector as publishers or controllers of distribution, and by broadcasting, telecommunications and production companies. The artistic expressions targeted by censorship and persecution are diverse and include music genres (such as heavy metal), women's voices, lyrics, dance, books, film productions, visual arts, street performances and theatres. Thus, artists, cultural producers and workers, publishing houses and cultural institutions, as well as audiences, museum visitors and gallery visitors are affected by these interventions.

IV.1

PHILOSOPHERS CUM POLITICIANS

The view on what is acceptable to the greater public continually shifts in most societies. Over time, philosophers and religious scholars have expended considerable energy on defining 'good and bad'. Subsequently, rulers regulating artistic expression or implementing censorship have frequently referred to these scholars' arguments in order to serve their own interests of power.

When current rulers and religious leaders argue in favour of censorship, they frequently echo arguments that were current in (pre-Christian and pre-Islam) China and ancient Greece. One may argue that 'nothing is new under the sun', but frequently those in power repeat arguments without knowing where they originate.

Confucius (551–479 BC), the Chinese philosopher cum politician, emphasised personal and governmental morality, correctness of social relationships, justice and sincerity. Confucius's principles were based on common Chinese traditions and beliefs. Seen in a historical perspective, his thoughts have influenced almost all Chinese governments in their policies for regulating public behaviour



and artistic expression. Thus, their censorship policies in many ways reflect a combination of Confucian and Maoist (communist) ideas about the 'good and bad'.

“The gravest charge against poetry still remains. It has a terrible power to corrupt even the best characters“



PLATO

THE REPUBLIC 605C

In ancient Greece, **Plato**, in *The Republic* circa 375 BC, argued that poetry inspires undesirable emotions in society, so adults and especially children should not be permitted to read poetry for fear of lasting detrimental consequences (Schatzie, 2018). Plato had a severe distrust of poets and believed that they composed licentious works that inspired the masses to lawlessness and disrespect for their rulers: *‘The gravest charge against poetry still remains. It has a terrible power to corrupt even the best characters’ (The Republic 605c).*

In a famous passage of ancient literature that deals with music, Socrates describes which of the eight musical modes he would eliminate from the training regime of the rulers (or ‘guardians’) of his ideal state. Plato also

decried musical excess *‘as the ruin[ation] of the state; musical degeneracy leads to degeneracy in morals. The effect of bad music, he holds, is like the effect of bad company’ (Lippmann, 1964).*

These ancient discussions and arguments are directly linked to the current tendency, for example, of Polish politicians to defer to the conservative, Catholic viewpoint of what is socially acceptable in art, in a country that is, according to its own Constitution, secular. Present-day artistic censorship in many western countries can usually be traced back to religious protests that deemed plays ‘immoral’ and called for theatres to return to more traditional ways, and to promote national, catholic values (Freemuse, 2016b).

In many Muslim countries, similar arguments are being used – but with the difference that artists, media workers and intellectuals questioning religion have been physically assaulted and even killed. In Bangladesh, between 2013 and 2015, six bloggers and publishers who wrote about issues of religion, secularism, atheism and justice for war crimes were killed by Islamic fundamentalist groups.

A quick look at censorship and attacks in recent times portrays a grim, multifaceted and complex picture of target groups, motivations and the effects of censorship and attacks on artistic freedom.

MOTIVATIONS FOR CENSORSHIP AND ATTACKS ON ARTISTIC FREEDOM

In Iran, women vocalists are banned from performing solo in front of a male or mixed audience and are even highly restricted when performing for women (CHRI, 2018). This type of censorship is gender-based and has nothing to do with the types or genres of music or drama. Whether the motivation is religious and/or cultural, this discrimination against women artists is institutionalised and state-operated. In Saudi Arabia, private concerts were a 'hidden affair' until 2017, when the government gradually allowed a few public concerts as part of reforms (Nadeem, 2018). In some countries, persecution and censorship mechanisms combine national political chauvinism and the repression of cultural and linguistic minorities, for example, the prosecution and imprisonment of Tibetan singers who were praising Tibetan culture and questioning Chinese cultural hegemony (Freemuse, 2016a).

In Turkey, artists addressing national cultural chauvinism and the repression of minorities have been targeted and imprisoned for many years. After the coup attempt in 2016 the

Turkish state increased the persecution and prosecution of any artist regarded as part of the opposition and misused terror legislation to silence artists (Freemuse, 2016c).

In many countries artists can be regarded as human rights defenders, especially when they are persecuted, because their artistic expressions usually address rights issues. Examples include Cuban artists claiming democratic rights through their art, rappers addressing police brutality, or the Russian authorities arresting the Pussy Riot activists.

The pattern is the same: some states will not tolerate any criticism or artistic expressions that question the dominant policy of these countries. Although most of these countries have ratified various regional and international covenants, they either do not respect these or purposely misinterpret the rights, justifying their actions with reasons such as having to 'protect the nation' or 'cultural or religious feelings'.

Increasingly, non-state actors are also threatening artistic freedom. The most violent can be seen in countries such as Afghanistan, Bangladesh, Pakistan, Iraq, Syria, Libya and Mali, which are either invaded, dominated or strongly influenced by religious militants such as the Taliban, Islamic State (Da'esh) and other jihadist groups (Freemuse, 2014).

In Europe, non-state actors who are religiously or politically motivated are mostly single persons or small groups. Examples are the killing in 2004 of Dutch filmmaker Theo van Gogh by a Dutch-Moroccan Muslim following the release of his film *Submission*, which criticised Islam, and the 2013 killing of the Greek rapper, Pavlos Fyssas, by an extreme right-wing supporter of the fascist party, Golden Dawn (Charlton, 2013). More recent attacks include the Charlie Hebdo killings in Paris in February 2015, and the subsequent attack on a meeting in Copenhagen, Denmark, where people had met to discuss the limits of freedom of expression (BBC, 2015) and the killings of audience members at concerts in Bataclan, Paris in 2015 and in Manchester, UK in 2017.

However, not only power groups are guilty of attacking artistic expression. Artists' organisations and even states have expressed concern about market domination and censorship by global companies.

Before we elaborate further on the motivations and effects of recent censorship mechanisms, attacks and domination, we will briefly illustrate with a few examples how in recent times (the twentieth and twenty-first centuries) artistic expressions have been censored and artists in many countries have been persecuted, killed or forced into exile.

In the **former Soviet Union** all forms of artistic expressions were pre-censored, since all artistic expressions were supposed to serve the interests of the state and could in no way question those in power. Stalin was particularly active in making statements about 'good and bad' art. Access to artistic productions from other countries was severely limited and Soviet standards were applied to other countries in the Soviet bloc.

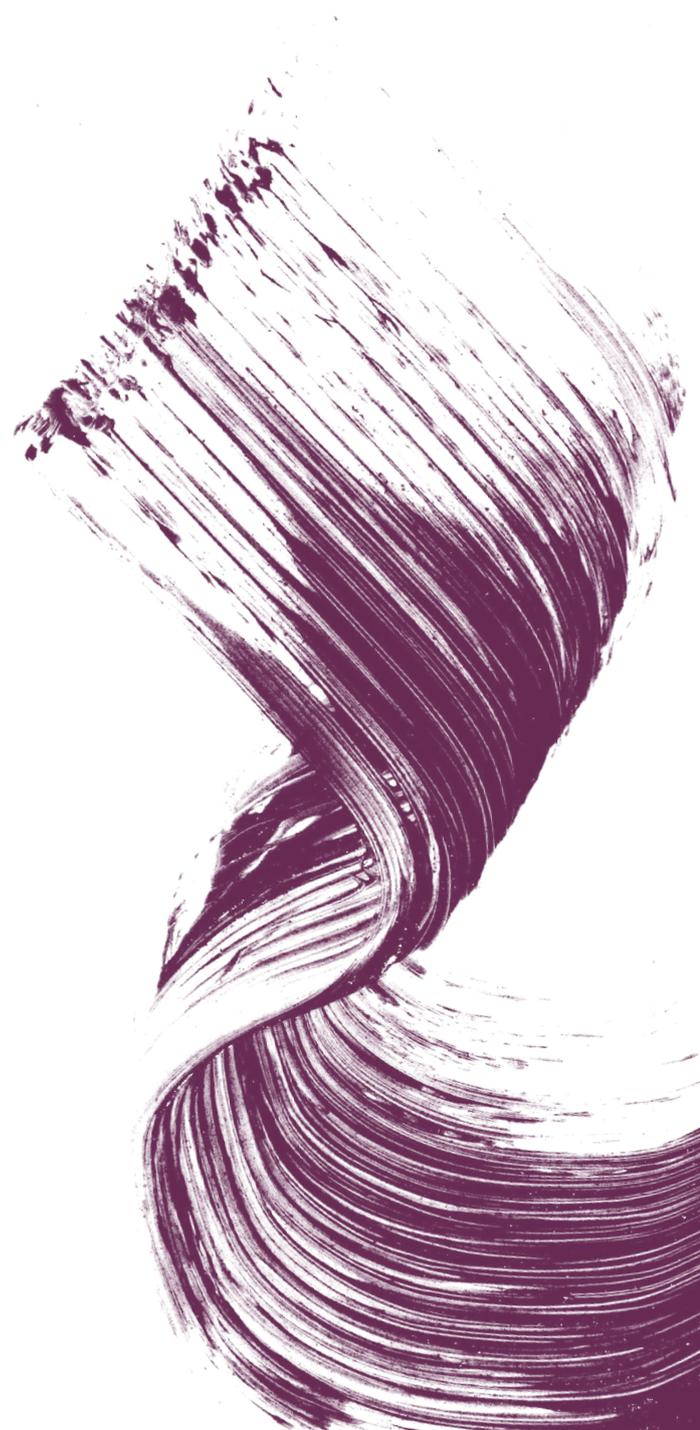
In **Nazi Germany**, Jewish artists were banned, music by black jazz musicians was prohibited, and artistic expressions considered too modern were termed as 'entartet' (degenerate) and removed from all museums and galleries. Artists who were thought to be communists were also banned. As a result, many of Germany's most famous artists were forced to escape the country before and during the Second World War, like the many artists who are seeking refuge today.

In post-Second World War **USA**, thousands of Americans were accused of being communists or communist sympathisers and became the subject of aggressive investigations and questioning before government or private-industry panels, committees and agencies. A so-called Hollywood blacklist¹⁷ was developed with the aim of censoring 'undesirable' films and excluding actors and directors included on the blacklist – some of whom had previously fled

Nazi Germany. The blacklist not only affected those working with Hollywood production companies but also spread a general fear amongst cultural producers, institutions and organisations about being associated with artists deemed controversial or anti-national. Furthermore, some artists also exploited this 'climate of fear' for their own benefit by spreading rumours that their colleagues were anti-national.

In the early 1960s, many artists engaged in the US civil rights movement were excluded from TV and broadcasting performances. When rock culture entered the US entertainment industry, lyrics and performances seen to be obscene or immoral were restricted. For example, TV productions of Elvis Presley would not show the moving of hips and certain 'suggestive' lyrics would be removed. During periods of war (such as the wars in Vietnam, Iraq and Afghanistan) several songs were banned by mainstream broadcasters, but found the perfect audience on the so-called 'underground' or 'alternative' FM stations. Some record companies would also hesitate to publish critical songs or would request artists to 'sanitize' their lyrics by replacing contentious phrases with less provocative lyrics. Similar demands would come from mainstream media when they presented bands on TV. For example, when the Rolling Stones performed 'Let's spend the night together' on The Ed Sullivan Show in 1967, they were

ordered to make the song less 'offensive' by changing the lyrics to 'Let's spend some time together'. This song was one of several that the Stones were not allowed to play in China when they performed there in 2003, for similar reasons as those that motivated the US bans more than 30 years earlier. Other songs were 'Beast of Burden' and 'Brown Sugar'. These songs were also removed from the Chinese versions of their greatest hits compilation, '40 Licks'.



**Come on mothers
throughout the land
Pack your boys off to Vietnam
Come on fathers,
and don't hesitate
To send your sons off
before it's too late
And you can be
the first ones on your block
To have your boy
come home in a box**

COUNTRY JOE AND THE FISH

EXCERPT OF LYRICS FROM 'I-FEEL-LIKE-I'M-FIXIN'-TO-DIE RAG', 1970



In the former **East German Democratic Republic (GDR)**, the state monitored any citizen considered to be in opposition to the state. Using a wide network of informers, the state security police, called the STASI, kept records of artists' activities. The official view promoted by the ruling Socialist Party was that popular music was a dangerous American cultural weapon designed to corrupt its young people, turning them away from socialist ideals. Some artists who had been in exile during the Second World War returned and found well paid jobs, provided that they conducted themselves in line with state policies. However, after 1975, many artists left the GDR because of increasing censorship.

Saudi Arabia, during the 1950s, had the most extreme form of restrictions encountered in any Arab country. The Committee for the Advancement of Virtue and Elimination of Vice (AVEV) banned music and singing. Instruments and gramophones were either confiscated or destroyed. Attending musical gatherings carried the risk of being assaulted by AVEV officers. These actions were justified by Wahhabi scholars who equated music with immoral behaviour, illegitimate ritual healing and Sufism (about which Wahhabism was, and still is, highly critical). When King ibn Saud was succeeded by Sa'ud, his eldest son (in 1958), and Faisal, a younger son, became prime minister and later king (in 1964), AVEV eventually lost jurisdiction over music and singing

(Otterbeck, 2006). Although there are Saudi male singers who are extremely popular in the Arab world, they cannot perform public concerts in their homeland. Restrictions on women artists are even greater, as they are also not allowed to act in films or on stage. Censorship may be ordered by several different bodies, such as the Ministry of the Interior and the Information Ministry, and also by individuals in their capacity as members of the royal family.

Under the rule of Mao and especially during the late 1960s, the 'Cultural Revolution' influenced all aspects of cultural life in **China**. Political dissidents (whether real or imagined) were arrested, tortured and even killed. Artistic freedom was non-existent and cultural productions were centrally controlled and produced. However, cultural products promoting the Communist Party were mass-produced in order to promote the ideology of the party.

From the late 1960s to the 1980s, many countries in **Latin America** were under the rule of military dictators. Strict censorship laws prohibited artistic productions that were opposed to the military. In **Brazil** some 500 films, 450 plays, 200 books and more than one thousand songs were banned over a period of 10 years, as a result of military government decrees passed in December 1968. Several artists were imprisoned in 1969 and later some artists went into exile. In 1973, shortly after the

military coup in **Chile**, Victor Jara, a politically active singer and theatre director, was tortured and killed by the military.

Military dictatorships in the 1970s in **Greece**, **Spain** and **Portugal** controlled the media, arts institutions and cultural life in general. Censorship was harsh and many artists were imprisoned or forced into exile.

Publications were heavily pre-censored in **South Africa** under apartheid. Any artistic production that questioned the apartheid system or Calvinistic religious values was banned. Phone tapping and other 'dirty methods' were regularly used by special branch police to destroy the careers of artists opposed to the government. At the South African Broadcasting Corporation, a group of censors would censor lyrics according to a set of rules. Some artists' careers were completely destroyed, and bans and 'dirty tricks' by police (such as calling artists terrorists or using tear gas during concerts) affected clubs, producers and promoters.

In **North Korea** all artistic expressions today remain strictly controlled, with the aim of promoting the ideology and the positive image of its leaders. Artists are employed by the state and, as Jane Portal writes, some artists work 'on the spot', at factories or construction sites, whereas others go to an office. Both would be expected to work regular hours and have

about two hours of study or discussion in the evenings with regular reports and evaluations. Abstract or conceptual art is forbidden and the subjects and themes of works of art are limited. (Portal, 2005)

IV.3

CENSORSHIP: A MIXED BAG

While censorship of the arts is generally viewed as a straightforward manipulation of or ban on artistic expressions, it ultimately turns out to be a mixed bag, especially in cases where the expression of hateful and violent sentiments represents a direct threat to the livelihood and security to groups within a society. The topic of arts censorship, therefore, touches on a wide range of issues.

Whereas censorship in the traditional sense is centralised and conducted by state or semi-autonomous state institutions, in several weak states various groups, including local tribes, religious communities or war lords, exert control over the masses. Furthermore, in past decades attacks on artists have been staged by other non-state actors, including civil society groups (frequently politically or religiously motivated). Although this may not be censorship in the traditional sense, such attacks have the same effect, in that the

attacked artist (at least for some time) may be silenced, forced into exile or may simply stop producing out of fear.

State-controlled censorship (whether pre-publication censorship or post-production censorship) that is exercised through transparent mechanisms may restrict artistic freedom, but may not necessarily pose a risk to the security of the artist or the producer of the art. It may, however, pose a risk to the creativity of the artist and restrict the public's right to have access to artistic expression. But if certain artistic expressions are considered too critical of a government, a president or others in power may persecute an artist, thus not only censoring the art but also threatening the personal security of the artist and completely silencing his or her work.

**A group of artists in Singapore concluded
as follows in a report:**

Censorship entails proscribing content, prohibiting its public presentation, and/or preventing its creators from working towards its realization. While conducted by civil servants who may sincerely believe they act in the name of the public good, censorship is often politically motivated, and always arbitrary.

It fosters a culture of dependency on the part of the public, timidity on the part of institutions, and resentment or self-censorship on the part of content producers. It is costly, inefficient, and dignifies no-one.



ARTSENGAGE

(2010)

States and religious societies have long made use of the 'stick and carrot' approach to dealing with artists and artistic expressions. Throughout history rulers have produced cultural artefacts to demonstrate their power – such as sculptures of Lenin, paintings of proud Chinese workers during the rule of Mao, religious artefacts exhibited in public spaces, or literature, music, theatre and paintings that describe the 'historical truth' of the ruler or the coloniser. Key decision-makers – political, economic and religious – have always used artistic expressions to manipulate or create their own versions of right and wrong.

“Key decision-makers – political, economic and religious – have always used artistic expressions to manipulate or create their own versions of right and wrong.”

National anthems aim to create respect, unity and (in many cases) tears. A national anthem that is performed in a manner or style considered ironic to national sentiments or as a political statement is frowned upon and even illegal in many countries. However, the censorship of artistic expressions must always be understood in the context of the production

of artistic expressions that are either aimed at praising those in power or seek to undermine or ridicule those in power or to question popular beliefs.

When analysing the state of freedom of artistic expression in the world today one needs to understand that vague terms such as 'the current cultural climate', 'the digital climate' or 'effects of globalisation' – however unclear they may be – do influence the 'climate' of artistic expressions. If an artist fears that producing and publishing an artwork may stir up religious, political and socio-cultural sentiments and may even lead to personal attacks, this could prevent them from creating that art. Alternatively, this may encourage other artists to produce (often from a distance, where the artists may feel safe) even more provocative pieces of art, and thus inspire groups who wish to transform differences of opinion into transnational conflicts. Artists who work locally, testing local traditions and concepts of artistic freedom, may understand how far they can go without risking their lives. However, frequently they risk crossing those boundaries and too often are attacked or imprisoned.

Artists living in other countries may produce artistic expressions that are neither controversial nor risky in their own communities, but may provoke strong reactions in other countries or cultures. Such expressions can be used in local contexts for political, religious or

cultural purposes, as was seen in the issuing of the fatwa calling for the assassination of Salman Rushdie for his *Satanic Verses* in 1989, or the riots and death threats that followed the publication of the Danish ‘Muhammad cartoons’, later labelled the ‘cartoon crisis’.

In order to understand the multifaceted challenges that artists and producers of artistic events face, we must analyse and understand the motivations for censoring or persecuting artists and artistic expressions. We also need to understand the audience, who may seek out and enjoy artistic expressions considered controversial or dangerous.

IV.4

MOTIVATIONS FOR CENSORING OR RE-PRESSING ARTISTIC EXPRESSIONS

Censorship and repression of artistic (and other) expressions is motivated by the desire to suppress ‘undesirable’ expressions. These motivations may be political, religious, moral, social, cultural, gender-related or related to protecting financial and corporate interests.

Arguments in favour of censorship vary, and include the protection of children, the defence of community standards of morality, the consideration of cultural norms, the protection of state security, the protection of brands, the protection of authors’ rights, and even the nebulous criterion of artistic merit.

Political or state censorship and repression frequently stem from a desire to suppress political opponents. Artistic expression that is openly critical of a repressive regime is systematically suppressed in many countries. Even if an artist produces a work that he or she does not regard as being a political statement, he or she may find that it is used by political opponents to address those in power (for example, a song or an image). Or the artist may be considered as oppositional or critical by a ruler who may not only censor the work but also imprison the artist and, in some cases, his or her relatives and fellow artists.

In times of war or armed conflict, artistic expressions questioning official policies are frequently banned, marginalised and suppressed by states, institutions or media in the interest of ‘national security’. Although international conventions allow for restrictions on artistic freedom when these expressions may threaten the security of a state, especially under states of emergency, it is extremely difficult to prove how certain expressions may *de facto* pose a risk. Such arguments are often

perceived rather as ways to silence artists whose views counter the official narrative.

State symbols such as the national flag, the king or emperor or ruler, and the national anthem are considered sacred in many countries. Even in liberal countries, remakes of the national anthem or artistic expressions ridiculing the king or president may be unacceptable to certain sectors of the population. In some countries, the use of national symbols is strictly regulated.

Although the ultimate right and power to censor and regulate artistic expression lies with states, governments and regimes are often influenced by other interest groups in their exercise of this power. These interest groups may include financial groups and representatives of religious and minority groups.

IV.5

LACK OF TRANSPARENCY

A major challenge for artists and production companies is the lack of transparency within censorship boards and the decisions made by various other institutions involved in policing or regulating artistic productions. As an example, a study by lawyers in Lebanon revealed that:

The Directorate General of General Security wields vast discretionary power to engage in prior censorship of artistic works on television, in film, and on the theatrical stage. The mandate of General Security, as defined under Article 9 of Legislative Decree No. 2873, lacks clear regulatory guidelines. Within this ambiguous legal framework, the General Security has adopted a working methodology that often renders judgments that are arbitrary, selective, and inconsistent. (Freemuse/PEN International, 2015)

Arbitrary and inconsistent decisions are common in many countries, leading to delays in production, insecurity amongst artists, self-censorship and eventually the termination of productions. In Lebanon, anyone who wants to stage a theatrical performance must first submit an application, together with three copies of the play's script, to General Security's department of publications, 'which is also the same department that exercises prior censorship control over screenplays and issues filming permits. Legislative Decree No. 2 offers no timeframes for the application process or criteria or standards for approval, effectively granting the General Security broad discretionary powers' (ibid.). In China pre-censorship (in principle) does not exist. However, post-censorship can be even more challenging for producers of films, books and exhibitions, for example, as they will have already invested often significant amounts of money. Therefore, most production companies avoid challenging whatever political and moral

norms are dominating Chinese society at any given time. They must – like their censors – continually be aware of the politics of the day, because the given space for artistic freedom is never a constant. So, rather than risking a total ban or huge encroachments, most producers and artists practise self-censorship under such regimes.

IV.5.1 Case study: Censorship in Egypt

In the former Eastern bloc countries, artists' organisations were actively engaged in regulating and defining the scope of artistic expressions. This model was adapted by several post-colonial states in north Africa and continues to be applied, for example, in Egypt, where artistic expressions are tightly controlled and subject to numerous restrictions. Official censorship occurs, in the form of laws, regulations, and the existence of state institutions charged with implementing these codes, as does social censorship, in the form of constraints imposed by mainstream culture, particularly when the art addresses any one of the three historically controversial topics of politics, religion and sex.

In Egypt professional syndicates regulate the professional arts, among them the Acting

Professions Syndicate, which includes all actors in cinema, theatre, television and radio, as well as theatre direction, theatre management, makeup, prompters, theatre set and costume design, the popular arts and ballet, puppeteers and others identified in the syndicate's bylaws.

In principle these syndicates are run by artists – but in practice they operate on behalf of the state and thus complement other censorship institutions. A joint AFTE/Freemuse study, *Censors of creativity* (AFTE/Freemuse, 2014), published in 2014, provided detailed insight into the role of the syndicates:

The Film Professions Syndicate includes all professionals working in direction, screenwriting, cinematography, production management, editing, sets, makeup, sound, and crew work in both film and television. The Musical Professions Syndicate covers all those working in singing of various types, playing instruments of all types, musical composition, musical orchestration and arrangement, conducting, and music history. Theater, film, and music critics may join the relevant syndicates, as may authors of theatrical, cinematic, and musical texts. Law 35/1978 regulates the affairs of these syndicates. Article 3 states that the goal of their establishment is:

1. To advance the theatrical, cinematic, and musical arts.

2. To preserve and develop the human and national heritage of these arts, particularly the Egyptian and Arab heritage, in accordance with the exigencies of global progress, combining authenticity with contemporaneity. (ibid., p. 44)

One of the ways in which artistic syndicates enforce censorship of art works is by prohibiting any person who is not a member from working in the theatre, cinema or music sectors. A syndicate board may, however, grant a temporary permit to non-members for a specific work or for a defined period of time, and in principle these permissions are supposed to be given *'[i]n order to facilitate the emergence of promising talents or the continuation of distinguished experienced artists, in consideration of joint productions or to promote cultural exchange between Egypt and other countries, or due to rarity and the lack of practitioners among syndicate members'* (ibid., p. 45).

The syndicate will monitor the implementation of the contract to ensure that the permit applicant's rights are upheld during the period of the contract. In exchange, the applicant pays a fee to the syndicate. According to the study *'it is prohibited to sign a contract with or employ a person who is neither a syndicate member nor the holder of a temporary permit'* (ibid., p. 47). The report argues that *'this restriction severely limits the freedom of artistic expression in cinema, theater, television, and music. If the artist is*

not a member of a professional syndicate and does not hold a permit from one, producing, participating in, or disseminating the art work is tantamount to a crime, punishable by law' (ibid., p. 45).

As pointed out in the AFTE/Freemuse study, the Egyptian government's limitations on the right to create or join artistic syndicates *'violate Article 2 of ILO Convention 87 on freedom of association and protection of the right to organize, which states that "[w]orkers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization"'* (ibid., p. 59)

IV.6

THE MACHINE ROOM OF CENSORSHIP

To understand the challenges faced by artists, producers and distributors in navigating the labyrinths of censorship restrictions and regulations, it is useful to read how the production and distribution of films are regulated in Lebanon, as described in the Heinrich Böll-sponsored 2010 report, *Censorship in Lebanon: Law and practice* (Saghieh, et al., 2010).

CENSORSHIP OF FILMS

With regard to shooting films, General Security exercises prior censorship based on internal directives that have no legal foundation. Censorship is applied to both documentaries and feature films. General Security may censor scenes or sentences by crossing them out on the film script and asking the applicant (ie the director) to sign the amendments as proof of his or her approval. The censor also adds to the filming permit a statement in which the director pledges that the film production will not constitute any damage to Lebanon or upset political or military interests. Moreover, General Security may request film directors to obtain additional permits from other official and non-official authorities, such as the Lebanese Army, the Internal Security Forces, district governors and other political organisations and private companies, eg Solidere (the

Lebanese joint-stock company in charge of planning and redeveloping the Beirut Central District). Thus, the underlying principle is not to ensure the exercise of freedom as is prescribed by the law but rather to give influential parties and individuals the power to interfere with and restrict freedom of expression. With regard to film screening, the current censorship methods constitute a clear violation of existing laws. Violations occur on several levels: Firstly, General Security acts as the sole censorship authority in breach of a law which stipulates that a committee should be established that consists of representatives from several ministries, as well as General Security. Moreover, in its decision-making process, General Security seems to actively consider the interests and opinions of religious and sectarian institutions, as well as the leaders of

political parties. Secondly, a screening permit granted to a locally produced film is no longer considered as a general permit to screen the film, but is specific to the applicant, meaning that every screening requires a new permit. Thirdly, decisions to censor parts of movies, refusing to reply to a request or restricting viewing to certain age groups are all based on arbitrary judgments that do not have any legal foundation. Furthermore, there are no specific provisions for film festivals and student films. Concerning the importing and distributing of films, General Security exercises strict censorship, based on the general provisions stipulated in the decree that outlines General Security activities. This censorship is exercised by the Customs Department, and films are either imported without conditions or with specific conditions, such as a signed statement to remove specific scenes as a prerequisite to obtaining a screening permit. Films can be restricted to adult-only screenings or to personal use and may even be confiscated



Egyptian film-makers face many of the challenges experienced by their Lebanese colleagues. In the AFTE/Freemuse report, film director Ahmad Abdalla said:

I can't really add anything new because in the end you move within the framework of the longstanding trinity of religion, sex, and politics, and the whole 'we don't want films that touch on these areas'. In general, the form of permits is intentionally incapacitating, even if the censor approves the film. For example, you submit the script and it's approved and passes the censors. They write on it: the film has been approved by the artworks authority, with the final opinion of the censor to come after a viewing of the film. So, this approval has no value until after the film is seen. And then they add observations like the following:

1. No mention of the police or army, on active duty or inactive, in any way whatsoever.
2. Avoid scenes of smoking, water pipes, and drugs.
3. Avoid dealing with clerics in any way whatsoever.

In the end, following these observations, you can't even show a chase scene between a policeman and a thief, even as just a classic scene with no connection to politics. You can't. Or you can't show the hero in a scene praying the Friday prayers, for example. None of these scenes could be put in a movie if you follow the observations from the censor. So, your film may have an officer, a mosque, or a church, and the script with these things has been approved, but these observations actually prohibit it. The idea is that they're immunizing themselves in case something happens later, so they can argue that they gave you these observations.

They're civil servants who are protecting themselves and aren't interested in creative work and how to direct movies. But these observations are not always observed except in major cases because we're certainly subject to censorship, and if the censor has initially given you this sort of document, that's a kind of oversight of the text.

IV.6.1 Case study: Belarus – a ‘democratic dictatorship’

With reference to state control, Belarus represents an interesting mix of old-style Soviet repression and control and a democracy in which the majority of people voted for their leader. President Alexander Lukashenko, who has held office since 1994, is called ‘the last dictator of Europe’, and leads a state that maintains tight control over every sphere of social and cultural life, media, arts and culture. Hidden Truths (Lovas & Medich, 2006), a Freemuse publication, reported:

Belarus’ complicated bureaucracy allows for a number of legal pretexts to stop musicians from performing. In order for a concert to take place legally, the group or promoter concerned must apply for a performance permit (gostryulnoe udostoverenie) from the city authorities – in the case of Minsk, where most of our research took place, the body that issues licenses is Minsk City Executive Committee. Their officials have the right to refuse a license for any number of reasons or even to withdraw it once it has been issued. If officials are confident that the concert will be ideologically sound – presentation of a membership card of Lukashenko’s loyal student union the BRSM seems to do the trick – the license will be granted. For rock and Belarusian language bands in particular, consultation with the KGB, Ministry of Culture, or Ministry of Religious Affairs (particularly for

goth and metal concerts) enables officials to refuse applications with the justification that they are simply observing orders from above. A common mechanism used by the authorities to prevent live performances, according to our informants, is last minute revoking of licenses. This is done under a variety of fabricated pretexts using health and safety, housing or similar regulations. Some of the examples given to us by our interviewees verge on the absurd, as in the case of a punk concert which was cancelled ‘because the location is mined’ or hypothetical scenarios such as: ‘It is dangerous to have this concert because a lot of young people will come and they’ll cut the chairs.’ (ibid., p. 29)

In 2015 the Belarusian writer Svetlana Alexievich was awarded the Nobel Prize in Literature. Because she is a vocal critic of President Lukashenko, her books are not published in Belarus, and she is de facto banned from making public appearances.

A Presidential Decree, signed in June 2013, provides that an organiser of any concert must receive special permission from a local Department of Ideology. Any musician considered critical of the regime will therefore not be booked by organisers. Lavon Volski, an outspoken musician, has not been able to perform in Belarus for many years. His music is banned, but he organises concerts in neighbouring countries and followers from Belarus travel abroad to hear his music live.

The Belarus Free Theatre (BFT) is another example of how artistic freedom is restricted by the authorities. For several years since the early 2000s police officers would never miss BFT's performances in Belarus, not because they were ardent theatregoers, but because they stopped actors from performing. Having been stopped several times, the BFT changed its strategy. According to an article in The Guardian in 2010:

The BFT has to perform in secret, at considerable risk: performances have been raided by police and multiple arrests made. Audience members are contacted by text message and told to meet at a secret location, from which they are taken to the show. At the moment the company uses a near-derelect house where two rooms have been knocked together; the audience, some of whom have travelled for hours to be there, squeeze on to benches at one end of the space and the play is performed at the other. The anticipation is palpable. At the end, the applause comes with a wave of relief, not just because the police didn't storm the building. Many of the audience have seen nothing like this before; to hear the problems of their country spoken about honestly makes them feel a little braver and less alone. (Wade, 2013)

Since 2011, BFT's founders, Natalia Kaliada and Nikolai Khalezin, have lived in exile in London, but they soon realised that although West-

ern Europe in principle allows for free speech, many theatre directors and cultural institutions still fear producing 'provocative' artistic work. In an interview with The Independent in 2015 Kaliada said: *'We understand that censorship under a dictatorship is imposed by the external ruling regime. Censorship from within a democracy is often self-imposed by the individual.'* Her comments echo those made in March by Jude Kelly, artistic director of the Southbank Centre, Munira Mirza, Deputy Mayor for education and culture, and Shami Chakrabarti, director of the human rights organisation Liberty, among others, who described the rise of self censorship as 'chilling' and 'catastrophic' for British culture. In 2015 the National Youth Theatre in UK cancelled a play – inspired by the story of three schoolgirls from Bethnal Green in London who went to Isis-controlled territory in Syria – just two weeks before its opening night (Johnston, 2015).

According to the Nadia Latif, director of the play 'Homegrown', which told the story of UK youths who had gone to join IS or knew others who had: *'We jump to support artists struggling to make work in the regimes of the East, but here in our haven of Western liberal democracy we hesitate to stand behind those pushing against a more insidious authoritarianism'* (Index on Censorship, 2015).

POLITICAL CENSORSHIP BY CASH FLOW

State support and funding of artistic education and artistic production exists in most countries. Some states prefer to mainly subsidise and promote 'traditional heritage'. Other states consider art as a tool for whichever government or ruler is in power, whereas some, financially sound, democratic states regard it as natural and important to support contemporary and innovative artistic expressions (Reitov, 2015).

In the **USA**, over the decades, politicians have frequently promoted the idea that the state should in no way support art expressions that are considered to be controversial or offensive. As a report sums up:

In 1989, government arts funding in the United States came under vitriolic political attack. In the wake of complaints about taxpayers' money being spent on offensive, 'pornographic', or 'blasphemous' works, and in the face of threatened cut offs of funding, the National Endowment for the Arts began to retreat from supporting potentially controversial artwork. State and local funding agencies, although less vulnerable to attack, could not help but be aware of the political risks of supporting provocative art. ... The question, more than

a decade after the attacks on the NEA began, is whether government arts funding can maintain a commitment to free expression even when some funded works or artists are unconventional, or where political and moral entrepreneurs seek to sensationalize, distort, and drum up political opposition to provocative art. (Free Expression Policy Project, 2003)

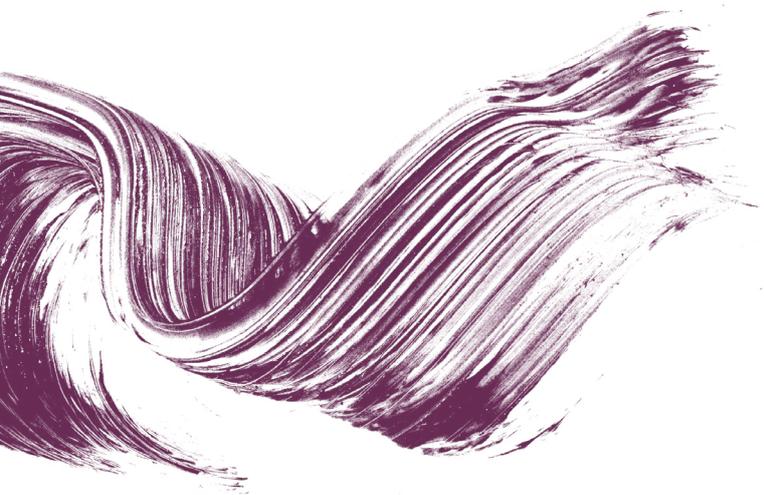
The **Nordic countries**, in contrast, provide state and municipality funding to a diversity of artistic expressions, as well as access to the presentation of controversial art in public-funded arts institutions and venues. However, even here, the major part of the state budget for artistic expression continues to be directed towards the established institutions (national theatres, national operas, national museums, symphony orchestras etc.)

Recent political developments in **Hungary** have deeply affected the cultural sector. The current government has replaced many cultural administrators with people allied to the ruling party. As Hungary assumed the EU presidency in January 2011, some of Hungary's leading artists, including conductor Adam Fischer and pianist Andras Schiff, denounced the government policies in an open address to European artist colleagues, calling the policy of the government 'xenophobic'. Supporting the call, world-famous conductor Daniel Barenboim commented: *'Growing intolerance and racism weigh today heavily on our*

conscience. Therefore, I fully support Andras Schiff, who was already attacked, and Adam Fischer in their appeal to artists in the European Union, Hungary and beyond to actively take a stand against it' (Pusztaranger, 2011).

In the **Netherlands** another trend is significant. The (right-wing) government cut the 2012 cultural budget by 25%, leading to the state discontinuing the funding of 70 out of 118 performing arts organisations (Dowling, 2012).

In many **African and Central Asian countries**, the understanding is that it is best not to 'bite the hand that feeds you', and artists seeking work tend to adapt their projects to meet the funders' expectations, which dampens their artistic potential. Thus, artists who are critical of regimes or use controversial expressions (typically, heavy metal music, avant-garde visual expressions, modern dance etc) find themselves without any state support or support from various state-controlled outlets, such as museums, broadcasting companies and theatres.



IV.8

CANCELLATION OF EXHIBITIONS AND PERFORMANCES DUE TO PUBLIC THREAT

In recent years there has been an increase in reports of artworks being removed from galleries and performances halted for fear of attacks from community groups, who protest for reasons ranging from religious offence to the perceived racism of the artworks. Extreme political groups, notably the right wing in Europe, have also threatened artworks. Those hosting the artworks are left with a dilemma: whether to proceed despite the fear of endangering the artists and their audience, or whether to cancel and give in to the threats.

Frequently police advise that for safety reasons the work should be shut down, leading to concerns that artistic freedom of expression is being curtailed for fear of mob violence. In the best-case scenarios, police work with the venues to ensure that the artists' and audiences' rights to present and view works is maintained, while safety is guaranteed.

The role of Culture Ministries in supporting artworks under attack is crucial. One positive example is in **Austria** when, in October

2013, the Hungarian ambassador to Austria complained about an exhibition in Linz by the Roma artist Marika Schiedt, which featured posters highlighting the plight of Roma people in Europe, and requested that it be cancelled, because it was 'racist' and 'anti-Hungarian'. Several of the works drew parallels between the Nazis and Hungary's far-right Jobbik party, which has extreme anti-Roma views. One poster featured Hungarian prime minister Viktor Orbán on a label for 'Natural Smoked Gypsy Cooked Salami', next to a Jobbik party logo. The planned exhibition led to protests by the Hungarian community. However, the mayor of Linz refused to cancel the exhibition, saying in his response to the ambassador: *'Criticism and escalation is a legitimate method in a democracy ... We therefore stand by the artist who will receive a public forum at City Hall'*. The exhibition went ahead, with protection against the threatened attacks being provided by the police (Knezevic, 2013a).

Similarly, in **Denmark**, the Justice Ministry spoke out in support of an embattled artist. In September 2013, a poetry reading in the Danish town of Vollmose by the Danish-Palestinian poet Yahya Hassan was the cause of controversy and threats. Hassan is highly critical of the Danish immigrant community and of Islam, and the event attracted protests outside the venue. The reading went ahead despite the presence of protesters, with police making arrests and providing protection for

the poet. At the time Danish Justice Minister Morten Bødskov said that this was not an issue of police resources, adding that it was the job of the police and county administration to ensure that the *'framework for free and open debate'* is in place (Knezevic, 2013b).

A less satisfactory outcome was in **Poland** where Golgota picnic, a play by the Argentine playwright Rodrigo Garcia, was cancelled in July 2014, despite being a headline performance at the Malta festival. Police had warned they could not protect the artists or the audience. It was feared that several thousand people would descend on the festival to protest about what they saw as blasphemous content in the play, which portrays Jesus Christ in a critique of contemporary consumer society. The play had been controversial in other European countries, but had not been banned. The performance was cancelled, but the Polish Minister of Culture supported the artists, saying *'[f]reedom of artistic expression is the basis of democracy and the constitution.'*¹⁸ There were nevertheless solidarity performances held at private venues in Poland.

In the **United Kingdom**, in September 2014, the Barbican Centre cancelled a performance, Exhibit B, by South African artist Brett Bailey. The show, referencing the nineteenth century Human Zoo exhibits, featured black actors in chains. A vociferous campaign ensued, calling for the closure of the event, because it

was 'racist', and protestors gathered outside the venue. The organisers decided that both performers and the audience were in danger, and decided to cancel the show. The work had previously been performed across Europe without any problems. The incident led to debate in the UK about how venues can better plan for the protection of controversial events, and whether more could be done by police to protect artists and their audiences against attack (Farrington, 2014).

IV.9

PUBLIC SPACE, COMMON SPACE, GRAFFITI AND FREEDOM OF ARTIS- TIC EXPRESSION

During demonstrations against President Mubarak at Tahrir Square in Cairo several artists were producing art in response to the events, and the anthem of the revolution was composed on the square by singer Ramy Essam. Architect and researcher Alessandro Petti analysed the situation at Tahrir Square as a transformation from a 'state controlled (public) space' to a 'space belonging to the common' (Graf, 2012).

In post-revolutionary Egypt, Tahrir Square continues to be a space of conflict between artists and the authorities. Obvious questions in this regard are: To whom does public space belong? Who should decide what is allowed and where? Are publicly commissioned artworks 'appropriate' in the environment where they are placed? To what degree should the public have a say?

Could and should city councils find appropriate ways of offering space to artists who prefer to operate in open spaces accessible to all citizens? One may ask whether the real 'vandals' are those removing graffiti art from public spaces or the artists who wish to convey a message or share their work with the public for free. Should music be allowed at any time and at any sound level? Can theatrical plays that may 'offend' some citizens be staged in public spaces?

Some cities allow almost any level of sound and any activities during festival seasons. Some festivals attract tourists and generate revenue for local restaurants, hotels and bars. But those citizens living in the middle of a festival may not necessarily agree with this policy.

Since the 1980s graffiti – by many authorities considered vandalism – has become a global phenomenon, has created many controversies, and has led to city councils and transport companies developing different strategies.

Is graffiti art or is it a crime? It is, apparently, a simple question with a simple answer. Graffiti done with permission is given the prestige of artwork. However, it becomes a crime when one puts that 'art' on someone else's property. As New York councillor Peter Vallone said, *'I have a message for the graffiti vandals out there – your freedom of expression ends where my property begins!'* (BBC, 2006)

This quote illustrates that some cities regard graffiti as an artistic expression, which – if permission has been granted – should not only be allowed but even supported. In March 2009, the Brazilian government passed Law 706/07, which decriminalises street art. This law, however, does not allow graffiti painters to decorate any wall. In an amendment to a federal law that punishes the defacing of urban buildings or monuments, street art was legalised if done with the consent of the owners (Young, 2012).

Other cities, such as Stockholm, have a no 'tolerance' policy and probably spend more money on cleaning the city of tags and graffiti than on new art in public space (parks, squares etc).¹⁹ Some city councils will happily spend huge sums on engaging famous graffiti artists such as Banksy, but do not want local graffiti artists to decorate buildings or walls. The conflict over public space includes access to public spaces to perform music, perform theatre, display exhibitions, or even put up stickers without being charged with hooliganism or vandalism.

Often public art is project based, uses hit and run and guerrilla strategies, is more conceptual based than aesthetically driven, merges with everyday life, formulates alternatives to drop sculptures, combines stories with histories, prefers open, rather local narratives and is anti-hierarchy. It often creates in-between spaces, un-commercial environments, in which a creative, rather process orientated chaos brings people together for positively contributing to the culture of life (Lebensqualität) of a locality and their community.

MARCUS GRAF

RADIUS OF ART: THEMATIC WINDOW
– PUBLIC ART (2012)

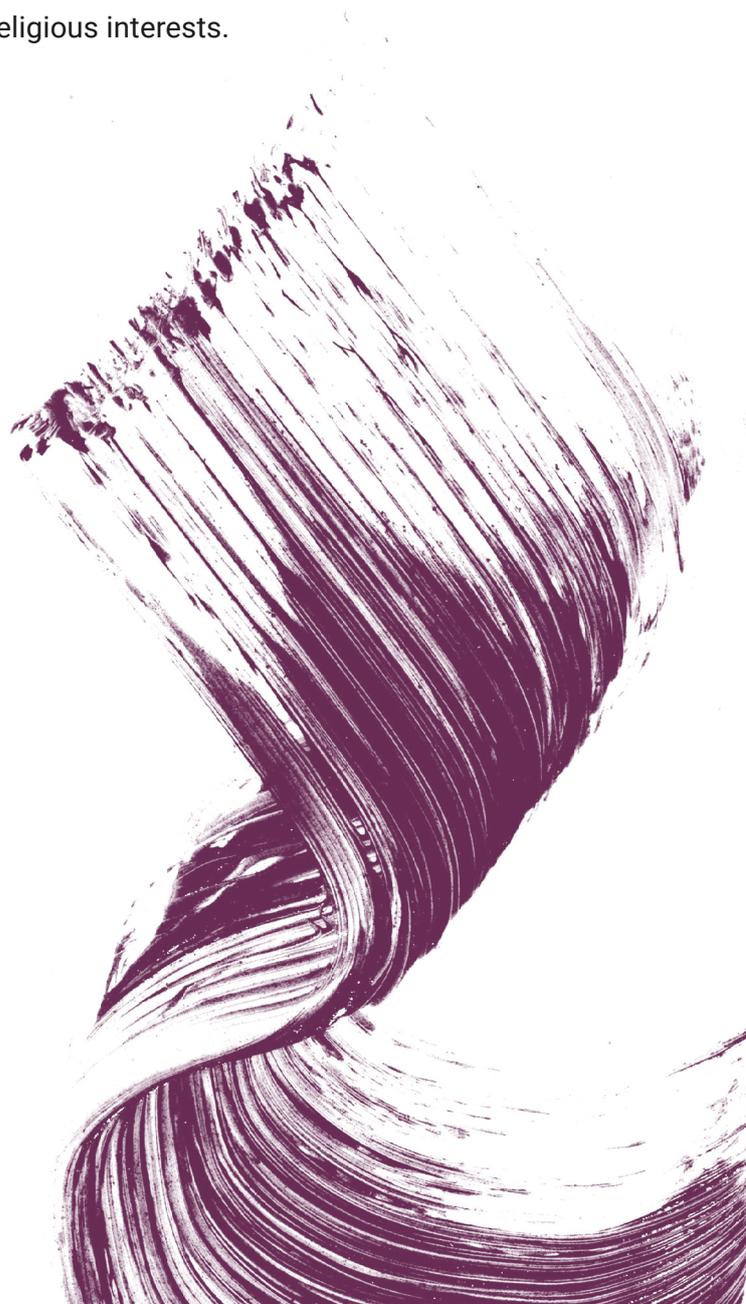
Often public art is project based, uses hit and run and guerrilla strategies, is more conceptual based than aesthetically driven, merges with everyday life, formulates alternatives to drop sculptures, combines stories with histories, prefers open, rather local narratives and is anti-hierarchy. It often creates in-between spaces, un-commercial environments, in which a creative, rather process orientated chaos brings people together for positively contributing to the culture of life (Lebensqualität) of a locality and their community. (Graf, 2012)

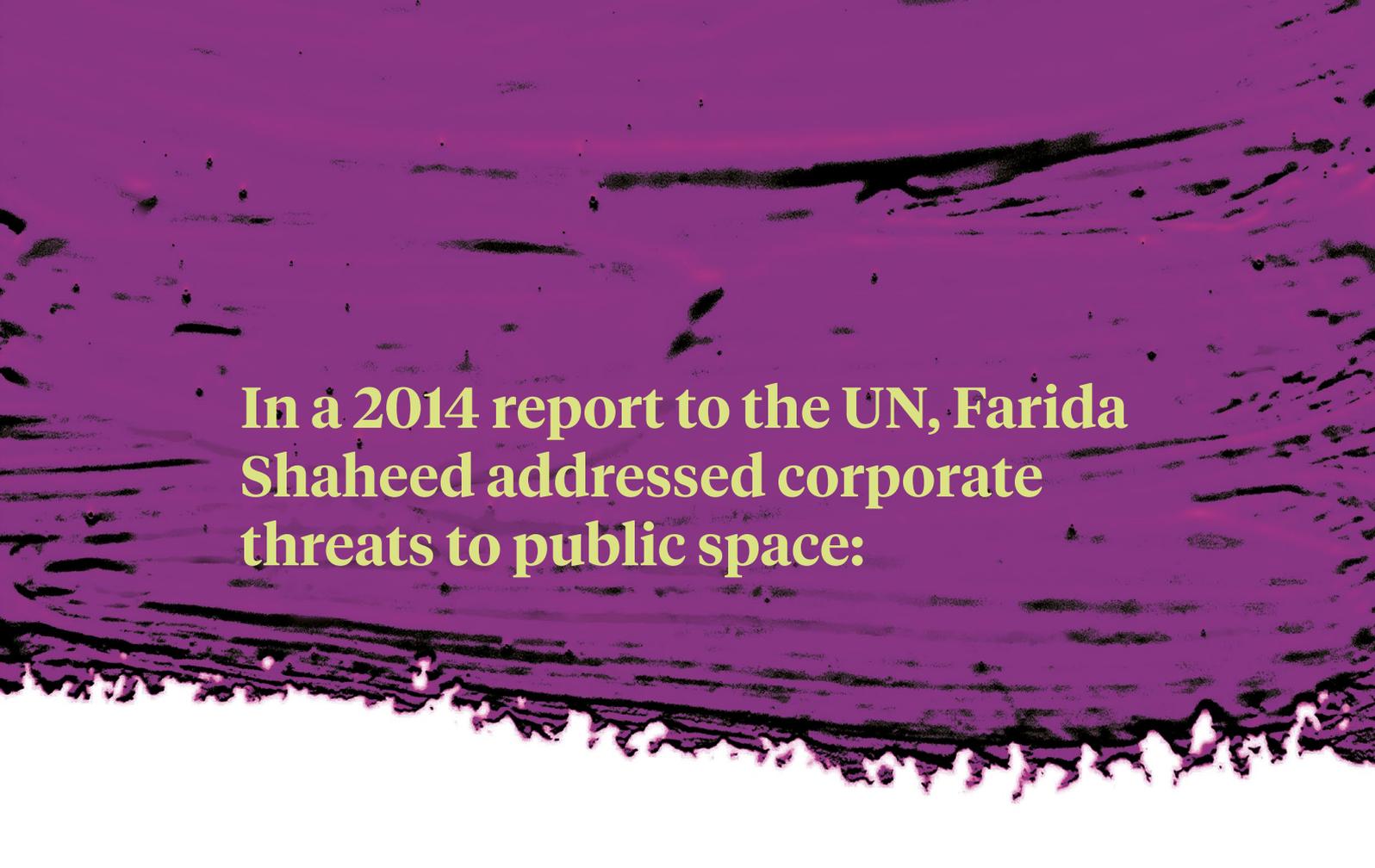
In Singapore, Oliver Fricker, a Swiss national, fell foul of strict laws in 2010 after spray-painting graffiti on train carriages. He was sentenced to five months in jail and three strokes of the cane. In June 2012 another heated debate started in Singapore when a female street artist was arrested for vandalism. The artist, dubbed the Sticker Lady, sprayed the words 'My Grandfather Road' in the city centre, and pasted circular stickers in public spaces, including traffic-light junctions. However, a member of the Singaporean parliament, Janice Koh, compared Sticker Lady's work to that of British street artist Banksy, and expressed the hope that 'the authorities will deal with this case ... with a light touch.' She said: *'It is almost impossible to talk about developing a culturally vibrant, creative or loveable city, without some tolerance for those slightly messy activities that sometimes challenge the rules'* (Han, 2012).

IV.10

CORPORATE INTERESTS

The protection of corporate interests may also play an important role in art restrictions. The underlying motivations include the desire to silence artists' criticism of corporate practices or prevent artists from (ab)using their brands, but corporates are also regarded as a threat to diversity and artistic freedom when they dominate markets or are linked to political or religious interests.





In a 2014 report to the UN, Farida Shaheed addressed corporate threats to public space:

Corporations, artists claim, try to co-opt public space used by graffiti artists, for example, for commercial messaging. Indeed, advertising companies have demanded that murals be regulated by the same codes applicable to advertisement billboards.

While acknowledging that States have different approaches to graffiti, the Special Rapporteur is concerned by the sharp disparity between the paucity of action and enabling mechanisms for removing illegal billboards compared with the far greater resources devoted to removing illegal graffiti, with sanctions in the form of fines and even jail sentences.

*Report of the Special Rapporteur in the field of cultural rights,
Farida Shaheed: The right to freedom of expression and creativity
Geneva: United Nations Human Rights Council, 2013*

Shaheed suggests that *'[s]tates should protect people from undue levels of commercial advertising and marketing while increasing the space for not-for-profit expressions'* (Shaheed, 2013, p. 17).

“[S]tates should protect people from undue levels of commercial advertising and marketing while increasing the space for not-for-profit expressions“

FARIDA SHAHEED

(SHAHEED, 2013; P. 17)

Particularly in countries where governments are cutting back their cultural budgets, many museums, opera houses and festivals are very dependent on sponsorship. Corporations also use artists and product placements in film productions, but the very same corporations are very protective of their brands, which in some cases leads to conflicts over artistic freedom. In 2011, Palestinian multimedia artist Larissa Sansour was nominated for the prestigious Lacoste Elysée Prize, administered by the Swiss Musée de l'Elysée. Inspired by Palestine's unsuccessful request for full membership at

the UN, Sansour submitted her Nation Estate project in November 2011. The project depicts a science fiction-style Palestinian state in the form of a single skyscraper housing the entire Palestinian population. The project's political message soon proved too much for the corporate sponsor, French fashion giant Lacoste. In mid-December Sansour was removed from the competition and her nomination revoked. She was asked to approve a statement saying that she had voluntarily withdrawn her nomination. Sansour refused to approve the statement and instead issued a press release stating her side of the story. The response was a public outcry against censorship, covered in media worldwide. As a result, the Musée de l'Elysée decided to cancel the prize entirely and broke all ties with the sponsor, Lacoste (BBC, 2011).

IV.10.1 Case study: USA – grassroots and market censorship

In the USA – the world's largest producer of pornography – shock waves went through the media industry when singer Justin Timberlake, performing a duet with Janet Jackson during the half-time break at the Superbowl on nationwide television, pulled off a part of Jackson's costume, revealing her right breast, partially covered by a piece of nipple jewellery.

The incident was broadcast for less than a second. Sometimes referred to as Nipplegate, this incident caused a media furor. The Federal Communications Commission (FCC) fined the broadcaster CBS a record \$550,000 (Kreps, 2014). As much as the response to the incident was ridiculed in many other countries, as well as by commentators in the USA, it is symptomatic of a trend of controversies regarding art, public space and 'concerned parents' organisations.

In what is termed 'grassroots censorship', movie theatres, museums, music industries and public funding agencies are frequently targeted for supporting, distributing or producing artistic expression related to nudity or religious issues. As the National Council Against Censorship (NCAC), the American watchdog of censorship writes: *'It is somewhat ironic that, in a society where sex appeal is used to sell everything from perfume to cars to shampoo, and where the consumption of porn involves some 40 million Americans (hardly a minority), artistic representations of nudes are regularly banned from being shown in public places'* (NCAC, n.d.).

Referring to an incident in Florence in 1501, where onlookers stoned Michelangelo's 'David', breaking off an arm, the NCAC relates that in 2001 a replica of 'David' in Lake Alfred in Florida was dressed in a loincloth after complaints from the community.

In 2010 a video by the late artist David Wojnarowicz was removed from an exhibition of gay portraiture at the Smithsonian's National Portrait Gallery after protests from a right-wing Catholic group and members of Congress. According to an article in the Washington Post, the image that provoked the Catholic League, a relatively small organisation that *'has leveraged a remarkable amount of influence in the culture wars over the past two decades'* (Kennicott, 2010), was part of a repertoire of Catholic imagery used by Wojnarowicz throughout his career. The Smithsonian came under heavy criticism from arts communities, liberal Catholics and freedom of expression organisations.

One can speculate about the effects of the above incidents. To what extent are publicly funded art organisers willing to risk massive criticism from decision-makers? How does a public reaction and Senate hearing influence curators, librarians, record producers, and so on?

Cultural producers and artists in the USA refer to censorship of the market. In a country where the cultural industries are market-oriented, public funding is under pressure and alternative distribution is minimal, 'market censorship' is a complex issue, which includes control over bookstores, concert arenas, publishing rights etc.

Vertical integration – a system where corporates control all links from ideas to production, publishing and distribution – is not a free market. Block bookings of cinemas can be made years ahead by companies controlling production and distribution. In a system dominated by corporates an artist may have free expression but not necessarily access to consumers. Although no such right to access exists, control exercised by the industry may constitute censorship or restrict cultural diversity.

When the all-female country band ‘Dixie Chicks’ protested against the plans to invade Iraq in 2003, their music was removed from hundreds of radio stations controlled by a media conglomerate. Some radio stations incited listeners to burn CDs by the band and the band members received death threats. For a long-time artist colleagues were silent, some because they supported the war in Iraq, others because they feared retaliation from the industry if they supported their colleagues or joined their protest.



Walmart – the world’s largest consumer retailer – censors any CD labelled ‘Parental Advisory’:

With its roots in the Southern Christian heartland, Walmart believes that being a ‘family’ store is the key to their mass appeal. They refuse to carry CDs with cover art or lyrics deemed overtly sexual or dealing with topics such as abortion, homosexuality or Satanism.

While Walmart is the world’s largest CD retailer, and in some regions the only place in town to purchase music entertainment products represent only a fraction of their business. However, it is a different story for recording artists. Because Walmart reaps about 10 percent of the total domestic music CD sales, most musicians and record companies will agree to create a ‘sanitized’ version specifically for the megastores.

Fox, M. A., 2005. Market Power in Music Retailing: the case of Wal-Mart. Popular Music in Society, 28(4), p. 511

CHALLENGES TO ARTISTIC FREEDOM IN THE DIGITAL AGE

Without a doubt, the internet has provided many artists with many new options to reach both local and global audiences without restrictions from authorities. However, internet freedom is also a myth. Internet providers, governments and social media companies are controlling, monitoring and censoring artistic expressions. Several countries apply filters on search engines, and conclude non-transparent deals with international companies such as Google and Facebook.

During the so-called Arab Spring, the internet and social media platforms were used to identify individuals and groups who were opposing the government – including artists using their art to protest against the regimes.

Eileen Donahoe, Director of Global Affairs at Human Rights Watch has described this as follows:

Digital technology has transformed the means through which human rights are both exercised and violated around the globe. The Internet has become an indispensable tool for the

realization of a range of human rights, and for accelerating economic development. Yet, every day, there are new examples of how digital technologies play a role in undermining human rights – whether through a prime minister banning Twitter in Turkey; a death sentence for a posting on Facebook in Iran; bulk electronic surveillance of American citizens by the NSA; a court ruling on the right to be forgotten in Google searches in Europe; or a requirement that Internet users supply real names to service providers in China. (Donahoe, 2014)

She adds that this dual edge aspect of technology was conveyed well by a Tibetan human rights activist to the Toronto-based research group Citizen Lab: *'Technology is this funny thing where it's a lifeline, and then . . . maybe it's your ticket to jail' (ibid.).*

According to a study 'Culture under threat?', published by the Swedish Agency for Cultural Policy in April 2016, one out of three Swedish writers and visual artists has reported being exposed to threats, harassment, violence or vandalism in the past, with every sixth respondent exposed to some kind of threat or harassment during the previous 12 months (Myndigheten för Kulturanalys, 2016). According to the report, the most common type of incident is threats on social media and other digital channels. Authors who are profiled in the media, who are active on social media and who are publicly known figures run the highest

risk of exposure. Among the authors included in the report, using digital platforms for social criticism is clearly linked to an increased exposure to threats, harassment, violence, theft and damage.

“Technology is this funny thing where it’s a lifeline, and then . . . maybe it’s your ticket to jail“

EILEEN DONAHOE

in *‘Human Rights in the Digital Age’* (2014)

The report was carried out in cooperation with the Swedish visual artists’ union ‘Konstnärernas Riksorganisation’ (KRO/KIF) and the writers’ union, ‘Sveriges Författarförbund’ (SFF), which sent questionnaires to their entire membership. Therefore, the report focuses specifically on visual artists and authors, but it is likely that musicians and performing artists are also affected. Nearly 3,000 of the over 6,000 union members participated. The survey also indicates that artists and authors who are not of Swedish origin are more exposed to threats, and particularly to violence. Lead report writer Myrberg stated that *‘[t]he most common response when we asked who the perpetrators were was that it was about*

an individual angry person or someone who is opposed to the content of art.’ Several artists told the report writers that these threats were not taken seriously by the police.

Chapter 3 of the 2018 UNESCO Global Report ‘Cultural policies in the age of platforms’ (Kulesz, 2018) discusses several developments in this area. For an artist, these online threats not only disrupt a flow of ideas, but also curtail their artistic freedom, and – most importantly – their ability to connect with their audience. When the key means of displaying their work is shut down, the artist’s ability to communicate is thwarted.

Unimpeded access to digital technology and social media is therefore central to artistic freedom. World trends show that the following restrictions have been imposed on digital technologies:

- Governments are using legislation to restrain access to and the use of social media, and to control what appears on social networks. In some cases, if works are disseminated digitally, the penalties are harsher, eg the Nigeria Cybercrime Act 2015. Digital surveillance, both actual and perceived, can serve to create a climate for self-censorship. According to a PEN America 2015 survey (PEN America, 2017), writers in countries that are seen to be democratic, as well as those that

are 'non-democratic', feel the chilling effect of surveillance and report self-censorship as a result.

- 'Trolling' and threats from other users can intimidate artists into withdrawing their work. While these abuses are not usually state-sanctioned, a lack of effective action against such abuses contributes to self-censorship. The nature of these attacks makes it difficult to measure the extent of the attacks, but widespread reporting across the media suggests that the impact is significant.
- Digital censorship targets women artists in particular, and they are also more likely to be subjected to abuse. Rules about nudity have affected women artists disproportionately, because their subject matter focuses on 'taboo' issues, such as menstruation and the female body. Women are especially targeted by online violence, especially those from minority backgrounds or who tackle political issues and feminism (Pinto, 2017).

IV.12

RELIGIOUS BELIEFS: CENSORSHIP, AT- TACKS, ABDUCTIONS AND TOTAL BANS

Religion and art frequently conflict because religion is so deeply involved in aesthetic expressive practices. The crucial task of universal human rights norms is to prevent the arbitrary privileging of certain perspectives on account of their traditional authority, institutional power or demographic supremacy in society.

Every person has the right to believe. However, universal rights also (in principle) guarantee the rights not to believe and to criticise religion and religious practices. In spite of this, many countries continue to regulate artistic freedom using arbitrary blasphemy laws and by censoring any artistic expression considered harmful or that 'stirs up' religious sentiments.

The Organisation of Islamic Cooperation (OIC) frequently argues for including wording on 'religious intolerance' within resolutions on racism in the UN Human Rights Council, but others argue that religions do not comprise individuals. Religion is faith.

In national and international deliberations, freedom of artistic expression is routinely positioned in opposition to the respect and deference expected by traditional or institutionalised religious faiths and their adherents. Representatives of these faiths regard themselves as the custodians of sacred values that are violated or denigrated by those artists who are deemed to commit 'blasphemy', insult 'religious feelings', incite 'religious hatred' or are regarded as guilty of 'religious defamation'.

Religious communities and congregations have always influenced state policies regulating and repressing artistic freedom. Artistic expressions addressing the abuse of power by religious leaders may – in some cases – be tolerated, but ridiculing religious symbols or questioning religion as such can in many countries lead to imprisonment or attacks from religious communities. Religion and sexuality in the twenty-first century continue to be a minefield of conflicts related to artistic expressions.

Whereas descriptions of homosexual relations in literature, music and visual arts are criminalised or censored in (Christian) Uganda and many Muslim countries, homosexuality may not be directly censored but nevertheless suppressed in some (Catholic) former European Bloc countries. LGBT people are also denounced or attacked through the lyrics of artists (which may be regarded as hate speech)

from certain Rastafarian societies in Jamaica and Christian communities in the Caribbean, who believe homosexuality is against human nature and God.

Viewed from within the context of the aesthetics of everyday life, however, the relationship between religion and artistic expression appears at once less dichotomous and more difficult.

Some Islamic authorities insist that, *'by definition, the tradition of Qur'anic recitation must be kept distinct from music, and, indeed, Muslim perception of the melodic recitation of the Qur'an makes it a unique phenomenon'* (Nelson, 2001, p. ix). Yet, the sounds of recitation are encountered not only in mosques and religious centres, but also on streets, in places of business, in taxi cabs, and indeed anywhere that a person can listen to a recording on a CD player or smartphone. In these situations, small judgments are being made every day about when and to what extent sound is appreciated for its aesthetic properties and what sorts of expressive uses are appropriate. This is not just a religious judgment but also a judgment about when, where, and to what extent people – and which people – may attend to, appreciate, or criticise the pleasures afforded by the immediate sensory experience of the sounds, apart from any other values they may have. This extends to all artistic formats, from visual arts, to cinema and theatre.

In the past 30 years religiously motivated arguments have led to the persecution and killing of artists, the strangling of whole societies' access to cultural expressions, and the positioning of religious interests in almost all cultural sectors worldwide.

Although some Islamic scholars believe in banning all images of human beings, few Muslim countries ever exercised such (total) bans on cinemas, galleries, photos of presidents in newspapers or books. In this sense, the Taliban regime and its followers, such as Islamic State and Al-Shabaab and the rebels in Northern Mali, are exceptions to practices in Muslim countries.

IV.12.1 There is no ban on music in the Quran

For artists and censors in Muslim societies (including overseas Muslim societies), it is a continuous challenge to manoeuvre between cultural practices and traditions and religious arguments put forward by militant, religious groups and conservative Islamic scholars.

During the civil war in Algeria, which began in 1992, for example, the Islamist Armed Islamic Group (GIA) added Berber singer Lounes Matoub's name to a hitlist of artists and intellectuals. On 25 September 1994, he

was abducted and held for two weeks in a GIA mountain stronghold, and condemned to death. But, following a large public demonstration (some estimate that half a million people demonstrated) in which his supporters threatened 'total war' on the Islamists, Matoub was released. Known as an atheist and but also as a vocal critic of the Algerian government's repression of Berber culture, Matoub said that the Islamists regarded his music as 'depraved', but he insisted on his right to not believe, as well as other's rights to believe as long as their beliefs did not result in killing or repression.²⁰

To understand the challenges faced by artists we must consider the theoretical and theological arguments on one side and how these are (ab)used on the other as tools for repression and domination. In doing so, and by focusing on music, we move between two extremes – from a total ban on music to total tolerance – all within the framework of Muslim scholar studies. Shaikh Ibrahim Ramadan Al-Mardini, from the Beirut Studies and Documentation Centre in Lebanon, told a conference in Beirut in 2005 that *'[t]here is no ban on music in the Qur'an, and those talking about which music is haram and which music is halal have very weak evidence.'* Invited by Freemuse and the Heinrich Böll Foundation, the Shaikh met a group of artists, cultural producers and academics from the Middle East and North Africa (MENA) region and argued that *'a music culture is necessary for people to develop themselves'*,

adding that *'any limitation on the arts is the opposite of what religion calls for'* (Freemuse, 2012a).

Al-Mardini added that *'[c]ensorship has turned into a totalitarian tool which is preserving the existence of regimes' and that the ulama²¹ interpret the rules and correct people when they go astray'*. Justifying some forms of music, he quoted the Prophet Muhamad saying to one of his companions, *'You came with a very good ear.'* The *mufti* (*shari'a* judge) is entrusted with disclosing the judgements of God, basing his views on the *Qur'an*, the *Hadith* and the *Sunna*. Music is not banned in Islam; strong counter-evidence exists showing that it is allowed, Al-Mardini concluded, and from a theological point of view questioned the sources invoked to ban music.

'For example, eighty Hadiths were used to prove it unlawful but of these seventy were dhaif (weak) or very weak. There is no Qur'anic text banning music' he insisted. In Islam the Sultan only intervenes when humans deviate from God's judgement; the Sultan and the faqih (Islamic jurist) are symbiotic. Censorship, Shaikh Al-Mardini noted critically, exists to preserve regimes. *'Censorship has turned into a totalitarian tool which is preserving the existence of regimes – we see this all over the world. Who can impose a just censorship without being biased?'* the Shaikh asked. Shaikh Al-Mardini stated that he personally completely rejects censorship, arguing that it is not the

From the earliest history in all cultures, we have seen people who wanted to ban music, but societies have always co-existed with [it].

“ Al-Mardini

Mardini is one of the few Islamic scholars who have specifically studied regulations on music in Islam.

mission of the faqih to condemn things; his job is merely to guide the faithful. A *fatwa*²² has no value unless it develops. It must not be static.

To underline his statement Al-Mardini said: *'Those who have said that Islam forbids music are completely false; the evidence is not correct. ... From the earliest history in all cultures, we have seen people who wanted to ban music, but societies have always co-existed with music.'*

Given his perspective on Islam and music, we can understand the motivations behind the total ban on music, TV programmes, dance etc by the Taliban in Afghanistan and the ban on music in occupied Northern Mali.

Two reports published by Freemuse add to our understanding of the conflict between interpretations of Islam and how such interpretations

are abused for power reasons. Professor John Baily, a British academic specialising in Afghan music, wrote in his 2001 report *Can you stop the birds singing? The censorship of music in Afghanistan* (Baily, 2001):

Western commentators like to attribute the Taliban view of music to fundamentalist Islam, but this is far too simplistic a view. There is no clear injunction within Islam against music, though the matter of the lawfulness of music has certainly been a matter of debate within Islam for many centuries ... Taliban have received much financial support from Saudi Arabia, home of the Wahhabi sect of Islam. ... Wahhabism rejects music and dances, but there is no ban on music in Saudi Arabia comparable to that in Afghanistan ... In my opinion, the Taliban are simply extremely puritanical and against any form of enjoyment or entertainment outside the sphere of religion. It has nothing directly to do with Islam. (ibid., p. 21)

Baily, who lived for many years in Afghanistan, finds similar trends in other religious practices or interpretations. As an example, he describes the form of Christianity practised by The Society of Friends, or Quakers. In the early days of Quakerism (1600s), the Quakers were strongly opposed to music, as they were to all the arts.

George Fox, founder of the movement, denounced such amusements and regularly

attended country fairs 'to preach against all sorts of musick' (Scholes 1955: 853), although he also sanctioned the unaccompanied singing of psalms. The Quakers' Yearly Meeting and Epistle of 1846 speaks of the practice and acquisition of music as 'unfavourable to the health of the soul' and as leading to 'unprofitable and even pernicious associations, and, in some instances, to a general indulgence in the vain amusements of the world.' (ibid., p. 41)

Baily notes that Quaker attitudes against music began to weaken in the 1870s, and today Quakers are in general very enthusiastic about music and *'hold concerts in their meeting houses and support musical activities at their own schools' (ibid., p. 41).*

Another British researcher and journalist, Andy Morgan, who has promoted, written about and dealt with music from Mali for several decades, in his 2013 report *Music, culture and conflict in Mali* (Morgan, 2013), also pointed to the impact of Saudi Arabian Wahhabism:

The Wahabi strain of ultra-conservative reformist Islam first made its mark on Malian society and religious discourse during the colonial era. It was popular amongst well-educated urban traders, businessmen and students, many of whom had travelled on the hajj to Saudi Arabia and brought back the rigorous teachings of Al Wahabi and his acolytes, which, by the mid twentieth century, had become the spiritual

cornerstone of the House of Saud and the new kingdom of Saudi Arabia. (ibid., p. 17)

Morgan describes the links between Saudi influence and the Algerian civil war, and how this resulted in the civil war in Mali and the consequent negative influence on artistic expressions:

The Salafist philosophy that rules the north can be traced back through Osama bin Laden and Ayman al-Zawahiri, the founders of Al Qaida, to Hassan Al Banna, founder of the Muslim Brotherhood, and his fellow Egyptian Sayyid Qutb, the theorist-in-chief of late 20th century Islamic radicalism; through Sayyid Abul Ala Maududi, the father of the Islamic revival in northern India, to an austere ultraconservative 18th century preacher from Najd in Saudi Arabia called Muhammad Ibn Abd al-Wahab. (ibid., p. 7)

Morgan goes on to describe how:

The oldest of these Islamist groups was Al Qaida in the Islamic Maghreb. It was created in 2007 when a recalcitrant Algerian jihadist organisation called The Salafist Group for Preaching and Combat (GSPC) decided to align itself with the wider global jihad and become part of the Al Qaida 'franchise'. The GSPC had itself emerged back in 1998 from the most brutal and hard line of all the Algerian Islamist terror groups, the Armed Islamic Group (GIA). The GIA were responsible for the darkest

violence of the Algerian civil war of the 1990s. Its acts of terror were so savage and indiscriminate that Osama bin Laden himself expressed concern that its activities were bringing the name of jihad into disrepute. Apart from countless soldiers, policemen and entirely innocent civilians, including women and children, the GIA were also responsible for murdering journalists, writers, intellectuals and musicians, including the star of 'soft' romantic raï music Cheb Hasni, who was gunned down near his home in Oran in 1994. (ibid., p. 8)

This was the very same year in which Lounes Matoub was abducted.

IV.12.2 We don't want Satan's music

Based on these strict interpretations of Islam and mainly funded by the very same sources in Saudi Arabia, fundamentalists and terror groups have banned all forms of entertainment and destroyed monuments, sculptures and buildings. In his report Morgan provides this image of fundamentalism in practice:

On Wednesday 22nd August 2012, the following announcement was made by Osama Ould Abdel Kader, a spokesperson for MUJAO based in the city of Gao: 'We, the mujahedeen of Gao, of Timbuktu and Kidal, henceforward forbid the broadcasting of any western music on all radios in this Islamic territory. This ban takes

effect from today, Wednesday. We do not want Satan's music. In its place, there will be Quranic verses. Shari'a demands this. What God commands must be done.' *In Gao, a group of teenagers sat around a ghetto blaster listening to Bob Marley. A Landcruiser pick-up loaded with tooled-up Islamic police came by and seeing the reggae fans, stopped and accosted them.*

'This music is haram!' said one of the MUJAO men as he yanked the cassette out of the blaster and crushed it under his feet. 'Listen to this instead,' he barked, handing the startled reggae fans a tape of Cheikh Abderrahmane Soudais, the highly revered Quranic chanter from Mecca in Saudi Arabia. (ibid., p. 13)

This study could continue with endless examples of how religious and/or moral arguments are being used to allegedly protect us, but let us complete the section with a couple of examples from Sweden and USA, where artistic expressions combining religion and sex lead to heated debates.

'Ecce Homo' was a controversial exhibition of 12 photographic images of different biblical situations, set in modern surroundings, taken by the Swedish photographer Elisabeth Ohlson Wallin. The first vernissage (private viewing) of the exhibition was in Stockholm, in July 1998. The photos portrayed Jesus among homosexual, transgender people, people

practising bondage, and people with AIDS. Sanctioned by K. G. Hammar (the archbishop of Uppsala and head of the Church of Sweden from 1997 to 2006) the exhibition was shown in a number of churches. The reactions within Swedish society were deeply polarised, with some considering the exhibition to be a radical expression of Christian love, while others regarded it as sacrilegious. In an interview in 2006 with the Christian Newspaper, Dagen, Hammar explained:

The 'Ecce Homo' debate was primarily about different ways of looking at Jesus and the place of homosexuals in the church. Christian interpretations then stood and still stand against other Christian interpretations. The purpose of what was happening in Uppsala Cathedral was never to violate somebody else's faith, but to defend the belonging / feeling at home of some Christians in the church. (Dagen, 2006)

None of the photos were destroyed.

In the USA and other countries, exhibitions offending religious sentiments have resulted in more violent action. As Svetlana Mintcheva of the US National Coalition Against Censorship describes:

On an otherwise peaceful October afternoon in 2010, a woman armed with a crowbar entered the Loveland Museum/Gallery in Colorado, slammed and broke the Plexiglas case holding

Enrique Chagoya's lithograph 'The Misadventures of Romantic Cannibals', then reached in and ripped out the work screaming: 'How can you desecrate my Lord?' The act of violence against an inanimate object apparently testifies about the power of images to arouse strong emotions, which include the desire to suppress, even destroy them, at any cost. But it may, in fact, tell us a lot more about politics, about how images can be exploited. The woman who wielded the crowbar didn't just happen upon the image, she was a trucker who drove all the way from Montana incensed by sensationalizing media reports about a work that desecrated a religious symbol; the first time she encountered the work it was with the intention to destroy it. It is doubtful she even looked at the work once she identified it. (Mintcheva, 2012)

Mintcheva describes how *The Misadventures* had been the subject of local and national controversy for a few weeks before the attack, because, among multiple other images from popular culture, the lithograph collaged an image of the head of Jesus Christ with the body of a woman engaged in a sexual act.

The artist stated his intention as a criticism of the sexual abuse rampant in the Catholic Church. Whether you buy this interpretation or not, an image is not like a verbal statement in that its meaning is open for multiple interpretations. Those savvy enough to exploit this can mobilize their constituencies by interpreting

the image as a deliberate attack on their values and beliefs: In this case they were successful enough to inspire the Montana trucker to violence. (ibid)

In this case no person was harmed, but attacks on artworks do have an effect. Mintcheva argues: *'If the goal is to assert power, mobilize the anger of key constituencies and force exhibiting institutions to second-guess themselves next time they are about to show a "controversial" work, then they are singularly successful' (ibid.).*

IV.13

IMPACTS OF CENSORSHIP AND CONTROL OF ARTISTIC EXPRESSIONS

A culture deprived of its artistic creations and artistic heritage clearly loses an important link to its history and identity... Cultural artefacts carry with them the power to influence the minds and motivations of the masses and with it, the power to divert people from an awareness of and compliance with the normative behaviours of a society, as dictated by religious, cultural and political ideologies. The control of culture is thus a major concern for both clerics and politicians. (ibid.)

Censorship and social and cultural control impact all aspects of creation from the development of ideas to production, performance, publication and distribution. Censorship leads to the repression of gender, minorities, linguistic and cultural identity, cultural diversity and travel restrictions.

Although the effects of censorship can be easily identified in cases where artists are imprisoned or killed, the social and economic repercussions of censorship and the extent of the lack of freedom of artistic expression and access to cultural presentations are more difficult to measure (ibid.). Infringements upon artistic freedoms affect all age groups; in a number of societies, restrictions and the censorship of artistic expression particularly discriminate against women artists and female audience members. Although women were given the right to vote in many countries in the twentieth century, this did not necessarily lead to greater social and cultural acceptance of women as active and outgoing citizens. Many societies continued to demotivate and restrict women from exercising their rights, and many women who are making a living as artists continue in several societies to be labelled as 'loose' or prostitutes.

Censorship and non-transparent regulations also negatively affect the educational and broadcasting sectors, artists who are state-subsidised or state-controlled, and cultural

organisations and institutions. Censorship may include control over artistic creation, and the presentation and use of artistic expressions in private houses, clubs and public spaces.

Censorship further affects negatively the creativity and economy of the cultural and adjunct sectors. As a group of Singaporean artists wrote in a report:

As practicing writers, artists and administrators, the effects of censorship impact all aspects of our creative and professional lives. In part, this is because of the uncertainty and anxiety it arouses. But, as extensive consultation with our peers has made plainly apparent to us, it is primarily because of how insidiously the censoring impulse has spread through institutions and the social body more generally. (ArtsEngage, 2010)



CASE STUDIES

V.1

LAPIRO DE MBANGA VS. CAMEROON:

VIOLATION OF ARTISTIC FREEDOM SUBMITTED TO THE UN WORKING GROUP ON ARBITRARY DETENTION

Background²³

In Cameroon, President Paul Biya has been in power since 1982, and for almost 40 years he has won a series of presidential elections. The latest election in 2018, which resulted in him starting his seventh term, was marred by low turnout and voter intimidation. He has been able to hold power for so long only because a clause in the Constitution limiting the number of presidential terms was removed in 2008. The Constitutional Amendment Bill, adopted on 10 April 2008, allows for an unlimited number of presidential mandates and grants the president immunity for any acts committed while in office.

Unsurprisingly, many in the country have argued that enough is enough. So, when Biya was once again running for another term in 2008, one of Cameroon's most popular singers, Lapiro de Mbanga (born Pierre Roger Lambo Sandjo) released a song titled '*Constitution Constipée*' ('*Constipated Constitution*'),²⁴ addressing corruption and injustice in the country.

Singing in the local pidgin language, mixing English, French and Douala, Mbanga had long been a constant critic of President Biya, with his songs chronicling the daily injustices of life in Cameroon. But it was '*Constitution Constipée*' that really infuriated the authorities, especially

the president, with its furious and witty attack on the amendment to the Constitution that allowed Biya to stand for an additional seven years.

Lapiro de Mbanga has described his style thus: *'the most serious things in humanity must be said with a laugh and not with bitterness. I say serious things with lightness. With a laugh, things stick in your mind'* (Mbanga & Brown, 2010).

The lyrics describe Biya as an old man who is tired and has outlived his usefulness, and although the song was banned on TV and radio, it became a massively popular hit, sung by thousands of workers and students when they took to the streets in February 2008, rejecting the constitutional changes and protesting against the steep rise in the cost of living. Lapiro, a member of the opposition party Social Democratic Front (SDF), was accused of instigating these mass demonstrations and was arrested. However, according to the Media Foundation for Western Africa (MFWA) and local press reports, his arrest was in fact linked to *'Constipated Constitution'* (Freemuse, 2012a).

After several court hearings, in September 2009, Lapiro was sentenced to three years' imprisonment and ordered to pay a fine of 280 million CFA francs (about 640,000 US dollars) as compensation for damage caused when the protesters had taken to the streets.

Campaigning for Lapiro's release

In August 2008, the Writers in Prison Committee of PEN International and Freemuse launched a joint international campaign for Lapiro's release. In the three years that followed, Freemuse had several new campaigns, which included collaborations with UK, French and US-based organisations, the release of a CD, the nomination of Lapiro for an international award and, finally, with US-based Freedom Now, bringing his case to the UN Working Group on Arbitrary Detention.

According to Freemuse co-founder and organiser of the campaign, Ole Reitov, it was the most extensive campaign Freemuse ever staged. It included more than 1,400 e-mail correspondences, regular phone contact with Lapiro (who after some time had smuggled a phone into prison) and his family, providing solidarity and support, as well as involving his French guitar provider, Vigier, in the campaign. Freemuse attended one of the court hearings against him in Cameroon and made representations to several governments as well as to the UN.

Freemuse, through a stringer in Cameroon, received access to and was able to provide all court documents to US-based Freedom Now, which brought on board the law firm Wilmer Cutler Pickering Hale and Dorr LLP, to provide pro bono support. Lapiro's case was submitted to the UN Working Group on Arbitrary

Detention, which found his detention to be arbitrary, and called on the government of Cameroon to release him and pay compensation for the violation of his fundamental rights under international law.

Some highlights of the campaign

Nominated by Freemuse, Lapiro de Mbanga was in 2009 shortlisted for *'The Orient Global Freedom to Create Prize'* in the Imprisoned Artist category. He won the award in November 2009. Described as an *'unceremonial sheriff of the backyards'*, he was selected *'in recognition of his courage and outstanding artwork'* by a panel that included world-famous conductor Daniel Barenboim and Geoffrey Robertson, one of the world's foremost human rights lawyers.²⁵

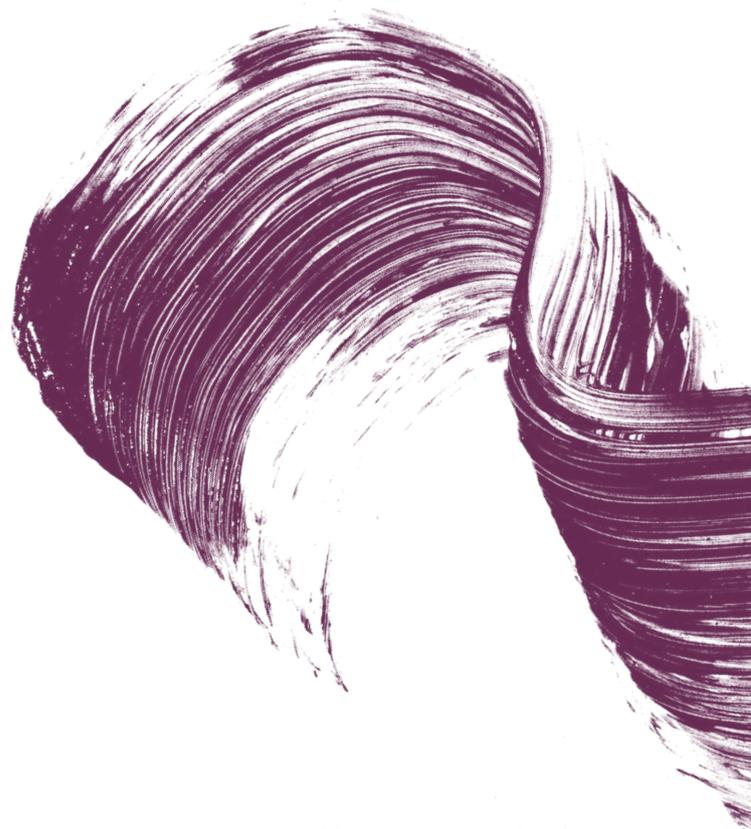
The news was conveyed to Lapiro in his prison cell in Cameroon a few hours before the prize ceremony took place at London's Victoria and Albert Museum and, using his cell phone, he was able to follow the ceremony (Freemuse, 2009), and greet the audience when Freemuse founders Korpe and Reitov received the award on his behalf.

A month earlier, US-based lawyers' advocacy organisation Freedom Now announced that it was now officially monitoring Lapiro's case, joining Freemuse, PEN International, French music magazine Mondomix, Vigier Guitars and the International Freedom of Expression

Exchange (IFEX). Mondomix released a CD in support of Lapiro on 1 January 2010. To download the CD, supporters were asked to sign a petition on the singer's behalf.

In June 2010 Freedom Now's pro bono lawyers submitted a petition to the UN Working Group on Arbitrary Detention. They argued that, by keeping Lapiro de Mbanga imprisoned, Cameroon was violating international law. They described the prison as follows:

New Bell Prison, where he has been incarcerated for a year and a half, is infamous for its unduly harsh and inhumane conditions. New Bell was recently described as 'hell on earth' by visitors to the prison. Prisoners at New Bell are often beaten and chained. The number of inmates far exceeds maximum capacity – built for 700, it now holds some 4,000 prisoners. (Freedom Now, 2010)





The UN Working Group on Arbitrary Detention was established in 1991. Its mandate includes:

- A** to investigate cases of deprivation of liberty imposed arbitrarily or otherwise inconsistently with the relevant international standards set forth in the Universal Declaration of Human Rights or in the relevant international legal instruments accepted by the states concerned;
- B** to seek and receive information from governments and intergovernmental and non-governmental organisations, and receive information from the individuals concerned, their families or their representatives;
- C** to act on information submitted for its attention regarding alleged cases of arbitrary detention by sending urgent appeals and communications to concerned governments to clarify and to bring these cases to their attention;

- E** to formulate deliberations on issues of a general nature in order to assist states to prevent and guard against the practice of arbitrary deprivation of liberty and to facilitate consideration of future cases;
- F** to present an annual report to the Human Rights Council presenting its activities, findings, conclusions and recommendations.

Furthermore, the Human Rights Council encourages the Working Group, in fulfilling its mandate, to work in cooperation and dialogue with all those concerned by the cases submitted to it, and in particular with states that provide information which should be given due consideration.

*For more information on the UN Working Group on Arbitrary Detention, see:
www.ohchr.org/en/issues/detention/*

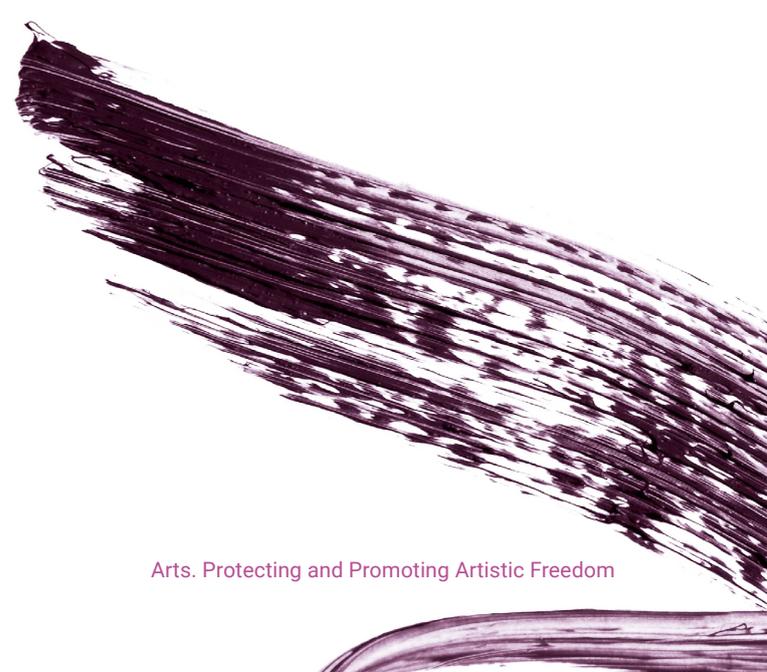
Freedom Now also approached the office of a US senator, Richard Durbin, encouraging him to take up Lapiro de Mbanga's case. At the beginning of 2010, the Senator's office lobbied on Lapiro's behalf at the Cameroon embassy in the USA. New petitions by Freemuse, Mondomix and Vigier Guitars were submitted to the Cameroon embassy in Paris on Music Freedom Day (3 March 2010).

The Imprisoned Artist Orient Freedom to Create Prize in November 2009 had also generated a new interest in his case back home in Cameroon, where several newspapers reported on the prize. During 2010, the global campaigning intensified and eventually caught the attention of the UN Secretary-General, Ban Ki-moon. One highlight was an *'Impossible Music Session'*, organised by US human rights activist and Freemuse consultant Austin Dacey, whose idea was to have a series of sessions linking an imprisoned artist to an event. Mbanga appeared live from prison via mobile phone during a concert in New York featuring the Boston-based Afro-pop band *'Group Saloum'*, who performed the song that had landed Lapiro in jail (Freemuse, 2010).

On 8 April 2011, after three years of imprisonment under harsh conditions, Lapiro de Mbanga was finally released. Talking to Reitov on phone he said: *'I have two pieces of news for you. A good one and a bad one. Which one do you want to hear? The bad one is that I will*

not released tomorrow. The good news is that I'm already out of prison now', followed by a hearty laugh (Freemuse, 2011). Finally, in January 2012, the UN Working Group on Arbitrary Detention issued a legal opinion (dated 1 September 2011) declaring that the detention of Lapiro de Mbanga by the Cameroonian government was completely arbitrary and a violation of international law, specifically the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights (UN WGAD, 2011).

Sadly, Mbanga's troubles did not end here. Soon after he was released, Mbanga began to receive death threats. Freedom Now and Freemuse arranged for his safe escape from Cameroon. Granted asylum in the USA, Mbanga, his wife and three children secretly left Cameroon in September 2012, and settled in Buffalo, New York. On 16 March 2014, Lapiro de Mbanga died of cancer that had not been diagnosed or treated in prison. Cameroon has to date not compensated his family as recommended by the UN Working Group on Arbitrary Detention.



LOUIS VUITTON VS. PLESNER: ARTISTIC FREEDOM VS. INTELLECTUAL PROPERTY RIGHTS

The conflict between Danish artist Nadia Plesner and fashion house Louis Vuitton over possible copyright infringement was one in which Plesner initially received no support from the artistic community or human rights organisations. Because Plesner was not aware of existing organisations and the organisations were not aware of her case, she took up the fight herself with support from lawyers in this unique case on the right to freedom of artistic expression versus intellectual property rights.

Background

Danish artist Nadia Plesner moved to the Netherlands in 2006 to study fine arts at the Gerrit Rietveld Academy, but within half a year, she was recovering from a severe traffic accident and living in deprived circumstances in a caravan. She described how, unable to move for several months, she was overwhelmed with self-pity until something snapped her out of her distress. She was reading a Dutch newspaper, which had a small four-line update on the genocide in the Darfur region in Sudan.

On the opposite page was a full-page story about the Hollywood celebrity Paris Hilton being imprisoned for parking offences. Plesner was outraged by this depiction and decided to create an artwork to denounce the way in which the Western media was prioritising entertainment stories over genocide. The outcome was her drawing *Simple living*, which depicted a Darfurian child holding a large designer bag and a chihuahua dressed in a pink outfit. Plesner explained:

*Since doing nothing but wearing designer bags and small ugly dogs apparently is enough to get you on a magazine cover, maybe it is worth a try for people who actually deserve and need attention. If you can't beat them, join them! This is why I chose to mix the cruel reality with showbiz elements in my drawing *Simple living* (Plesner on her website, *Simple Living*, n.d.).*

The piece was an experiment and was created as a media work that sought to reach an audience on the internet rather than through galleries. Plesner also had the drawing printed

on t-shirts and posters to raise money for the Save Darfur Coalition's 'Divest for Darfur' campaign (ibid.). The work was placed online in October 2007 and started spreading immediately, first creating debate on Plesner's website, and then being distributed by various media and blogs. Then, in February 2008, she received a 'cease and desist' letter from the fashion company Louis Vuitton. They stated that they appreciated her initiative for Darfur but felt that the bag in the drawing was too similar to their 'Audra Bag':

As you may know, the Louis Vuitton Monogram Multicolore Trademark results from a collaboration between Marc Jacobs, the Artistic Director of Louis Vuitton, and Takashi Murakami, a well-known contemporary Japanese artist. As an artist yourself, we hope that you recognize the need to respect other artists' rights and Louis Vuitton's Intellectual Property Rights which include Louis Vuitton Monogram Multicolore Trademark.

The company stated that the drawing violated their intellectual property rights and asked Plesner to stop selling the t-shirts and posters immediately (ibid.). Plesner replied that the bag in her drawing did not include any logos or brands and was merely referring to status symbols in general. She explained as follows to Louis Vuitton:

Sometimes recognisable objects are needed to express deeper meanings, and in their new form they become more than the objects themselves - they become art. You will find a similar case, where the Polish artist Zbigniew Libera was inspired by Lego sets for another art piece. I thereby stand by my freedom of expression - artistic and/or otherwise - and will continue my Simple living campaign in order to raise money for the victims in Darfur (ibid.).

Plesner shared both letters on her website and continued selling the t-shirts and posters until, in April 2008, she received another letter. Louis Vuitton had gone to court in Paris without informing her and the letter consisted of an *ex-parte* verdict. *Ex-parte* is an extremely urgent legal remedy, which is usually used if a company urgently needs to stop the delivery of a large quantity of copy products (such as 'fake' t-shirts or 'fake' bags with 'fake' logos). Louis Vuitton had pleaded in the French court for a ban of Plesner's *Simple living* products as they allegedly infringed Louis Vuitton's intellectual property rights and were causing damage to the brand by linking Louis Vuitton to the genocide in Darfur. On 25 March 2008 the President of the Tribunal du Grande Instance of Paris sided with Louis Vuitton and prohibited Plesner from presenting or selling the *Simple living* products. The verdict included a penalty of €15,000 for each day she continued to sell the products and to display the image on her

website. She was provisionally ordered to pay an amount of one Euro by way of symbolic damages.

But, because the conflict between Plesner and Vuitton was receiving massive media attention, the fashion house invited Plesner to a meeting in Paris in an apparent effort to find 'common ground'. According to Plesner the company made an attempt to co-opt her, but she refused. At the first World Conference on Artistic Freedom hosted by Freemuse and the Fritt Ord Foundation in Oslo in October 2012, All that is banned is desired, Plesner told the audience about the meeting with Louis Vuitton: *'They promised to back me if I apologised, or wreck me financially'* (Freemuse, 2012a). Advised by her lawyer, she agreed to stop selling the t-shirts but continued to challenge Louis Vuitton. She then went on to create a large art work, *Darfurnica*, based on and the same size as Picasso's *Guernica*: 350 x 776 cm. The painting depicts rich and famous people such as Paris Hilton, Britney Spears and Victoria Beckham, alongside victims of genocide. *Guernica* was based on contemporary black and white newspaper photos from the Spanish Civil War. *Darfurnica* referenced the mass media of modern times, thus mixing situations from Darfur with entertainment stories that received substantial media attention during the genocide in Darfur. Plesner included the *Simple living* child image in the centre of the painting.

There were further demands and legal moves by Louis Vuitton, but Plesner now found that she was not alone. A Danish museum wanted to exhibit her picture, to prove that it was a work of art, and other artists and cartoonists around the world started to champion her cause by wittily incorporating images of the bag into their work. The issue finally came to a head in May 2011, when the two parties met in court. The picture was brought into the

**“They promised to back me
if I apologised, or wreck me
financially”**

NADIA PLESNER

At the first World Conference on Artistic
Freedom in Oslo in October 2012

courtroom as evidence, and Plesner was now threatened with a legal bill of €485,000 if she lost the case.

At the Oslo World Conference she said: *'It was the conflict of two rights. The right to protect a brand versus the right to express yourself. I talked about freedom of expression, and Louis Vuitton talked about me eating off their brand. This was an important case. We need free art and we have to stand up against authorities who try to silence art work'* (ibid.).

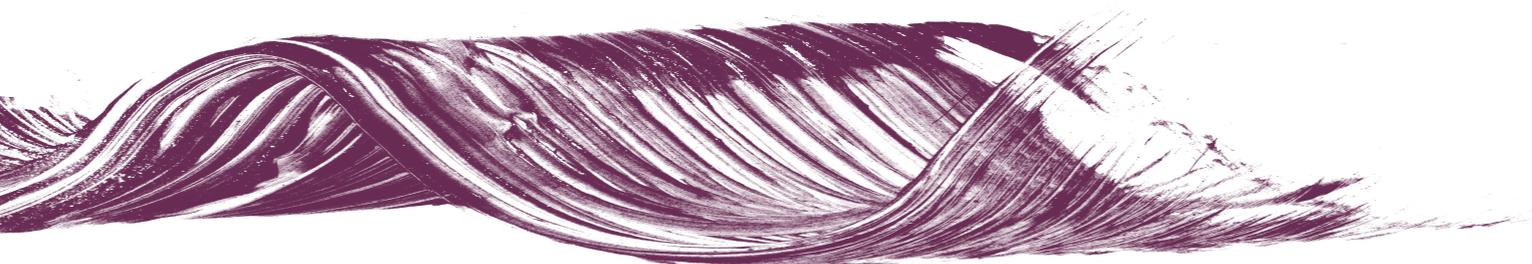
The court hearing took place on 20 April 2011, and on 4 May 2011 the court announced the judge's verdict: *'The order imposed in the decision of January 28, 2011 will therefore be quashed in its entirety.'* Plesner won the right to exhibit both *Simple Living* and *Darfurnica*. The threat of penalties of €485,000 was withdrawn, and Louis Vuitton was ordered to pay €15,000 to cover part of Plesner's legal costs.

The judge based his ruling on the following reasons:

Opposite Louis Vuitton's fundamental right to peaceful enjoyment of its exclusive rights to the use of their design, there is, according to established case law of the European Court of Human Rights, the fundamental right of Plesner that is high in a democratic society's priority list to express her opinion through her art. In this respect it applies that artists enjoy a considerable protection with regard to their artistic freedom, in which, in principle art may offend, shock or disturb ... In this respect it is furthermore important that the use by Plesner is to be regarded for the time being as functional and proportional and that it does not serve a mere commercial purpose.

The court went on to say that *'[u]nder preliminary judgment it is plausible that Plesner's intention with Simple living is not (or was not) to free ride with Louis Vuitton's reputation in a commercial sense. She rather uses Louis Vuitton's reputation to pass on her society-critical message ... and, moreover, besides the bag she also depicts another luxury/show business picture in the form of a chihuahua dressed in pink'* (The Hague Court, 2011). The judge also did not find any evidence that showed that Plesner's *Simple living* drawing suggested Louis Vuitton's involvement in the situation in Darfur, and thus damaged the brand. Louis Vuitton decided not to appeal, and the final verdict has set a precedent for similar cases.

Plesner's *Simple living* drawing was chosen by the office of the Special Rapporteur in the field of cultural rights to illustrate the presentation of the Farida Shaheed report on artistic freedom in 2013. Plesner was invited to Geneva to take part in the official launch of the report, together with other artists, such as Deeyah Khan and Didier Awadi. This was the first time that artists were invited to speak about artistic freedom at the UN in Geneva.²⁶



THE RAJABIAN BROTHERS: UN MECHANISMS AND CSOS VS. IRAN

Background

Any public cultural activity or publication of music, films, literature etc in Iran must be approved by the Ministry of Culture and Islamic Guidance. According to the Ministry's website (Iran Secretariat of the Supreme Council of Cultural Revolution, n.d.) it holds the mandate to:

- [issue] the required permission for entry and exit of audio-visual equipment, artefacts, newspapers and other publications, all suspicious cultural and propagation items. The judgment to distinguish the suspicious works from authorized items would [be] base[d] on a directive, which would be approved by the cabinet.
- [draft] the rule of procedures and regulations for holding of festivals, art and cultural fairs and films and literary contests within the country and abroad.
- [issue the] license of banning the activities of cultural, press, news, art, cinema, audio-visual, publications and propagation institutions in the country and overseeing the activities of publishers and bookshops in the frame of relevant regulations.

As a producer or artist, one therefore needs to consult the Ministry before one publishes anything. The Ministry website shows further that it has a powerful monitoring institution, the Islamic Propagation Organisation which, according to the Ministry, is *'is one of the most important religious institutions. This organization has set up to call branch offices in all provincial capitals and towns for cultural and religious propagation.'*

Ayattollah Khomeini, the leader of the Islamic revolution, described the main objective of Islamic propagation, established in 1981, as *'commending the good and prohibiting the evil'* (*ibid.*). Therefore, two of the important objectives of the organisation are to:

- counter anti-Islamic and anti-revolutionary ideas.
- pave the ground for the eradication of cultural and moral corruptions and command the good and prohibit the evil (*ibid.*).

Under these labels the Ministry and its departments in principle – and without any further argument – can curtail any kind of artistic expression. Artists in Iran are well aware of

the censorship apparatus and, rather than applying for permission (and receiving rejections and bans) to organise concerts, publish CDs, and stage exhibitions etc, they go underground and organise 'secret' concerts and exhibitions and distribute CDs under the table or via the internet.

Since the Iranian Revolution in 1979 hundreds of artists have been harassed, many have been imprisoned (and tortured), and some even killed. Despite this, a strong underground culture continues to exist. The following case is a recent example of how Iran persecutes artists deemed counter-revolutionary or for *'insulting the sacred'*.

The Rajabian Brothers

Two brothers, musician Mehdi Rajabian and filmmaker Hossein Rajabian, were charged and imprisoned in Iran for their peaceful artistic expressions. The brothers were managing partners of Barg Music, a now-banned popular digital music production and distribution service, when they were first arrested in October 2013 by the Revolutionary Guards' Intelligence Organisation and held in solitary confinement for more than two months.

In May 2015 the Revolutionary Court sentenced the two artists to six years in prison each for *'insulting the sacred'* and *'propaganda*

against the state'. Upon appeal, their sentences were reduced to three years in prison. Mehdi and Hossein Rajabian started serving their sentences on 5 June 2016. During the artists' imprisonment in Evin prison their physical condition deteriorated significantly and they staged hunger strikes to protest about the lack of medical attention and their ill treatment.

NGO actions

An international campaign was launched to protest about the arrests. A letter of protest was sent to the Iranian government, co-signed by Freemuse and the International Campaign for Human Rights in Iran, the Arterial Network, ArtistSafety.net, the European Composer and Songwriter Alliance (ECSA), the European Council of Artists, Index on Censorship, the International Committee for Artists' Freedom, Observatoire de la liberté de création, and PEN International.

The organisations also contacted UN human rights complaints mechanisms. Two United Nations Special Rapporteurs, on cultural rights, Karima Bennoune, and on freedom of expression, David Kaye, issued a statement on 24 June 2016 *'calling on Iranian authorities to free musicians Mehdi Rajabian and Yousef Emadi, and filmmaker Hossein Rajabian.'* The statement was also endorsed by the Special Rapporteurs, on Iran, Ahmed Shaheed, and on torture, Juan E. Méndez.

In the statement the Rapporteurs reminded the Iranian authorities that the artists were *'[s]entenced for exercising their right to freedom of artistic expression and creativity, which in turn results in unjustifiable restrictions on the right of all persons in Iran to have access to and enjoy the arts.'* Ms. Bennoune added: *'Artistic expression is simply not a crime'* (UNHCHR, 2014).

The 'secret' complaints mechanism

Whereas most complaints concerning the rights of freedom to artistic expression are frequently directed to the UN Special Rapporteur in the field of cultural rights, little use is made of UNESCO's own 'complaints mechanism', which is called Procedure of 104 EX / Decision 3.3 and is regulated by the Director of the Office of International Standards and Legal Affairs of UNESCO. This mechanism is rarely used by NGOs in defence of artists. As mentioned in the 2005 Convention Global Monitoring Report 2018, this may be because it is so little known. Also, because of the confidential nature of the mechanism, it is difficult to know its impact (Whyatt, 2018).

However, Freemuse submitted a complaint to UNESCO on 18 October 2016. The Committee meetings are confidential, and details of its deliberations are not published. Freemuse learnt that in a closed meeting with the Committee the Iran UNESCO representative explained that the prisoners were regularly receiving medical attention and had published 'blasphemous' content – illegal in Iran – and were therefore sentenced legitimately. But the Committee did not accept Iran's report and requested more information about the reasons for the imprisonment and additional information about the prison conditions. A couple of months after the Committee meeting, in spring 2017, the two brothers were released on bail.

“Artistic expression is simply not a crime.”

KARIMA BENNOUNE

United Nations Special Rapporteur
on Cultural Rights

This case study shows how effective it can be to work with international mechanisms, such as those within the UN Council on Human Rights and UNESCO, even though their diplomatic and other working practices can appear to be slow-moving. Artists and their representatives should therefore not be reluctant to add these tools to their arsenal.



ART AS TERRORISM

Anti-terror laws as instruments of censorship

Terrorism in recent decades has been and continues to be a very real threat to public security, leaving thousands dead and injured across the globe, and creating an atmosphere of fear. Many states have created new laws or strengthened existing laws and practices in an effort to protect their citizens and deter further attacks. However, all too often these measures – intentionally or not – have become means through which states can suppress legitimate commentary on the way that governments have handled the conflicts that lie behind these attacks, the pressures on minority groups from which terrorists may come, or that simply challenges the dominant ideology that permeates the given discourse during such times of crisis, real and perceived. There is no doubt that some imagery and artistic forms are used as propaganda. Sometimes this is intentional on the part of the artist. At other times their work is adopted and subverted.

National security laws are closely linked to and are often conflated with anti-terrorism measures, and, if combined, these form the

most common judicial measures against artists. PEN International stated that, in 2017, *'[o]f the 107 [writers] listed as imprisoned or on trial globally, 36 have been prosecuted under anti-terror laws, a third of all cases, nearly all of which are considered to be applied to penalise criticism of the government, rather than actual support of terrorism'* (PEN International, 2018). This is a pattern replicated in judicial actions against artists in general.

V.4.1 Turkey – war artists and musicians as 'terrorists'

The most well known, and enthusiastic appliers of anti-terror legislation against those who speak out are in Turkey, where most of the many hundreds of people on trial and in prison have been prosecuted under this legislation for actions including writings that criticise the government, commentary on minority issues, notably the Kurds, and criticising army and police actions. A notable case is that of the artist, journalist and rights activist Zehra Doğan, who in 2017 was given a two-year

and 9-months sentence under the Turkish Anti-Terror Law. One of the charges against her was her production of a painting in which she depicts the Turkish military deployed in conflicts in the Kurdish region as monstrous machines. Doğan's profile straddles several rights sectors: media, minority, women's and artistic, so her sentencing led to massive local and international advocacy from a cross-section of rights groups. Because she is charismatic as well as brave, and because her artwork is easily understood as a strong condemnation of war, advocacy is relatively easy. This is evidenced in the numerous campaigns initiated on her behalf, notably the large-scale mural in New York by the British artist, Banksy, which keeps a tally of each day she remains in prison. While in prison she became an emblem of the many hundreds more similarly detained in Turkey at the time.²⁷

Another key case in which anti-terror law has been applied against an artist in Turkey is that of the musician Ferhat Tunç,²⁸ who has for several years been charged, prosecuted and convicted on numerous occasions for his comments on issues mainly related to the treatment of Kurds and criticism of the armed forces. The most recent case against him took place in September 2018, when he was given a one-year, 11-months and 2-days sentence for comments he made in 2014 in his social media posts, which supported the US-backed Syrian Kurdish forces fighting Islamic State. He was

accused of disseminating terrorist propaganda. This is typical of other cases against Tunç and although, strictly speaking, the cases are more about attacks on freedom of expression in general rather than about artistic freedom in particular, Tunç's status and popularity as a singer appears to be a factor in the way that he is pursued by the Turkish courts, and given harsh sentences. This is a pattern that can be seen in other cases where the high profile of an artist may lead to them being scapegoated or being made an example of to deter others.

Freemuse, with its focus on censorship of music and musicians,²⁹ has been the main supporter of Tunç for several years. Although other freedom of expression organisations may sympathise with his case, and may be working on behalf of journalists similarly charged in Turkey, for example, mostly their remits do not include musicians. One means of support is to assist artists such as Tunç with taking their cases to the European Court on Human Rights. In 2015, the Court ruled that Turkey had breached its commitments to freedom of expression under the European Convention on Human Rights and levied a fine. The case related to an incident in 2003 where Tunç made a statement at a concert hosted by an opposition political party, in which the singer referred to the Turkish state as being neither free nor democratic. The authorities charged Tunç with making a statement at an event that had not been approved of for

activities that included political commentary. Tunç was fined, but he refused to pay and applied to the ECtHR (Önderoglu, 2015).

However, in most cases, imprisoned and attacked artists do not have profiles such as those of Doğan and Tunç, and often there is a lack of understanding about the complex issues around a person's arrest under anti-terror laws, and a feeling of ambivalence towards artists who use unconventional means to challenge the most sensitive and dangerous of issues.

V.4.2 Israeli law on loyalty in culture: War on terrorism or war on culture?

The conflation of art with the endangering of national security came to the fore in Israel with a proposed amendment to Israel's Culture and Arts Law, which was brought to the Knesset in November 2018. Initiated by the controversial Minister for Culture and Sport, Miri Regev, the proposal was widely condemned, leading to what one commentator described as *'undoubtedly one of the most shameful to have taken place in our parliament'*, referring to the uproar, verbal abuse and accusations during the parliamentary debate on the Bill (Rolef, 2018).

In essence, Regev is seeking to transfer decision-making about who in the cultural sector receives government subsidies from the Finance Ministry to her Ministry of Culture, arguing that her Ministry is better placed to make such decisions. On the surface this would appear uncontroversial, if it were not for the fact that Regev is also demanding that subsidies to cultural organisations can be cut or denied if they carry out activities that:

- 1 — deny the existence of the State of Israel as a Jewish and democratic state;
- 2 — incite to racism, violence and terror;
- 3 — support an armed struggle or an act of terror, by an enemy state, or a terror organization against the State of Israel;
- 4 — mark Independence Day or the day on which the State was founded as a day of mourning (the Nakba Law);
- 5 — destroy or physically degrade the honour of the state flag or emblem.

(Knesset, 2018)

Parliamentarians, arts and cultural workers alike expressed outrage that Regev was directly linking artists to terrorists, describing her actions as waging a *'war on culture'*.

What are Regev's motivations? Regev is a Likud party loyalist who deputises for the prime minister when he is abroad and

previously served for 25 years in the Israeli Defence Forces (IDF), an experience that has clearly formed her approach to the arts world. When she was appointed Minister of Culture in 2015, she instantly went on the offensive, and her early interventions included threats and actual withdrawal of funding from theatres that work with or on topics sympathetic to Palestinians.

These actions, alongside her often extreme rhetoric against artists and the intelligentsia, have seen her appointment described as *'a rather cruel joke, like appointing Donald Trump as ambassador to Mexico'* (Schechter, 2015). True to her military background, she has also condemned works that show the IDF in a poor light, such as her diatribe against the Silver Lion award given to the film *Foxtrot* at the 2017 Venice Film Festival. The film deals with the grief of a family whose son is killed while serving with the IDF. Regev condemned the film as *'propaganda'* and an *'insult'* to the army, saying:

It is a disgrace that the film Foxtrot by Shmulik Maoz has been chosen to be screened at prestigious film festivals like Toronto and Venice ... It is inconceivable that movies which shame the reputation of the IDF are those that are supported by the Israel Film Fund, which is supported by the state. And those are the films that are selected to showcase Israeli cinema abroad. (Spiro, 2017)

[Regev's appointment is] a rather cruel joke, like appointing Donald Trump as ambassador to Mexico.

“ Asher Schlechter
in *How the right-wing already won Israel's culture war*, 2015

This, as well as other statements directed at the cultural sector, presaged her attempt to withdraw funding in terms of the Loyalty in Culture Bill. Despite the Minister's vehemence, the Bill was halted a few days after it was brought to the Knesset, after members of the coalition refused to approve the amendment, a decision that led Regev to tell one Knesset member opposed to the amendment, Avigdor Lieberman, that: *'The national camp will not forgive you for this. You as a former defence minister know that toppling this law will be a reward for terrorism'* (Wootliff, 2018). (Lieberman had just days before resigned in opposition to the announcement of a ceasefire in Gaza). Although welcomed by the creative sector, the decision has to be placed in the context of the political machinations within Israel and the fragility of a coalition government, and it must be noted that some members of the Knesset said that they would consider supporting the Loyalty Bill in return for amendments to

legislation that will make it easier for convicted Palestinians to be sentenced to death. So, their support could be seen as deeply cynical political machinations that do not indicate any real concern for the state of artistic freedom.

Some Israeli artists have been vocal about this threat to their artistic freedom. The day before the proposed law was withdrawn, several came to a square in Tel Aviv where they publicly burned their works. They included a novelist, a sculptor, a painter, and a cartoonist Shoshke Engelmayer, who said: *'We are loyal, but to our own independent culture ... the moment someone says who you should be loyal to, it is no longer art but propaganda'* (Deuendorf, 2018).

In the febrile and highly charged climate that has long existed in Israeli politics, and which looks particularly so at the time of writing, it seems likely that artists will continue to be scapegoated, and vigilance will be required to guard against future attacks on their freedoms.

Unsurprisingly, the situation of Palestinian artists is dire, and there are very many instances of censorship. Just one example is that of the al-Hakawati Theatre (also known as the Palestinian National Theatre), established in 1977 as a joint project of Palestinian dramatists, actors and others, as well as artists from Israel and East Jerusalem. The theatre has worked on projects with NGOs and the UN, and is situated in the American Colony region

of East Jerusalem. Since its inception, it has suffered closures, financial restrictions and harassment. In 2015 its director noted that the theatre had been forced to close more than 30 times since its establishment (Gostoli, 2015). A recent example, in 2017, was when the Israeli authorities forced the theatre to close, suggesting that the theatre had received financial support from the Palestine Authority to stage an event focusing on the expulsion of Arabs from their homes in 1948 and 1967 (Freemuse, 2017). Although anti-terror laws as such are not applied, the arts and cultural activities as regarded as conduits for terrorism and propaganda, and this is the justification for suppressing the artistic freedom of Palestinians.

LGBTQ ARTISTS UNDER ATTACK: BRAZIL — THE QUEERMUSEUM CASE

Author's note:

I would like to thank curator Gaudêncio Fidelis for his comments and input into this commentary on the Queermuseum case.

Although LGBTQ artists feel freer to produce art that explores gender and sexual identities, publicly identifying or 'coming out' as non-heteronormative, they are also faced with a growing backlash, particularly within conservative societies and where right-wing groups are prevalent. Arts freedom monitors, such as Freemuse, regularly record the banning of LGBTQ art, notably in cinema, and attacks on openly gay artists are a common occurrence.

Brazil is a case in point. Until recently Brazil was regarded as 'gay friendly' and as a country where LGBTQ rights had been improving: same-sex marriages were legalised in 2013, and there is an apparently growing acceptance of homosexuality. In a 2017 poll, around 70% of people were positive towards LGBTQ persons.³⁰ Yet this is a conflicted society. Brazil also has one of the highest murder rates of LGBTQ people in the world, with 387 killings reported in 2017,

a 30% increase on the previous year (Iguar, 2018). Even given the extremely high general murder rate in Brazil, this is a shocking figure, one that could in part be explained by the growth of evangelical Christianity in Brazil, said to be over 22% in 2010 (Polymédio, 2018). With its tendency towards extreme homophobia, this segment of Brazilian society is gaining public influence.

The prospect of staging an exhibition in 2017 –'Queermuseum: Cartographies of Difference in Brazilian Art'– in the southern city of Porto Alegre did not cause any apparent concern to the participating artists and curator, nor to the Santander Cultural arts centre, which is sponsored by the Spain-headquartered international banking firm. As curator Gaudêncio Fidelis describes, the exhibition intended to provide a space where works could be displayed and viewed in a safe environment: *'Queermuseum is designed to be like a provisional museum of a metaphorical nature, offering a space for investigating the patriarchal and heteronormative nature of the museum as institution ... it is an exhibition rooted in democracy and a vision of a process of inclusion'* (Fidelis, 2018).

But this confidence was soon to be challenged. A campaign staged by the right-wing pressure group, the Free Brazil Movement (MBL), and soon after supported by the evangelical Christians, attacked the exhibition, calling it '*blasphemous*', promoting paedophilia and bestiality, and demanded that it be boycotted. Initially the MBL demanded that the exhibition be shut down completely, but even among their conservative right members there was considerable discomfort about censorship, so the MBL then shifted its tactics to call for a boycott. However, as Santander had closed the exhibition within three days of the MBL attacks, their initial demands for closure were in effect.

MBL tactics included the sophisticated use of '*fake news*'. During the 27 days that the exhibition was open, there was not a single complaint about the exhibition or any of its works. The complaints started only when five members of the MBL entered the gallery space and started to record videos accusing the exhibition of paedophilia, blasphemy and zoophilia. These videos were edited with fragments and sections taken from five of the 284 works in the exhibition, and the MBL narrative built '*fake news*' about the show around these, tactics described by Fidelis as often used by the MBL. These falsified images were posted on the internet, earning over million views, and this in turn created a furore among conservative

Queermuseum is designed to be like a provisional museum of a metaphorical nature, offering a space for investigating the patriarchal and heteronormative nature of the museum as institution ... it is an exhibition rooted in democracy and a vision of a process of inclusion.

GAUDÊNCIO FIDELIS

Curator of Queermuseum, 2018

groups. Protestors reportedly approached gallery visitors pushing mobile phones into their faces, making videos of them, and making statements such as *'this person likes porn'*, which were then distributed on social media. Then, in September 2017, one month after the exhibition had opened and a month before it was due to end, Santander Culture announced on its Facebook page that it had closed the exhibition with the message: *'We sincerely apologise to anyone who felt offended by any work that was part of the exhibition.'* Fidelis claims that he was not formally told of the closure, finding out only through social media.

Specifically, the protesters referred to an artwork that included images of children as evidence of *'paedophilia'*. Fidelis explains that it was a piece about bullying, and anyway the figures were fully clothed. The accusation of *'blasphemy'* related to an image of Christ merged with that of the Hindu Goddess Shiva, by the artist Fernando Baril. Fidelis pointed out that the exhibition had been cleared by Santander beforehand and he was not warned of the closure beforehand.

In November 2017, Fidelis was subpoenaed to testify before the Senate in the capital Brasilia for an investigation into *'Mistreatment of Children and Teenagers'*, a committee presided over by the notorious fundamentalist politician Magno Malta. Fidelis told the arts magazine *Hyperallergic* that *'[t]here is no precedent, much*

less with a curator, a member of the artistic community.' (Almino, 2017) Ultimately criminal proceedings were not followed through when Federal Prosecutor Bureau decided that no crime had been committed, clarifying that nudity and representations of sexuality are allowed within the Brazilian constitution. Yet despite this, the mood has since swung to more rather than less censorship. Fundamentalist politicians continue to denounce artists with works being targeted for seizure and closure. Bills proposing age thresholds for artworks and visitors to museums are being distributed to parliament houses around the country and one was just recently approved under the title Bill PL 184/2017 by the house of representatives in Porto Alegre, where the exhibition was originally held. Measures such as these would severely limit the content of museums that show works containing nudity or which include religious symbols. There are also moves to ban books that expose children to what right wing groups call *'gender ideologies'*. Meanwhile, Fidelis had to leave his home, living under protection from death threats.

However, there was also huge public outrage at the forced closure of Queermuseum, and within days over 70,000 signatures had been collected in protest. A demonstration was staged in front of Santander in Porto Alegre at which more than 3,000 people gathered. Later, when the Museum of Art Rio (MAR) offered to host it, the mayor of Rio de Janeiro,

Marcelo Crivella, himself an evangelical pastor, swiftly condemned the suggestion, again accusing the exhibition of paedophilia and zoophilia, and saying that *'[i]t will only happen if at the bottom of the sea (mar).'*

“[The re-opening of Queer-museum is a] celebration of democracy and resistance [in the face of] fast growing fundamentalism and fascism”

IVY OLESEN

2018

In stepped the School of Visual Arts Parque in Rio de Janeiro, which was outraged at the continued censorship, and decided to host the exhibition. The school organised a crowd-funding campaign that raised a record amount of RS 1.081,176 (about \$250,000), making it the most successful campaign ever in Brazil. In August 2018, the show was re-opened, attracting more than 5,000 people on its first day, with queues of people waiting over 2 ½ hours to get in. Gaudencio Fidelis called it a *'celebration of democracy and resistance'* in the face of *'fast growing fundamentalism and fascism'* (Oleson, 2018).

Artistic freedom, and freedom of expression as a whole in Brazil, became even more endangered following the October 2018 elections, with the election of an evangelist-supported far-right president, Jair Bolsonaro, who pledged to force into exile or wipe out his political opponents and has openly shared extreme homophobic and racist views. The emergence, and indeed the continuation, of similar regimes across the world underlines the need for vigilance and action.



CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

- Conflicts over artistic expressions frequently stem from tensions within societies, which are based on opposing political, social or religious views and traditions. Some of these conflicts spread beyond local situations. In a globalised world, with the worldwide use of social media and the spread of trolling and 'fake news', such controversies easily spread from one corner of the world to another.
- As Farida Shaheed, former UN Special Rapporteur in the field of cultural rights wrote in her 2013 report to the UN Council on Human Rights: *'The effects of art censorship or unjustified restrictions of the right to freedom of artistic expression and creativity are devastating. They generate important*

cultural, social and economic losses, deprive artists of their means of expression and livelihood, create an unsafe environment for all those engaged in the arts and their audiences, sterilize debates on human, social and political issues, hamper the functioning of democracy and most often also impede debates on the legitimacy of censorship itself' (Shaheed, 2013, p. 18).

- We live in a world where new 'sensitivities' have arisen, alongside old ones that have been reignited, and where groups in societies openly, and sometimes violently, express how they feel 'offended' by expressions that conflict their worldviews and ideologies.
- The rise of nationalism and neo-fascism with politicians even in democratic countries expressing their scepticism or outright disrespect for international conventions

artistic freedom is threatened. National arts and cultural institutions and funding agencies find themselves under pressure from these quarters.

- Although an increasing number of organisations are taking an interest in artistic freedom only two international NGOs - PEN International and Freemuse –are systematically documenting violations of artistic freedom and advocating internationally for artistic freedom. Thanks to them, knowledge about, analysis of and the publication of violations of artistic freedom are now extensive, but there is still a lot of work to be done.
- On the other hand, media rights monitoring organisations have developed sophisticated and extensive documentation and advocacy strategies. While on occasion these organisations may include and assist artists whose work straddles journalism and art, they are not well placed to properly monitor attacks on the creative and cultural sectors.
- Meanwhile, traditional human rights defenders such as Amnesty International, Human Rights Watch and Freedom House do not systematically document or advocate for artistic freedom, paying attention to only the most prominent cases. Like the media rights sector, these organisations, although large and comparatively well-resourced,

have broad overall remits, so concentrating on arts freedom can only play a small part in their overall strategy.

- For various reasons, including lack of resources and expertise, very few artists' organisations and unions are actively involved in the defence of artistic freedom. In some countries, where artistic freedom is under particular threat, the capacity to do so is limited or it is too dangerous.
- Academic research on artistic freedom is still limited. However, there is a growing number of academics, journalists and human rights defenders who have written reports, articles and manuals on behalf of Freemuse, PEN International, the National Coalition Against Censorship (USA), and the UK-based Index on Censorship, among others. Academic arts and cultural institutions or Academies of the Arts do not have educational strategies and do not offer programmes on challenges to artistic freedom to their students.
- The University of Hildesheim is conducting studies and training on artistic freedom and the Swedish Agency for Cultural Policy Analysis has published two reports on threats to artistic freedom in Sweden, with a particular focus on writers, visual artists and museums.

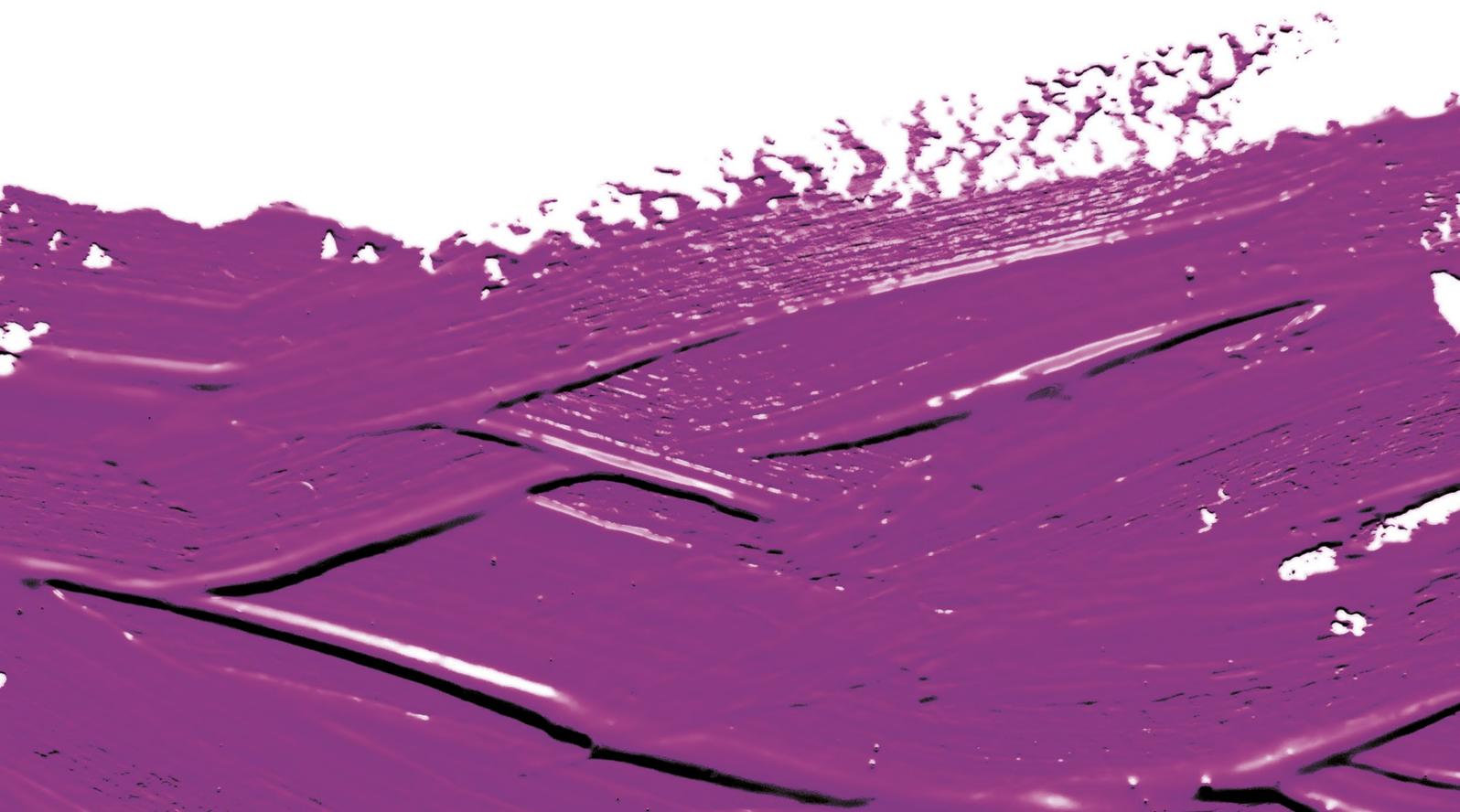
- Only a few states, such as Sweden and Norway, have in the past incorporated the defence of artistic freedom in their strategic papers.
- At the UN level there has been an increase in references to artistic freedom in the United Nations systems since the publication of the 2013 Farida Shaheed report on artistic freedom. This report has become one of the most essential references in international deliberations on artistic freedom. This report is also a base reference tool for NGOs in their lobbying of the UN.
- One such initiative arising from this increased focus is the 2015 joint statement entitled *'Reaffirming the Right to Freedom of Expression Including Creative and Artistic Expression'*, which was signed by 57 members of the UN Human Rights Council.
- Although artistic freedom has been an intrinsic part of UNESCO's mandate since it was founded, and is included in the 1980 Recommendation concerning the Status of the Artist, it was only in 2015 that artistic freedom was featured in the Global Report on UNESCO's 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Since 2016, UNESCO has promoted artistic freedom at World Press Freedom Day and, as from 2019, the requirement that the 145 state parties to the Convention must report on this aspect of the Convention will be made more explicit.
- To enable their reporting on artistic freedom, UNESCO has developed a training module for countries.
- Under Article 19 of ICCPR, the right to freedom of expression, including in the form of artistic expression, may be subject to certain restrictions that are provided for by law and are necessary (a) for the respect of the rights or reputations of others; or (b) for the protection of national security or of public order, or of public health or morals. However, with reference to national security, several countries apply laws that are closely linked to and are often conflated with anti-terrorism measures, and if combined, these form the most common judicial measures against artists. Similarly, some states regard otherwise legitimate criticism of government and leaders as *'defamation'* or as expressions that may *'upset'* traditional or religious sentiments, which may accordingly be excluded from the protection offered by Article 19.
- Women and LGBTQ artists are particularly vulnerable to repression and are often singled out for abuse, or for charges of obscenity that would otherwise not be applied generally. Organisations such as Freemuse are reporting on attacks on women, but less attention is being paid to LGBTQ artists.

- No country has yet developed an integrated policy for artistic freedom, which includes national and international policy plans and advocacy. Whereas many foreign policies, development policies and bilateral agreements include respect for media freedom, states still need to holistically develop, integrate and implement policies for the defence of artistic freedom nationally, as well as internationally. Capacity and knowledge in the diplomatic corps and human rights offices is still limited with regard to artistic freedom.

RECOMMENDATIONS

- States should develop and implement integrated, holistic policies that defend and promote artistic freedom as part of their overall human rights protection policies.
- To do so, states need to develop inter-ministerial competence, because artistic freedom covers issues such as freedom of expression, mobility, the status of artists and relocation. This especially, although not exclusively, relates to the ministries of foreign affairs, culture and justice.
- Overseas representatives, embassies, EU offices and cultural institutions should be encouraged to establish international trial observations to monitor the trials of artists, in collaboration with local arts, cultural and human rights institutions.
- Overseas support programmes should consider how to support and encourage local and regional initiatives that advocate for and defend artistic freedom – including the documentation and monitoring of violations and initiatives to provide free legal representation for artists or other forms of legal aid.
- National human rights institutions should be encouraged to document violations of artistic freedom and regulations that threaten artistic freedom.
- Academic and cultural research institutions should consider how they can improve intersectional research on artistic freedom, as this includes several fields of study, such as religious studies, political science, cultural, social and economic studies, etc.
- More systematic research into the special challenges faced by women and minorities is needed and should be conducted by human rights and arts freedom NGOs, as well as by academic institutions.
- Educational institutions providing arts and cultural studies should consider how they can include a compact training module for art students on dealing with challenges to artistic freedom.
- Artists' organisations should acknowledge that the defence of and advocacy for artistic freedom is as important as the promotion and defence of other rights. Law institutions and law faculties should incorporate studies particularly relevant to artistic freedom as part of human rights and freedom of expression studies.

- Funding agencies should consider how they can stimulate and support the increased documentation of and advocacy for artistic freedom.



ENDNOTES

- 1**— For more, visit Wikipedia at https://en.wikipedia.org/wiki/Declaration_of_the_Rights_of_Man_and_of_the_Citizen.
- 2**— For full details of the text and reports relating to the 2005 UNESCO Convention, visit <https://ncac.org/resource/a-manual-for-art-freedom-a-manual-for-art-censorship>.
- 3**— To read the most recent PEN International case lists, see www.pen-international.org.
- 4**— See its listing on the Sage Publishing website: <https://uk.sagepub.com/en-gb/eur/journal/index-censorship>.
- 5**— The Mapping Freedom Project can be accessed at: <https://mappingmediafreedom.org/>.
- 6**— Index on Censorship's 'The art issue' can be found at: <https://uk.sagepub.com/en-gb/eur/the-art-issue/book237751>.
- 7**— To follow Index on Censorship's artistic freedom campaigns, see: <https://www.indexoncensorship.org/campaigns/artistic-freedom/>.
- 8**— To learn more about Lounes Matoub see: https://en.wikipedia.org/wiki/Loun%C3%A8s_Matoub.
- 9**— For more information about the Fritt Ord Foundation see: www.fritt-ord.no/en.
- 10**— To see the latest Annual Report and statistics, see: www.freemuse.org.
- 11**— See: <https://www.uni-hildesheim.de/arts-rights-justice-library/>
- 12**— Available here: http://www.arterialnetwork.org/resources/our_publications/awa_e-book_2016.
- 13**— For a detailed analysis of the UN and other international mechanisms, refer to the report entitled 'Rights'.
- 14**— The 2005 Convention website is located here: www.unesco.org/creativity. The website provides useful background, data, links to reports and press releases.
- 15**— For further details, see the 'Rights' report.
- 16**— From the Report of the Special Rapporteur in the field of cultural rights, January 2017.
- 17**— For more details see: http://en.wikipedia.org/wiki/Hollywood_blacklist.

ENDNOTES

18 — For further details see: http://en.wikipedia.org/wiki/Golgota_Picnic#cite_note-thenews1-2.

19 — The Stockholm metro and train corporation spends more than 15 million USD annually removing tags and graffiti. The policy is to remove any tag within 24 hours.

20 — This quote comes from a 15-minute BBC interview, 'The Rebel', broadcast in 1996 but no longer available in full, other than short clips that have been extracted and shared online.

21 — In the context of Sunni Islam, ulama are regarded as 'the guardians, transmitters and interpreters of religious knowledge, of Islamic doctrine and law.' See <https://en.wikipedia.org/wiki/Ulama2>.

22 — In Islam, fatwa is a formal ruling on or an interpretation of a point of Islamic law, given by a qualified legal scholar. Fatwas may be regarded as guidelines to all aspects of life.

23 — Ole Reitov, co-author of this report, worked closely on the case of Lapiro de Mbanga in his capacity as director of Freemuse at the time. Much of the material provided in this section is drawn from his own observations and notes of the time.

24 — The song can be found here: <https://www.youtube.com/watch?v=dFUPJxutbTc>

25 — The Orient Freedom to Create Prize, funded by a private sponsor and set up in 2009, granted many awards to artists at risk globally before closing operations in 2011. Its website is no longer available

26 — See the video from the Freemuse/Fritt Ord World Conference here: <https://www.youtube.com/watch?v=0961e3DKYDw>.

27 — Follow Zehra Doğan's case via the PEN International website (www.pen-international.org) and the Artist at Risk Connection website (<https://artistsatriskconnection.org>).

28 — Also referred to above.

29 — As of 2013, Freemuse has also incorporated the documentation of all art forms.

30 — For a brief overview on LGBTQ in Brazil see: https://en.wikipedia.org/wiki/LGBT_rights_in_Brazil

BIBLIOGRAPHY

ACLU a., n.d.

Freedom of expression in the arts and entertainment. [Online]

Available at: <https://www.aclu.org/other/freedom-expression-arts-and-entertainment> [Accessed 15 January 2019].

ACLU b., n.d.

What is censorship?. [Online]

Available at: www.acku.org/other/what-censorship [Accessed 15 January 2019].

AFTE/Freemuse, 2014.

Censors of creativity: A study of artistic expressions in Egypt. [Online]

Available at: <https://afteegypt.org/wp-content/uploads/2014/04/Censors-of-creativity-English.pdf> [Accessed 15 January 2019].

Almino, E. W., 2017.

Curator called before Senate hearing as Brazil's right-wing groups target the arts. [Online]

Available at: <https://hyperallergic.com/412532/brazil-art-culture-crackdown/> [Accessed 22 February 2019].

Arterial Network, n.d.

Artwatch Africa. [Online]

Available at: www.arterialnetwork.org [Accessed 15 January 2019].

ArtistsSafety.net, n.d.

ArtistsSafety.net: About. [Online]

Available at: <http://www.artistsafety.net/about/> [Accessed 15 January 2019].

ArtsEngage, 2010.

2010 arts community position paper on censorship and regulation. [Online]

Available at: <https://shyhjih.files.wordpress.com/2010/06/artsengage-censorshipregulation2010.pdf> [Accessed 29 March 2019].

Baily, J., 2001.

'Can you stop the birds singing?': The censorship of music in Afghanistan, Copenhagen: Freemuse.

BBC, 2006.

Graffiti: Free speech or vandalism?. [Online]

Available at: <http://news.bbc.co.uk/1/hi/world/europe/4946378.stm> [Accessed 15 January 2019].

BBC, 2011.

Lacoste Prize cancelled amid censorship row. [Online]

Available at: <http://www.bbc.com/news/entertainment-arts-16299688> [Accessed 15 January 2019].

BBC, 2015.

Copenhagen shootings: Police kill 'gunman' after two attacks. [Online]

Available at: <https://www.bbc.co.uk/news/world-europe-31475803> [Accessed 29 March 2019].

BIBLIOGRAPHY

Charlton, J., 2013.

Greek anti-fascist rapper murdered by 'neo-Nazi' Golden Dawn supporter. [Online]

Available at: <https://www.independent.co.uk/news/world/europe/greek-anti-fascist-rapper-murdered-by-neo-nazi-golden-dawn-supporter-8824664.html> [Accessed 29 March 2019].

CHRI, 2018.

She studied singing in college but is banned from performing on sStage in Iran. [Online]

Available at: <https://iranhumanrights.org/2018/01/iranian-female-vocalist-we-never-get-a-chance-to-practice-our-art-in-a-professional-setting/> [Accessed 29 March 2019].

Dagen, 2006.

Hammar förklarar skillnaden mellan Ecce Homo och Muhammedbilderna. [Online]

Available at: <https://www.dagen.se/hammar-forklarar-skillnaden-mellan-ecce-homo-och-muhammedbilderna-1.214453?paywall=true> [Accessed 29 March 2019].

Deuendorf, H., 2018.

'We Are Sacrificing Culture for Politics': Israeli Artists Burn Their Art to Protest a Repressive New 'Loyalty' Bill. [Online]

Available at: <https://news.artnet.com/art-world/culture-law-protest-israel-1403995> [Accessed 15 November 2018].

Donahoe, E., 2014.

Human Rights in the Digital Age. [Online]

Available at: <https://www.hrw.org/news/2014/12/23/human-rights-digital-age> [Accessed 15 January 2019].

Dowling, S., 2012.

European arts cuts: Dutch dance loses out as Netherlands slashes funding. [Online]

Available at: <http://www.guardian.co.uk/culture/2012/aug/02/european-arts-cuts-dutch-dance> [Accessed 15 January 2019].

European Commission, 2015.

EU Ministers for Culture issue joint statement on freedom of expression. [Online]

Available at: <https://ec.europa.eu/digital-single-market/en/news/eu-ministers-culture-issue-joint-statement-freedom-expression> [Accessed 15 January 2019].

Farrington, J., 2013.

Taking the Offensive: Report. [Online]

Available at: <https://www.indexoncensorship.org/takingtheoffensive/> [Accessed 22 November 2018].

Farrington, J., 2014.

Julia Farrington: The Barbican, Exhibit B and "progress zero". [Online]

Available at: <http://www.indexoncensorship.org/2014/09/barbican-brett-bailey-exhibit-b-julia-farrington/> [Accessed 15 January 2019].

BIBLIOGRAPHY

Fidelis, G., 2018.

'Queermuseum: Cartographies of Difference in Brazilian Art' at Cavalariças, Rio de Janeiro. [Online]

Available at: <http://www.artnews.com/2018/08/23/queermuseum-cartographies-difference-brazilian-art-cavalariças-rio-de-janeiro/> [Accessed 22 February 2019].

Fox, M. A., 2005.

Market Power in Music Retailing: the case of Wal-Mart. *Popular Music in Society*, 28(4), pp. 501-519.

Free Expression Policy Project, 2003.

Free Expression In Arts Funding: A public policy report. [Online]

Available at: <https://www.issuelab.org/resources/930/930.pdf> [Accessed 29 March 2019].

Freedom Now, 2010.

Petition to the United Nations Working Group on Arbitrary Detentions. [Online]

Available at: <http://www.freedom-now.org/wp-content/uploads/2010/09/de-Mbanga-Petition-to-the-WGAD-6.16.10.pdf> [Accessed 15 January 2019].

Freemuse a., 2012.

All that is banned is desired: World Conference on artistic freedom of expression. [Online].

Freemuse b., 2012.

Freemuse: Grounds pass to the United Nations. [Online]

Available at: <https://freemuse.org/news/freemuse-grounds-pass-to-the-united-nations/> [Accessed 2015 January 2019].

Freemuse/PEN International, 2015.

Universal Periodic Review: Lebanon. [Online]

Available at: http://freemuse.org/wp-content/uploads/2015/03/LebanonUPR-Freemuse_PEN.pdf [Accessed 15 January 2019].

Freemuse, 2007.

Turkey: Ferhat Tunc acquitted. [Online]

Available at: <https://freemuse.org/news/turkey-singer-ferhat-tunc-acquitted/> [Accessed 15 January 2019].

Freemuse, 2009.

Cameroon: Lapiro de Mbanga wins global award. [Online]

Available at: <https://freemuse.org/news/cameroon-lapiro-de-mbanga-wins-global-award-2/> [Accessed 15 January 2019].

Freemuse, 2010.

Cameroon / USA: Lapiro – behind bars in Cameroon, behind a mic in Brooklyn. [Online]

Available at: <https://freemuse.org/news/cameroon-usa-lapiro-behind-bars-in-cameroon-behind-a-mic-in-brooklyn/> [Accessed 15 January 2019].

Freemuse, 2011.

Press release: Singer Lapiro de Mbanga was released from New Bell Prison. [Online]

Available at: <https://freemuse.org/news/press-release-singer-lapiro-de-mbanga-was-released-from-new-bell-prison/> [Accessed 15 January 2019].

BIBLIOGRAPHY

Freemuse, 2014.

Challenges and effects of terror on arts and culture. [Online]

Available at: <https://www.ohchr.org/Documents/Issues/RuleOfLaw/NegativeEffectsTerrorism/Freemuse.pdf> [Accessed 29 March 2019].

Freemuse, 2016.

Freemuse calls for the release of five Tibetan musicians imprisoned for their art. [Online]

Available at: <https://freemuse.org/campaigns-actions/art-is-not-a-crime-not-in-tibet-not-anywhere/> [Accessed 29 March 2019].

Freemuse, 2016.

Poland: Controversies over theatre plays. [Online]

Available at: <https://freemuse.org/news/poland-controversies-over-theatre-plays/> [Accessed 15 January 2019].

Freemuse, 2016.

Turkey: The coup still continues for the art scene. [Online]

Available at: <https://freemuse.org/news/turkey-the-coup-still-continues-for-the-art-scene/> [Accessed 29 March 2019].

Freemuse, 2017.

Israel: Authorities shut down Palestinian national theatre. [Online]

Available at: <https://freemuse.org/news/israel-authorities-shut-palestinian-national-theatre/> [Accessed 29 March 2019].

Gostoli, Y., 2015.

Final curtain looms for historic Palestinian theatre. [Online]

Available at: <https://www.aljazeera.com/news/2015/12/final-curtain-looms-historic-palestinian-theatre-151214063909596.html> [Accessed 26 November 2018].

Graf, M., 2012.

Radius of art: Thematic window - public art. [Online]

Available at: <http://www.boell.de/educulture/education-culture-public-art-14223.html> [Accessed 15 January 2019].

Han, T. J., 2012.

Sticker Lady's arrest sparks outcry online. [Online]

Available at: <https://www.asiaone.com/News/Latest+News/Singapore/Story/A1Story20120606-350747.html> [Accessed 15 January 2019].

Igual, R., 2018.

Brazil has world's highest LGBT murder rate, with 100s killed in 2017. [Online]

Available at: <https://www.mambaonline.com/2018/01/24/worlds-highest-lgbt-murder-rate-100s-killed-brazil/> [Accessed 22 February 2019].

Index on Censorship, 2015.

Statement from the creative team behind Homegrown. [Online]

Available at: <https://www.indexoncensorship.org/2015/09/statement-from-the-creative-team-behind-homegrown/> [Accessed 29 March 2019].

BIBLIOGRAPHY

Iran Secretariat of the Supreme Council of Cultural Revolution, n.d.

<https://web.archive.org/web/20080803173726/http://www.iranculture.org/en/nahad/ershad.php>. [Online]

Available at: <https://web.archive.org/web/20080803173726/http://www.iranculture.org/en/nahad/ershad.php> [Accessed 15 January 2019].

Johnston, I., 2015.

Playwrights in Britain ‘censor their own work to avoid losing funding’. [Online]

Available at: <https://www.independent.co.uk/arts-entertainment/theatre-dance/playwrights-in-britain-censor-their-own-work-to-avoid-losing-funding-a6675981.html> [Accessed 15 January 2019].

Kennicott, P., 2010.

Fireman Wojnarowicz, censored by Smithsonian, sounded an alarm in dire times. [Online]

Available at: <http://www.washingtonpost.com/wp-dyn/content/article/2010/12/09/AR2010120905895.html> [Accessed 29 March 2019].

Knesset, 2018.

Text of proposed loyalty bill (in Hebrew). [Online]

Available at: https://fs.knesset.gov.il//20/law/20_Is1_518302.pdf

Knezevic, M., 2013a.

Ban art that targets far right, says Hungarian ambassador. [Online]

Available at: <http://www.indexoncensorship.org/2013/10/ban-art-targets-far-right-says-hungarian-ambassador/> [Accessed 2019 January 2019].

Knezevic, M., 2013b.

Denmark: Arrest and protest as reading by controversial poet goes ahead. [Online]

Available at: <http://www.indexoncensorship.org/2013/11/denmark-arrest-protest-reading-controversial-poet-goes-ahead/> [Accessed 15 January 2019].

Kreps, D., 2014.

Nipple ripples: 10 years of fallout From Janet Jackson’s halftime show. [Online]

Available at: <http://www.rollingstone.com/culture/news/nipple-ripples-10-years-of-fallout-from-janet-jacksons-halftime-show-20140130#ixzz3Va7qnnfx> [Accessed 15 January 2019].

Kulesz, O., 2018.

Cultural policies in the age of platforms. In: Y. R. Isar, ed. 2005 Convention Global Report: Reshaping cultural policies 2018. Paris: UNESCO, pp. 85-102.

Lippmann, E. A., 1964.

Musical thought in Ancient Greece. New York: Columbia University Press.

Lovas, L. & Medich, M., 2006.

Hidden truths, music, politics and censorship in Lukashenko’s Belarus. [Online]

Available at: https://freemuse.org/wp-content/uploads/2017/05/Freemuse_Belarus-report.pdf [Accessed 15 January 2019].

BIBLIOGRAPHY

Malik, K., 2018.

The Satanic Verses sowed the seeds of rifts that have grown ever wider. [Online]

Available at: <https://www.theguardian.com/commentis-free/2018/sep/29/satanic-verses-sowed-seeds-of-rift-grown-ever-wider> [Accessed 15 January 2019].

Malmö stad, n.d.

Safe havens. [Online]

Available at: <https://malmo.se/Service/Om-Malmo-stad/Sa-arbetar-vi-med.../Kulturstrategiska-satsningar/Safe-Havens-2015-2018.html> [Accessed 15 January 2019].

Mbanga, L. d. & Brown, D., 2010.

Voice to the voiceless: Cameroonian singer Lapiro de Mbanga gives an exclusive interview to Daniel Brown from prison on protest, politics and the art of satire. [Online]

Available at: <https://www.indexonensorship.org/2010/09/voice-to-the-voiceless/> [Accessed 29 March 2019].

Mintcheva, S., 2012.

Symbols into soldiers: Art, censorship, and religion, Copenhagen: Freemuse.

Mintcheva, S., 2018.

A manual for art freedom. [Online] Available at: <https://ncac.org/resource/a-manual-for-art-freedom-a-manual-for-art-censorship> [Accessed 2015 January 2019].

Morgan, A., 2013.

Music, culture and conflict in Mali, Copenhagen: Freemuse.

Myndigheten för Kulturanalys, 2016.

Hotad kultur? En undersökning om hot, trakasserier och våld motkonstnärer och författare i Sverige Rapport 2016:3. [Online]

Available at: <http://kulturanalys.se/wp-content/uploads/2016/04/Hotad-kultur.pdf> [Accessed 15 January 2019].

Nadeem, S., 2018.

Meet Loulwa, the first female Saudi singer to officially take the stage. [Online]

Available at: <https://gulfnnews.com/world/gulf/saudi/meet-loulwa-the-first-female-saudi-singer-to-officially-take-the-stage-1.2208471> [Accessed 29 March 2019].

NCAC, n.d.

Nudity & pornography. [Online]

Available at: <https://ncac.org/issue/nudity-pornography> [Accessed 2015 January 2019].

Nelson, K., 2001.

The art of reciting the Qur'an. Cairo: American University in Cairo.

Newth, M., 2010.

The long history of censorship. [Online]

Available at: http://www.beaconforfreedom.org/liste.html?tid=415&art_id=475 [Accessed 15 January 2019].

BIBLIOGRAPHY

Nordic Council of Ministers, 2015.

Declaration by the Nordic Ministers of Culture on Promoting Diversity of Cultural Expressions and Artistic Freedom in a Digital Age. [Online]

Available at: <https://www.norden.org/en/declaration/declaration-nordic-ministers-culture-promoting-diversity-cultural-expressions-and> [Accessed 15 January 2019].

Olesen, I., 2018.

Censored queer art show reopens to record-breaking crowds in Rio. [Online]

Available at: <https://www.theartnewspaper.com/news/censored-queer-art-show-reopens-to-record-breaking-crowds-in-rio> [Accessed 22 February 2019].

Önderoglu, E., 2015.

Fine Ferhat Tunç's concert speech convicted by ECHR. [Online]

Available at: <http://bianet.org/english/human-rights/162172-fine-ferhat-tunc-s-concert-speech-convicted-by-ech> [Accessed 15 January 2019].

Otterbeck, J., 2006.

Battling over the public sphere: Islamic reactions to the music of today. In: R. Malouf & R. Berenger, eds. Religion, media and modern thought in the Arab World. Cambridge: Cambridge Scholars Press.

PEN America, 2017.

Online harassment survey: Key findings. [Online]

Available at: <https://pen.org/online-harassment-survey-key-findings/> [Accessed 15 January 2019].

PEN America, 2019.

Dissolution of NGO Racines an unacceptable violation of cultural rights in Morocco. [Online] Available at: <https://pen.org/press-release/dissolution-racines-unacceptable-violation-cultural-rights-morocco/> [Accessed 15 March 2019].

PEN International, 2018.

The PEN International Case List 2017. [Online]

Available at: https://pen-international.org/app/uploads/PEN-CaseList_2017-FULL-v2-1UP.pdf [Accessed 15 January 2019].

PEN International, n.d.

The PEN Charter. [Online]

Available at: <https://pen-international.org/who-we-are/the-pen-charter> [Accessed 27 November 2018].

Pinto, S., 2017.

What is online violence and abuse against women?. [Online]

Available at: <https://www.amnesty.org/en/latest/campaigns/2017/11/what-is-online-violence-and-abuse-against-women/> [Accessed 15 January 2019].

Polymédio, C., 2018.

The rise of the Brazilian evangelicals. [Online]

Available at: <https://www.theatlantic.com/international/archive/2018/01/the-evangelical-takeover-of-brazilian-politics/551423/> [Accessed 22 February 2019].

BIBLIOGRAPHY

Portal, J., 2005.

Art under control in North Korea. London: Realaktion Books.

Pusztaranger, 2011.

„An die Künstler in Europa und der ganzen Welt“ – Petition von Ádám Fischer und Künstlerkollegen. [Online]
[Accessed <https://pusztaranger.wordpress.com/2011/01/12/an-die-kunstler-in-europa-und-der-ganzen-welt-petition-von-adam-fischer-und-kunstlerkollegen/> March 29 2019].

Ramadan, S., 2018.

Reaction paper: How the crackdown on freedom of art reached Bani-Suef Cultural Palace. [Online]
Available at: https://afteegypt.org/en/freedom_creativity-2/2018/09/09/15776-afteegypt.html [Accessed 27 November 2018].

Reitov, O., 2015.

Challenges of artistic freedom. In: Global Report 2015: ReShaping Cultural Policies. Paris: UNESCO, pp. 189-202.

Rolef, S. H., 2018.

The first reading of the 'Loyalty in Culture Bill'. [Online]
Available at: <https://www.jpost.com/Opinion/Think-About-It-The-first-reading-of-the-Loyalty-in-Culture-Bill-571615> [Accessed 15 January 2019].

Saghieh, N., Saghieh, R. & Geagea, N., 2010.

Censorship in Lebanon: Law and practice, Berlin: Heinrich Boll Foundation.

Schatzie, 2018.

Aristotle quotes and Plato philosophy: Two critiques of poetry. [Online]
Available at: <https://hubpages.com/literature/The-Emotions-Surrounding-Poetry--Aristotle-vs-Plato>
[Accessed 19 January 2019].

Schechter, A., 2015.

How the right-wing already won Israel's culture war. [Online]
Available at: <https://www.haaretz.com/.premium-how-the-right-won-the-culture-war-1.5374234>
[Accessed 15 January 2019].

Shaheed, F., 2013.

Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed: The right to freedom of expression and creativity, Geneva: United Nations Human Rights Council.

Simple Living, n.d.

Simple living. [Online]
Available at: <http://www.simplelivingcommittee.org/simple-living>

BIBLIOGRAPHY

Spiro, A., 2017.

Controversial Israeli film 'Foxtrot' wins award at Venice Int'l Film Festival. [Online]

Available at: <https://www.jpost.com/Israel-News/Culture/Israeli-film-Foxtrot-wins-silver-lion-award-at-the-Venice-film-festival-504628>
[Accessed 15 January 2019].

The Hague Court, 2011.

Judgement: Nadia Plesner Joenssen v Louis Vuitton Malletier SA. [Online]

Available at: <http://www.nadiaplesner.com/upl/website/simple-living--darfurnica1/VerdictEnglish.pdf>
[Accessed 15 January 2019].

U. S. Mission, Geneva, 2015.

HRC Statement reaffirms rights to freedom of expression including creative and artistic expression. [Online]

Available at: <https://www.google.com/search?client=firefox-b-d&q=57+member+states+freedom+of+artistic+expression> [Accessed 15 January 2019].

UN WGAD, 2011.

Cameroun: Communication transmise au Gouvernement le 26 Janvier 2011, Geneva: United Nations Council on Human Rights.

UNESCO, 1980.

Recommendation concerning the Status of the Artist. [Online]

Available at: http://portal.unesco.org/en/ev.php-URL_ID=13138&URL_DO=DO_TOPIC&URL_SECTION=201.html [Accessed 30 March 2019].

UNHCHR, 2014.

'Artistic expression is not a crime' – UN rights experts urge the Iranian Government to free jailed artists. [Online]

Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20172&LangID=E>
[Accessed 15 January 2019].

Wade, L., 2013.

Why Belarus Free Theatre deserves a standing ovation. [Online] Available at: <https://www.theguardian.com/stage/theatreblog/2010/dec/13/belarus-free-theatre>
[Accessed 29 March 2019].

Whyatt, S., 2018.

Promoting the freedom to imagine and create. In: D. C. a. Y. R. Isar, ed. *ReShaping Cultural Policies: 2005 Convention Global Report*. Paris: UNESCO, pp. 209-226.

Willetts, P., n.d.

What is a non-governmental organization?. [Online]

Available at: <http://www.staff.city.ac.uk/p.willetts/CS-NTWKS/NGO-ART.HTM#Part2> [Accessed 15 January 2019].

Woolliff, R., 2018.

Vote on culture 'loyalty' bill put off after Kulanu pulls support. [Online]

Available at: <https://www.timesofisrael.com/vote-on-culture-loyalty-bill-put-off-after-kulanu-pulls-support/>
[Accessed 27 November 2018].

BIBLIOGRAPHY

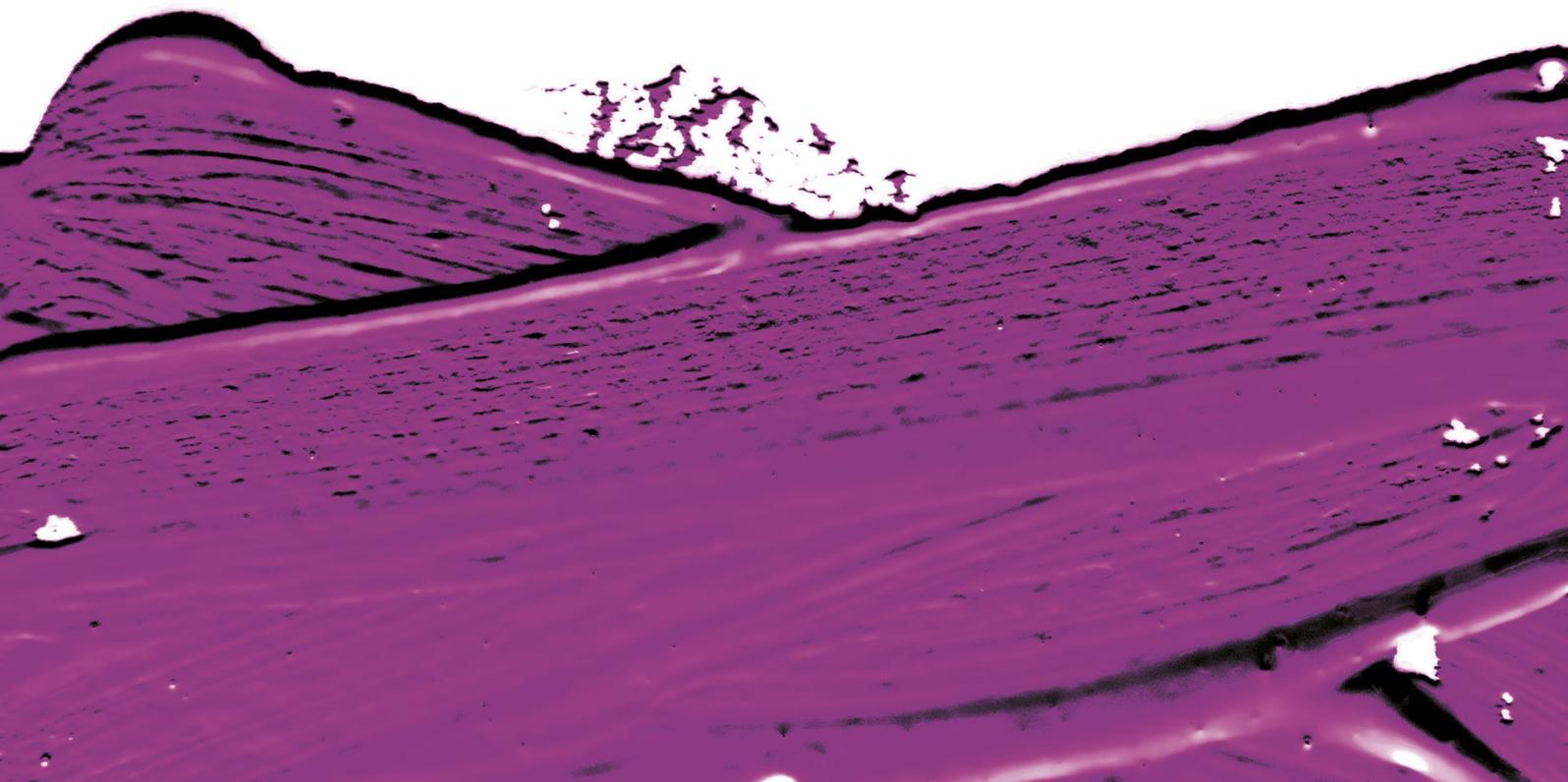
Young, M., 2012.

The legalization of street art in Rio de Janeiro, Brazil.

[Online]

Available at: <http://untappedcities.com/2012/02/13/the-legalization-of-street-art-in-rio-de-janeiro-brazil/>

[Accessed 2015 January 2019].



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