## Question 1: What have been the impacts on cultural rights and on cultural life of

## A: the pandemic, B: measures taken to respond to the pandemic

As the COVID-19 virus continues to rapidly spread across the globe, national governments and local authorities are implementing measures under the guise of protecting citizens from the virus. Sweeping restrictions on freedom of movement, association and assembly were introduced and consequently altered the parameters of freedom of expression.

The cultural and artistic response to the pandemic has been multi-faceted. It has created a complex ecosystem for artists through the restrictions on access to income, adding additional financial uncertainties to the artistic freedom environment – such as UK creative industries facing a decrease of 74 billion GBP (approximately 81.7 billion euros) after lockdown.[[1]](#footnote-2) Notwithstanding this, operating in tandem to the financial implications has been the evolution of a series of new creative expressions about the experience of lockdown. The nature of the pandemic has necessitated engaging with the online space in more creative ways as artists have identified alternative means to mobilise their communities and produce cultural expressions. This has been instrumental in articulating new artistic experiences and has further illustrated the centrality of cultural rights and art in the human need for - and means of communicating and exploring – emotions and ideas.

However, at a juncture where freedom of expression has already been under significant duress globally, COVID-19 has enabled populist and authoritarian governments to implement draconian and disproportionate measures on artistic creativity using this pretext. Freemuse has observed that the expression of political critiques and dissent through culture, already under considerable state scrutiny, has contributed to an amplified pressure being placed upon the arts given their provocative nature. During the coronavirus pandemic, these sensitivities have been heightened by fears and uncertainties about the ability of health infrastructures and government responses to curb its spread, often leading to artists censoring their creative expressions. This has predominantly concerned cartoons and satiric products, with other cases illustrating the intersection of COVID-19 and religion whereby artworks are deemed to not be in line with religious beliefs and practises in countries like Myanmar and Romania.

**Legislative Restrictions**

Excessive punitive measures have been levied against artists who criticise, condemn, or ridicule the government response to the public health crisis. In countries like Iran and Cuba, existing legislation has been used to silence and censor artists that have articulated alternative expressions to those propagated by the government. Alongside this, more than 32 countries have introduced new emergency legislation and measures in response to COVID-19, such as Hungary and the United Kingdom, which have contributed to new forms of legislative restrictions on artistic freedom; such as the Hungarian parliament’s 30 March passing of a bill which gave parliamentary authorisation to extend the state of emergency in light of COVID-19. The restrictions on movement and assembly, as outlined in many COVID-19 measures, have been disproportionately misused in countries like Poland and the United States to silence political opposition and dissenting expressions.

These restrictions have had a detrimental impact on freedom of artistic freedom and have been implemented without full consideration to all human rights undermining both article 15 of the ICESCR and article 19 of the ICCPR under the pretext of upholding the right to health, which includes the “prevention, treatment and control of epidemic, endemic, occupational and other diseases.” The wider implication of this legislation is that all expressions considered to be ‘fake news’ or ‘false’ have been systematically censored and this arbitrary decision-making does not align with the international human rights frameworks. The measures taken to control this space are fundamentally excessive and unprecedented, and their harshness on artists expressing opinions relating to the coronavirus pandemic has legitimised a climate of fear and self-censorship.

### Illustrations of Artistic Freedom Violations under COVID-19

**Detentions for COVID-19 Related Art - ‘Insulting/Criticizing the Authorities’**

Detentions for COVID-19 related art are an extension of the mechanisms under which state authorities arbitrarily and aggressively implement legislation that curtails criticisms of the authorities, especially when these artistic expressions feature humour and satire, which by their very nature are not only provocative but can be insulting and offensive. This is accentuated by artist syndicates, non-state political and social groups, and artistic communities introducing legal proceedings against people whose artistic and creative expressions clash with the social and political narratives propagated by those in power.

On 17 June, artist Luis Manuel Otero was detained alongside art historians and curators Anamely Ramos and Claudia Genlui Hidalgo in the Cuban capital of Havana after going to file a complaint about the abuse of power and police violence in the country.[[2]](#footnote-3) On 16 June, Cuban rapper Maikel Osorbo was also detained and went missing for 27 hours. After being released, Osorbo said that he was taken to a house where he was locked down with four agents from the ‘Seguridad del Estado’ until they released him on 17 June. This followed the 11 June detentions of Osorbo and Otero, and 5 April detention of Osorbo under decree 370 after police alleged the content of his Facebook Live video talking about COVID-19 was in “contempt” and contributed to the “spread of epidemics”.[[3]](#footnote-4) Decree 370 punishes the right “to disseminate, through public networks of data transmission, information contrary to the social interest, morals, good manners and integrity of people”. Further, epidemic propagation is regulated by article 187 of the Penal Code which establishes “imprisonment for three months to one year or a fine…to anyone who violates the measures or provisions issued by the competent health authorities”. These detentions during the coronavirus pandemic in Cuba are an extension of the ways in which Cuban authorities use arbitrary detention as a means of silencing political dissent and intimidating artists and other creatives.

On 5 May, cartoonist Kabir Kishore and writer Mushtaq Ahmed were arrested from their respective homes in the Bangladeshi capital of Dhaka for spreading anti-government and coronavirus-related content on Facebook.[[4]](#footnote-5) Separate cases were filled under the draconian Digital Security Act (DSA) after Ahmed published critical messages on Facebook and Kishore posted a number of cartoons and posters which criticised how the Bangladesh government were handling COVID-19. The DSA exacerbates the dangers to freedom of expression during the coronavirus pandemic through its provisions of absolute power for the government to arrest anyone – without a warrant – whose activities are considered harmful or a threat on suspicions that a crime might be committed in the digital space.[[5]](#footnote-6) The DSA has been criticised since its introduction due to its inherent provision on restricting freedom of expression and has been a grave danger on artistic expressions in the country.

In early April, an unnamed woman in Morocco was arrested and sentenced to two months in prison for posting a 15-second video on the social network TikTok after she wore a ‘Caïda Houria’.[[6]](#footnote-7) The comedy video imitated the Caida’s – local security figures – behaviour and encouraged people to respect the COVID-19 lockdown. She was charged with the “unauthorized public wearing of an official uniform” under article 382 of the Moroccan Penal Code and remains imprisoned in the south-eastern city of Errachidia. In Morocco, artists enjoy a significant degree of freedom if they do not broach taboo subjects, including the military, monarchy, religion, yet detentions and censorship on creative expressions are often implemented across the country.

On 13 April, Ugandan writer Kakwenza Rukirabashaija was arrested by military police on the trumped-up charges of defamation and cyber-related crimes after posting a Facebook message that allegedly urged the public not to comply with public health guidelines issued to prevent the spread of COVID-19.[[7]](#footnote-8) On 20 April, the writer was charged with “doing an act likely to spread the infection of disease [C19], Section 171 of the Penal Code Act, Cap 120” and was remanded in custody for seven days. Rukirabashaija informed his lawyer that he was blindfolded in solidarity confinement and subject to torture and inhuman interrogations. In recent years, freedom of expression has increasingly been under threat in Uganda as the authorities have sought to introduce new legislation to regulate artistic freedom, with COVID-19 providing authorities with legislative loopholes to disproportionality silence those who step beyond the government-enforced acceptable parameters of political and social engagement.

**The Intersection of Art, COVID-19 and Religion**

The global resurgence of religious nationalism presents one of the greatest threats on the right to artistic expression in recent years. Freemuse has documented how this intolerant discourse, which often seeks to instil illegitimate restrictions on artistic expression, is becoming deeper embedded in laws, policies, and practices across the globe. These efforts are often paralleled by non-state actors—sometimes appearing to operate in tandem with actions and statements by state officials—who instigate acts of censorship and other violations to arbitrarily and unlawfully restrict artistic freedom.

On 24 April, journalists Masoud Heydari and Hamid Haghjoo were arrested for allegedly “insulting the sanctity of Islam” and “insulting the Islamic Republic’s Supreme Leader” through a cartoon that had been posted on the Iranian Labor News Agency telegram channel.[[8]](#footnote-9) The cartoon was a satire piece that mocked Iranian clerics who had recommended traditional medicine for COVID-19, depicted Iranian Supreme Leader Ali Khamenei as a nurse, and mocked Ayatollah Abbas Tabrizian and Mehdi Sabili who claimed to have developed treatments for COVID-19. These arrests provide another example of the methods employed by the Iranian authorities in which they justify their actions by using principles interpreted by the theocratic state on the basis of Islamic religious texts – often resulting in charges of propaganda against the Islamic Republic. In a similar case before the coronavirus pandemic, Iranian satirist Keyomars Marzban was sentenced to 23 years and nine months in prison – including 7.6 years for “insulting the sacred”, three years for “insulting the supreme leader”, one year for “propaganda against the state” and nine months for “insulting officials” – after writing contributions on websites funded by the USA.[[9]](#footnote-10)

In Bucharest, Romania’s Orthodox Church criticised a billboard campaign by international advertising agency McCann Worldgroup showing doctors dealing with the coronavirus as saints with halos shaped like the virus.[[10]](#footnote-11) A church spokesperson called the campaign “a visual abuse of Christian iconography” and “marked by bad taste fed by ignorance and a hideous ideology that only knows how to caricaturize Christianity,” leading to Bucharest officials asking for the posters to be taken down. In recent years, Freemuse has observed a proliferation of cases relating to the alleged abuse and misuse of Christian iconography across the globe as governments and religious bodies in countries like Brazil, Hungary and Poland are silencing creative expressions that are seen in opposition to Christian values. In one such instance, the mayor of Brazilian city Belo Horizonte suspended a performance of a play ‘The coronation of Our Lady of the Cross-dressers’ after the local archdiocese declared the play “a criminal action prejudicial to contempt for the Christian Catholic faith”.[[11]](#footnote-12)

In countries like Myanmar where Buddhist hardliners are gaining political ground, the space for artistic freedom - in which religious sensitivities are legitimised and artwork which otherwise would be provided space - is not only censored but criminalised. This is illustrative when examining the criminal charges brought against three artists on 3 April under article 295A of the Penal Code for the “deliberate and malicious intention of outraging religious feelings…insults or attempts to insult”.[[12]](#footnote-13) The artists, Zayar Hnaung, Ja Sai, and Naw Htun Aung, painted a mural to raise awareness about COVID-19 but were arrested after Buddhists complained that the mural’s portrayal of a grim reaper figure resembled a Buddhist monk. Throughout the coronavirus pandemic, authorities in Myanmar have continued their crackdown on freedom of expression and against artists who confront the status quo through creative commentaries.

**Limitations on Freedom of Assembly**

On 14 April 2020, the UN Special Rapporteur on the right to peaceful assembly and association affirmed that the “state of emergency does not halt the freedoms of peaceful assembly and of association,” and expressed his concern about the “worrying trends and limitations emerging from civil society reports around the world, including on civil society's ability to support an effective COVID-19 response”.[[13]](#footnote-14) However, non-state actors across the globe have continued to be discriminatory towards anyone who vaguely resembles East and South-East Asian people as a result of anti-Chinese xenophobia. In February, Vietnamese artist An Nguyen was asked not to attend the London edition of the Affordable Art Fair over concerns that they were a carrier of COVID-19 and would discourage visitors from attending. An Nguyen was scheduled to assist Raquelle Azran’s Vietnamese Contemporary Fine Art stand at the London exhibition but prior to the event Azran emailed Nguyen and said that “the coronavirus is causing much anxiety everywhere, and fairly or not, Asians are being seen as carriers of the virus…your presence on the stand would unfortunately create hesitation on the part of the audience to enter the exhibition space”. Throughout 2020, racism and anti-Chinese rhetoric has proliferated as a result of the coronavirus pandemic, with the United States registering at least 125 physical attacks against Asians and Asian-Americans, the UK reporting at least 267 anti-Asian hate crimes between January and March, and 178 incidents of racism against Asians and Asian-Australians in the first two weeks of April.[[14]](#footnote-15) Freemuse echoes the UN Secretary-General’s call on governments to “strengthen the immunity of our societies against the virus of hate”.[[15]](#footnote-16)

In Poland, Michał Frydrych and Paweł Onufry Żukowski, members of a group called the Consortium of Postartistic Practices, were fined 100,000 Polish złoty (approximately 22,382 euros) for not keeping the two-meter distance required by Polish law during an artistic-political action held on 6 May. During the performance, 11 artists passed through the streets of Warsaw carrying a 14-metre long letter to the Polish parliament ahead of a debate on whether to hold the country’s presidential elections on 10 May, which was alluding to the 1967 statement by well-known Polish artist Tadeusz Kantor about the lack of freedom of expression in the country. Frydrych and Żukowski argued that all the artists maintained the two-meter distance and wore masks, whilst the police officers who accompanied the performance did not keep the required distance. Following a significant public backlash, the Warsaw authorities withdrew the fines.

In the United Kingdom, creative expressions produced as shared cultural experiences have been targeted by local authorities and police forces with disproportionate measures. In April, musician Helena Newman was banned from playing concerts in the front garden of her home in her family’s string quartet after the London Metropolitan Police told the family that they were encouraging neighbours to watch the concert from the street and break the lockdown.[[16]](#footnote-17) Police restricted the shared social space that was crucial to the survival of those who were isolating alone and Newman’s violinist husband Rafael Todes called the concerts “quintessentially harmless” and that “people were socially distancing very carefully”. In a similar UK case, on 28 May Cherwell District Council in Oxfordshire told 76-year old DJ Tommy Coombes to stop playing music every Thursday after a noise complaint was filed by one of his 1,200 neighbours.[[17]](#footnote-18) In his COVID-19 lockdown events, Coombes arranged three minutes of clapping for key workers followed by three cheers for health service workers and would finish by playing music from the front of his house. The musician was informed that if he continued it could result in a fine or prosecution.

Freemuse, 19 June 2020

1. Guardian, 17 June 2020. *UK creative industries facing £74bn drop in income after lockdown,* <https://www.theguardian.com/culture/2020/jun/17/uk-creative-industries-facing-74bn-drop-in-income-after-lockdown> [↑](#footnote-ref-2)
2. Explica, 17 June 2020. *The Cuban regime kidnapped four artists who were going to file a lawsuit against police violence*, <https://www.explica.co/the-cuban-regime-kidnapped-four-artists-who-were-going-to-file-a-lawsuit-against-police-violence/> [↑](#footnote-ref-3)
3. Freemuse, 6 May 2020. *Cuba: Rapper arrested over COVID-19 video*, <https://freemuse.org/news/cuba-rapper-arrested-over-covid-19-video-freemuse/> [↑](#footnote-ref-4)
4. Dhaka Tribune, 6 May 2020. *Cartoonist Kishore, writer Mushtaq arrested under DSA*, <https://www.dhakatribune.com/bangladesh/dhaka/2020/05/06/former-crocodile-farm-owner-picked-up-from-lalmatia> [↑](#footnote-ref-5)
5. Amnesty International, 12 November 2018. *Bangladesh: New Digital Security Act is attack on freedom of expression*, <https://www.amnesty.org/en/latest/news/2018/11/bangladesh-muzzling-dissent-online/> [↑](#footnote-ref-6)
6. Human Rights Watch, 13 May 2020. *Humor Comes at a Price in Morocco and Tunisia,* <https://www.hrw.org/news/2020/05/13/humor-comes-price-morocco-and-tunisia> [↑](#footnote-ref-7)
7. PEN International, 4 May 2020*. Uganda: drop COVID-19-related charges and release Kakwenza Rukirabashaija*, <https://pen-international.org/news/uganda-release-kakwenza-rukirabashaija> [↑](#footnote-ref-8)
8. Committee to Protect Journalists, 27 April 2020*. Iran arrests 2 journalists for allegedly sharing cartoon mocking government’s COVID-19 response,* <https://cpj.org/2020/04/iran-arrests-2-journalists-for-allegedly-sharing-c/> [↑](#footnote-ref-9)
9. Freemuse, April 2020. *The State of Artistic Freedom 2020*, <https://freemuse.org/wp-content/uploads/2020/04/State-of-Artistic-Freedom-2020-1.pdf> [↑](#footnote-ref-10)
10. ABC News, 29 April 2020. *Romania: Orthodox Church blasts posters of doctors as saints,* <https://abcnews.go.com/International/wireStory/romania-orthodox-church-blasts-posters-doctors-saints-70414320> [↑](#footnote-ref-11)
11. Freemuse, April 2020. *The State of Artistic Freedom 2020*, <https://freemuse.org/wp-content/uploads/2020/04/State-of-Artistic-Freedom-2020-1.pdf> [↑](#footnote-ref-12)
12. Human Rights Watch, 8 April 2020. *Myanmar: 3 Charged for COVID-19 Street Art,* <https://www.hrw.org/news/2020/04/08/myanmar-3-charged-covid-19-street-art> [↑](#footnote-ref-13)
13. OHCHR, 14 April 2020. *COVID-19 restrictions should not stop freedom of assembly and association, says UN expert*, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25792&LangID=E> [↑](#footnote-ref-14)
14. Human Rights Watch, 12 May 2020. *Covid-19 Fueling Anti-Asian Racism and Xenophobia Worldwide,* <https://www.hrw.org/news/2020/05/12/covid-19-fueling-anti-asian-racism-and-xenophobia-worldwide> [↑](#footnote-ref-15)
15. Antonio Guterres, 8 May 2020. <https://twitter.com/antonioguterres/status/1258613180030431233?s=20> [↑](#footnote-ref-16)
16. The Art Newspaper, 1 May 2020. *Police stop Sotheby's auctioneer’s family concerts outside London home,* <https://www.theartnewspaper.com/blog/sotheby-s-auctioneer-and-family-stopped-from-playing-string-quartet-outside-london-home> [↑](#footnote-ref-17)
17. Oxford Mail, 28 May 2020. *DJ Tommy in Bletchingdon told to stop playing music at NHS clap,* <https://www.metro.news/thank-you-thursday-clap-dj-ordered-to-quit-playing-tunes/2026799/> [↑](#footnote-ref-18)