

1 June 2020, Copenhagen

Dear Mr. Ahmed Shaheed
UN Special Rapporteur on freedom of religion or belief

Re: Submission to the Report to the United Nations General Assembly on Eliminating Intolerance and Discrimination Based on Religion or Belief and the Achievement of SDG 16

The global resurgence of various forms of religious nationalism presents one of the greatest threats to the right to artistic expression in recent years. Freemuse has documented how this burgeoning and often intolerant discourse in which artistic expression is often undermined and is largely framed within a legal narrative of hurting or insulting religious sentiments has become deeper embedded in law, policy and practise across the globe. In particular, LGBTI artistic expression and creativity advocating for women's rights are being met with state sanctioned resistance and pushback.

Whilst our concerns about theocratic countries remain, it is the institutionalisation of conservative and religious norms in majoritarian democracies which are significantly impacting artistic expression. This has in part contributed to the emerging role of religious institutions as self-appointed monitors of public morality. These efforts are being paralleled by non-state actors—sometimes appearing to operate in tandem—who instigate various acts of censorship and other violations to unlawfully restrict the right to freedom of artistic expression. Freemuse has observed how these acts of unlawful censorship appear to be legitimised when senior government officials issue inflammatory, impartial statements which appear to support the narrative in which artistic expression is accused of hurting or insulting religious sentiments rather than protecting this fundamental right.

Freemuse has witnessed this trend in secular countries like Lebanon and Hungary in which there appears to be a diminishing separation between views espoused by religious bodies and policies being initiated by the state. This includes cases like the detention of Polish human rights defender, Elżbieta Podleśna, who was charged with hurting religious feelings for distributing artwork featuring the Virgin Mary with a rainbow halo, and the cancellation of a theatre performance in Brazil after pressure from a local archdiocese who declared the play in “contempt for the Christian Catholic faith”.

The relentless rhetoric of fear, exclusion, and intolerance in which religious minorities are being demonised is rapidly deteriorating the environment for free artistic expression in countries like India. In Iran, illegitimate restrictions are being imposed on artistic expression to silence alternative voices. In states like the USA, travel bans and border restrictions are being to physically prevent alternative expressions entering the country, especially relating to heavy metal music which is often considered ‘satanic’.

The discourse and cases highlighted above and in this submission are documented in Freemuse's most recent report, [the State of Artistic Freedom 2020](#). Freemuse believes that these trends are likely to manifest further in coming years as forms of religious nationalism continues to take root in law, policy and practise, and in which authoritarian states are already tightening the noose on freedom of expression and artistic freedom. If you would like further information on any of the trends or cases highlighted in this letter – within the context of this report or other actions – please inform us.

Freemuse looks forward to collaborating with the mandate on defending and promoting artistic and religious freedoms across the globe. Thank you for your attention on these issues.

Kind regards,
Freemuse

RELIGIOUS VALUES AND INSTITUTIONALISATION

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

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

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

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

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

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

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

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

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

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

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

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

THE UNDERMINING OF HUMAN RIGHTS NORMS IN BRAZIL

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

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

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

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

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

support the call of the archdiocese.²²

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

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

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

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

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

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

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

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

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

ELŻBIETA PODLEŚNA, FREEMUSE INTERVIEW, 14 MARCH 2020

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

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

ELŻBIETA PODLEŚNA, FREEMUSE INTERVIEW, 14 MARCH 2020

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

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

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

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

CONTINUED PUSH BACK AGAINST BLACK METAL IN THE USA

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

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

PELLE FORSEBERG, @WATAINOFFICIAL FACEBOOK, 22 NOVEMBER 2019.

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

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

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