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AFRICA

MONITORING FREEDOM
OF CREATIVE EXPRESSION
ARTERIAL NETWORK REPORT 2013



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OF CREATIVE EXPRESSION
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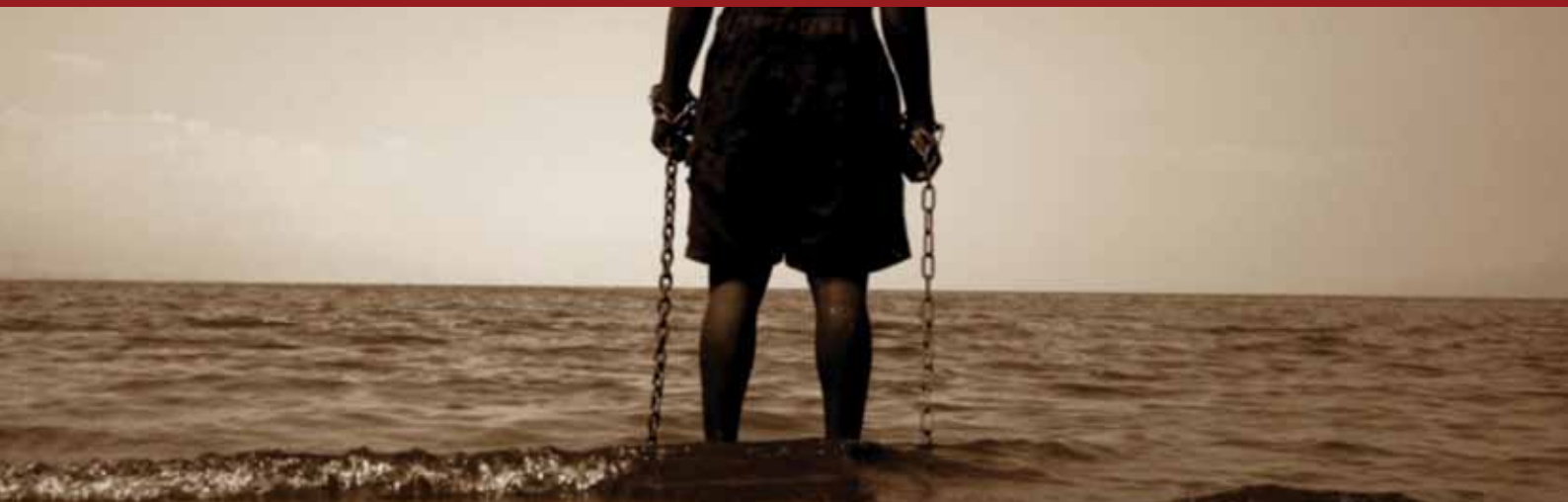
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FOREWORD

Arterial Network believes that the right to freedom of creative expression is a fundamental human right. This right is impacted upon by a range of factors across the African continent: political intolerance, religious values and social traditions to name but a few. This Report represents the first attempt by Arterial Network to map freedom of creative expression on the African continent as a basis for arriving at a baseline understanding of the state of freedom of expression in all African countries and the range of threats posed to this fundamental freedom.

Respect for the right to freedom of creative expression, the right of artists and other creative workers to express their thoughts, views and insights in and through the creative medium of their choice, is as varied across the continent as are economic, political, cultural and social conditions.

In producing this Report, we have sought to engage researchers based in each country, but this has not always been possible. The quantity and quality of available information varied considerably between countries, so that this inaugural report may have more, and more correct and updated information about some countries than others.

We are distributing this report to invite feedback, additions, corrections and more nuanced information, and to network with relevant stakeholders in each country who could provide us with updated information in the course of our producing such a Report on an annual basis.

This is the least we can do to promote and defend the right to freedom of creative expression.

We invite all interested parties to join us in doing so.

Peter Rorvik

Secretary General

Arterial Network

INTRODUCTION

The vitality of artistic creativity is necessary for the development of vibrant cultures and the functioning of democratic societies. Artistic expressions and creations are integral parts of cultural life. Yet, artistic expressions and creative practitioners come under particular risk because they convey specific messages, present alternative ideas that challenge the status quo or are considered to do so.

The social unrest that started in North Africa has inspired the belief that it is possible for people to live in open, transparent social spaces, throw off the shackles of repression and to claim the rights and freedoms as outlined in the Universal Declaration of Human Rights including the rights to freedom of assembly, freedom of expression, freedom to hold views even contrary to those in power, and the freedom to participate in the structures that govern their lives. However, instead of a new era of freedom, those with political authority or positions of power have tightened their grip on the people and have consequently suppressed dissent and opposition in a variety of ways¹.

The crucial task in the implementation of the universal human rights norms is to prevent the arbitrary privileging of certain perspectives on account of religious or traditional authority, political or economic power, or demographic supremacy in the society.²

It is against this background that Arterial Network is establishing Art Watch Africa, a project aimed at monitoring the challenges and constraints on freedom of creative expression in all African countries, including the various forms of censorship that prevail in some countries. By exposing the contravention of freedom of creative expression and by supporting artists and other creative practitioners to assert and practice this right, Art Watch Africa will contribute to developing democracy and human rights in Africa. This will in turn empower individuals to act in their interests and help to build Arterial Network national chapters across the continent. The latter will assist in defending the right to freedom of expression and will bring international pressure on repressive socio-political structures and situations that compromise or contravene freedom of expression—a fundamental human right.

Methodology

The present report is a compilation of information on the status of freedom of creative expression gathered in 47 African countries. It addresses the multi-faceted ways in which freedom of creative expression is being curtailed on the African Continent. It aims to understand the challenges and the obstacles hindering artistic creativity in the African context.

The report focuses on the right to freedom as indispensable for artistic expression and creativity, protected in its most explicit form under article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and article 19 of the International Covenant and Political Rights (ICCPR)³.

In order to collect information on the state of freedom of creative expression in Africa, Arterial network developed and disseminated questionnaires to researchers both in English and French. This questionnaire included closed-ended and open-ended questions. Arterial Network National Chapters were involved as well, taking responsibility for the sourcing of appropriate partners and like-minded organizations. Additionally, verification was carried out via Skype interviews sessions; these were conducted by the coordinators to make sure the content was accurate and factual. Where possible, information was cross-checked for reliability.

The purpose of the survey was to take stock of the current state of freedom of creative expression in order to enhance efforts in monitoring and exposing factors that hinder freedom of speech.

¹ Mike Van Graan, *Freedom of creative expression in Africa*, Paper presented at Artsfex-Copenhagen Summit on artistic freedom of expression, p.1

² Farida Shaheed, *The Right to freedom of artistic expression and creativity*, Report of the Special Rapporteur in the field of cultural rights, 14 March 2013, p. 3

³ Farida Shaheed, *The Right to freedom of artistic expression and creativity*, Report of the Special Rapporteur in the field of cultural rights, 14 March 2013, p. 4

Arterial Network recognizes that artistic creativity relies on a wide range of factors not reducible to the artists per se, encompassing all those engaged in and contributing to the creation, production, distribution and dissemination of artistic expressions and creations.⁴ Furthermore, Arterial Network recognizes that freedom of creative expression cannot be dissociated from the right of all people to enjoy the arts. Nevertheless, the approach adopted by this questionnaire was narrow and developed with a clear focus on the artists' situations on the continent. Nonetheless, the different cases of artistic repression gathered inform Arterial Network on the broader scope of issues in the context of artistic freedom.

The focus of the assessment undergirding this report is the presence of repression in African countries and their current state. These repressions most commonly take the form of social marginalization in its various shades and government censorship. In this vein, legal frameworks, religion, societal norms, traditions and general government practices were examined. The outcome of the exercise is a series of country profiles on the status of artistic freedom.

The profiles therefore examine legal framework, limitations to freedom of creative expression, actors responsible for those limitations, and their rationale for the limitations they place. Where available, cases of artistic repression were also provided.

The country profiles templates are subdivided as follows:

1. **Legal Framework:**

A first important step towards understanding the state of creative expression was identifying the laws and regulations impacting freedom of creative expression. It is crucial to capture what the countries have signed on the international and regional level, but it is also important to understand how their national legislation and practices are protecting or imposing restrictions on the right to freedom of artistic expression.

2. **Limitations to freedom of creative expression:**

There are various ways to explore and unearth the possible limitations of artistic freedoms. For the purpose of this study, this report concentrates on five aspects of these restrictions:

- **The people impacted by the restrictions.** Here, the report considers the artists themselves. They include authors, musicians, composers, dancers, comedians, playwrights, visual artists, film producers, and publishers. Also explored are sub-categories such as women and ethnic groups who might be affected by artistic freedom restrictions.
- **The motivations for restrictions.** Here, the report examines the *restrictions based on religious, social, or traditional factors*.
- **The actors imposing restrictions and types of threats faced by the artists.** A wide range of actors may create obstacles or impose restrictions on freedom of creative expression. These include state religious authorities, traditional leaders, practices, and social customs. Artists can face threats, attacks, harassment and arrests from these actors.
- **Economic and financial issues.**
- **The cases of repression.** Where information is available factual instances of such restrictions are provided by way of examples.

⁴ Farida Shaheed, *The Right to freedom of artistic expression and creativity*, Report of the Special Rapporteur in the field of cultural rights, 14 March 2013, p. 3

NORTH AFRICA



ALGERIA



SUMMARY

Fearing a popular uprising similar to the Arab Spring movements sweeping the region, the Algerian government, headed by President Abdelaziz Bouteflika, made political and economic concessions in early 2011 to calm discontent. According to some analysts, a desire for stability among a population weary of conflict after years of civil war in the 1990s—along with the government's ability to draw on its oil wealth to appease economic grievances—made an uprising similar to those in Tunisia, Egypt, and Libya less likely in Algeria.⁵ But social pressure is slowly leading to political change.⁶

Overall, freedom of creative expression is extremely limited in Algeria. The government cracks down on opposition voices that criticize the regime or any public figure. Religious and traditional leaders restrict artists who deal with issues considered taboo by society, such as sexuality.

PROTECTION IN INTERNATIONAL, REGIONAL AND NATIONAL INSTRUMENTS

International

- Algeria has been a member state of the United Nations since 1962. The country therefore recognizes the Universal Declaration of Human Rights.
- In terms of more explicit provisions protecting the freedom of artistic expression, Algeria signed the ICCPR in December 1968, but it took 20 years for the country to ratify the covenant.
- Algeria also ratified the ICESCR in 1989.

Regional

Algeria ratified the African Charter on Human and People's Right.

To date, the country is not party to the UNESCO's 2005 Convention on the Protection and the Promotion of the Diversity of Cultural Expressions nor is it party to the UNESCO recommendations concerning the status of the artist.

The country is also a signatory to the Rome Convention on Intellectual Property.

National

Algeria's constitution recognizes cultural rights. The chapter IV - Art. 31 declares that " existing institutions

⁵ <http://www.freedomhouse.org/report/freedom-world/2012/algeria>

⁶ <http://www.theafricareport.com/North/country-profile-2012-algeria.html>

are intended to ensure equality of rights and duties of all citizens male or female by removing the obstacles which hinder the progress of the human being and prevent the effective participation of all to the political, economic, social and cultural life".⁷ This is an implicit protection as it does not explicitly mention freedom of creative expression, but does speak of removing barriers to effective participation in cultural life.

In terms of policy, Algeria has recently finalized a draft cultural policy for the country. The task force working on the cultural policy presented it to the government and the major stakeholders on February 2013. It remains to be adopted.

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

Obstacles to artistic freedoms impact the artists themselves, as well as all those participating in the creation, production, distribution and dissemination of all forms of art. In Algeria, the main targets of the restrictions are the visual artists, dancers, and writers. Women artists and audiences are particular targets as they are prohibited from participating in the performing arts.

Motivations

Religious

Extremist and fundamentalist Islamic movements have impacted the history and the development of the Algerian cultural sector. The 1990s have seen several arts forms, such as music and dance, banned because they are considered as "Haram" by religious leaders.

Terrorism also shaped Algeria during the so called "black decade." The civil war had a huge impact on the artistic and cultural sectors. This was particularly reflected in the assassination of a large number of intellectuals and artists, and the exile of others. Although slowly recovering, the cultural and artistic scene still suffers from the consequences of that period.

Today, restrictions on artistic freedoms based on religious arguments mainly urge the faithful not to practice various forms of art, especially visual arts (e.g. painting and sculptures) that represent human beings or animals.

Issues relating to women, nudity and sexuality are also considered taboo in the society.

In Algeria, there is also pervasive aesthetic censorship. Specific styles used mostly by the youth, especially styles that are considered to be influenced by the Western world – are usually negatively perceived, rejected and are not recognized by the main institutions.

Political

It is considered taboo to make politically-themed art, particularly art that engages in criticism of religious leaders, politicians and other public figures.

Actors imposing restrictions and types of repression

Governments, religious leaders, traditional leaders, ethnic groups, police and secret services are the main actors when it comes to restrictions of freedom of artistic expression.

Algeria is a relatively repressive country in terms of freedom of expression. Restrictions and types of repression types include the following: Threats, Harassment, Arrests, Social marginalisation, Blacklist, Death, Kidnapping, Self-censorship.

⁷ Chap IV - Art. 31. les institutions ont pour finalité d'assurer l'égalité en droits et devoirs de tous les citoyens et citoyennes en supprimant les obstacles qui entravent l'épanouissement de la personne humaine et empêchent la participation effective de tous, à la vie politique, économique, sociale et culturelle.

Economic and financial issues

Only 0.53% of the national budget is set aside for the promotion of art and culture in Algeria.

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Algeria:

- Amnesty International
- Human Rights Watch Algeria
- Algeria-Watch

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Algeria:

- Ligue algérienne de la défense des droits de l'homme
- Observatoire des droits humains en Algérie (ODHA)

CASES OF REPRESSION



In April 2013, **Cheb Faïçal** (real name: Faisal Bensalah), a well-known pop singer in western Algeria, was arrested following his performance of a song about the police and its top official, Abdelghani Hamel. In May, he was sentenced to six months in prison.⁸



Algerian artist and activist **Mustafa Benfodil** had an installation called "Maportaliche/Ecritures sauvages" [It has no importance/Wild Writings] at the Sharjah Biennial of 2011, comprised of 23 soccer players as mannequins, headless, in a courtyard, with graffiti on the wall. One of the texts he included was a hallucinatory account of a young woman's rape by fanatic Jihadists. Some critics and viewers interpreted this text as an attack against Islam, calling it obscene and blasphemous, even pornographic. The installation triggered a public outcry. The biennial's artistic director, Jack Persekian, was fired; the installation was censored and removed.⁹



In 2011, writer **Noufel Bouzeboudja** was exiled from Algeria for his critical works about religion, politics, and sexuality. He was a target of threats and persecution in his home country because in Algeria, these topics are taboo. He fled to Denmark to stay in the 'Refuge City' of Fanoe for two years.¹⁰

⁸ <http://artsfreedom.org/?p=5292>

⁹ <http://middleeast.about.com/od/algeria/qt/Mustafa-Benfodil-censorship.htm>

¹⁰ <http://artsfreedom.org/?p=917>

EGYPT



SUMMARY

Encouraged by the protests that overthrew the long-term leader of Tunisia, mounting popular anger burst to the surface in huge anti-government demonstrations in January 2011, which eventually led President Mubarak to step down. The road towards democracy proved rocky, however, and post-revolutionary politics have become increasingly polarised between the newly ascendant Islamists on the one hand and liberal and secular forces on the other. After the interim military administration's promised rapid transition ended up lasting more than a year, parliamentary elections finally held in December 2011 and January 2012 produced large majorities for Islamist parties. Similarly, a presidential poll in May and June 2012 was won by Islamist Muslim Brotherhood candidate Mohammed Morsi, whose actions raised fears about his commitment to democratic gains and women's and minority rights. Mass demonstrations on the first anniversary of Mr Morsi's rule were soon followed by his removal by the military.¹¹

The post revolution situation is not quite encouraging. The art and culture scene in Egypt is currently shaken by a new culture Minister who is very radical in his actions. Some members of the Muslim Brotherhood have also commented that ballet isn't a religiously "acceptable" discipline, calling it "the art of nudes." Since May 2013, there have been constant protests in front of the Ministry of Culture, where artists publicly perform music and dance.

In this difficult context, Egyptian artists have limited freedom of creative expression. Any work that criticizes the government or that could be seen as offensive to certain religious groups is censored. In 2012, a new constitution was drafted that explicitly mentions freedom of religion and creative expression, so the environment for artists may improve, but like for the country in general, the future of the creative and cultural sector is uncertain.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Egypt has been a member state of the United Nations since 1948 but like most Muslim majority countries, Egypt did not sign the declaration, arguing that it violated Islamic law and criticising it for failing to take into consideration the cultural and religious context of non-Western countries¹². Nevertheless, the country recognized the Universal Human Rights with reservations.

Monitoring of adherence to the UDHR is done by the National Council for Human Rights (NCHR) and the Egyptian Ombudsman's Office.

¹¹ <http://www.bbc.co.uk/news/world-africa-13313370>

¹² Human Rights: The Universal Declaration vs The Cairo Declaration, Jonathan Russell, London School of Economics, 2012

Egypt is a signatory to the following international instruments:

- UNESCO's Recommendation concerning the Status of the Artist signed in 1980
- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2006
- The International Covenant on Civil and Political Rights, ratified in 1982
- The International Covenant on Economic, Social and Cultural Rights, ratified in 1982
- For these last two instruments, Egypt expresses the following reservations : "Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it"

To date, Egypt is not party to the following instruments:

- The Rome Convention on Intellectual Property

Regional

Egypt is signatory to the following regional instruments:

- African Charter on Human and People's Rights, ratified in 1984

National

- Egypt's new constitution was approved by voters in a two-stage referendum in 2012. It replaced the 1971 charter that was suspended after the popular uprising.

The new constitution guarantees freedom to express opinions orally, in writing and through images, and the freedom of the press to own news organizations and publish material independently.

One major change in the 2012 document is the guarantee of freedom of belief for the "divine/monotheist religions" - a reference to Islam, Christianity and Judaism. Followers of those faiths have the right to perform religious rituals and establish places of worship "as regulated by law." The previous constitution made no mention of the rights of any religions other than Islam.

Another noticeable change is the recognition of creative expression. Article 46 states that the State shall advance science, literature and the arts, care for creators and inventors, protect their creations and innovations and work to apply them for the benefit of the society".¹³ The State shall take the necessary measures to preserve the nation's cultural heritage and promote cultural services.

- The recent Constitutional Declaration issued following the revolution states, in Article 13, that censorship should not be applied to media or the arts. However, as is the case with several constitutional articles, the article on censorship sets an exception to the rule which overrides everything that precedes it, allowing authorities to intervene (enforcing censorship) in the case of Emergency Law, wars, and exceptional circumstances. Censorship is a tool commonly used to control information and ideas that reach a governed people.
- In terms of cultural policy, Egypt has developed cultural policies since the 1950's. From the beginning, there has been tension between two opposing conceptions; one more open to the encouragement of the arts and another, more control-oriented, seeing art as a threat to Islam.

¹³ <http://www.egyptindependent.com/news/egypt-s-draft-constitution-translated>

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

All types of artists, as well as distributors and owners of institutions that display art, are limited in their artistic freedom.

Motivations

Religious

Freedom of belief and worship are formally recognized by the Egyptian Constitution, but are effectively limited by government intervention and sectarian conflict. Some aspects of the country's laws are heavily biased in favour of Islam and against religious minorities, most notably the country's approximately 10 million Coptic Christians. Typically, religions other than Islam have had to be deemed compatible with Sharia and petition for legal recognition. Although the State provides funds for the construction of mosques and the training of imams, no such aid is extended to non-Muslim communities, whose requests for building permits are often denied or delayed. Individual adherents of minority religions also face frequent discrimination by government officials, who often deny them identity cards, birth certificates and marriage licenses. Authorities often fail to sanction individuals involved in carrying out attacks against members of minority faiths, relying instead on non-judicial procedures in order to avoid offending the Muslim majority. The government also discriminates against Islamic religious minority groups, most notably Shi'a Muslims. Shi'as face open official discrimination, including being barred from admission to Al-Azhar University. As the largest religious minority in Egypt, Coptic Christians are the most negatively affected. Copts have faced increasing marginalization after the 1952 coup led by Gamal Abdel Nasser. Until recently, Christians were required to obtain presidential approval for even minor repairs in churches. Although the law was eased in 2005 by handing down the authority of approval to the governors, Copts continue to face many obstacles in building new churches.

Even after the overthrow of Mubarak's regime, artists continue to be restricted for religious reasons. In June 2013, the new appointed minister of culture Alaa Abdel-Aziz dismissed three leading members of Egypt's cultural scene: the head of the Cairo Opera House, Enas Abdel-Dayem; the head of the Egyptian General Book Authority, Ahmed Mujahid and Salah El-Meligy, the head of the Fine Arts Sector. After decades of dictatorship, Egypt's artists had hoped the country's new rulers would use their influence to roll back at least some of the restrictions they had faced. The ruling Muslim Brotherhood had been particularly hard hit by limits on freedom of expression under the rule of ousted president Hosni Mubarak. However, the artists say the sackings reflect a trend towards reimposing such restrictions, and the government's growing willingness to court religious conservatives by cracking down on methods of expression deemed "offensive" or "immoral".¹⁴

Political

The questionnaire doesn't mention specific issues related to political restrictions to artistic freedom. Nevertheless the revolution was a moment of repression of artistic freedoms in Egypt. Artists were arrested and tortured; others were censored because they were defending the ideals of the revolution.

Actors imposing restrictions

- Governments, religious leaders, traditional leaders, the army, the police and secret services are the main actors when it comes to restrictions to freedom of artistic expression.
- Under the old regime, artists could face threats, attacks, harassment, social marginalisation, blacklist, death, kidnapping, and arrests from these actors. It remains to be seen to what extent this will change now that the revolution has taken place.

¹⁴ <http://www.guardian.co.uk/world/2013/jun/05/egypt-artists-protest-government-cuts>

Economic and financial issues

The arts and culture sector of Egypt is in jeopardy, with budget cuts threatening the vibrancy of Egypt's art scene. The shura council's committee on culture, media and tourism has advised that money allocated to foreign arts companies be reduced. Since Egypt is on the brink of bankruptcy, cutting down on the arts can be presented as a natural choice.¹⁵

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Egypt:

- Amnesty International
- Human Rights Watch Egypt
- The Arab Organization for Human Rights
- The International Islamic Committee for Woman and Child
- The Cairo Institute for Human Rights Studies (CIHRS)

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Egypt:

- Egyptian Organization for Human Rights (EOHR)
- National Council for Human Rights (NCHR)
- Al Nadim Center for the Management and Rehabilitation of Victims of Violence
- Association of Development and Enhancement of Women In Egypt
- The Cairo Institute for Human Rights Studies (CIHRS)
- Association of Legal Assistance on Human Rights
- The Egyptian Center for Women's Rights (ECWR)
- Egyptian Initiative for Personal Rights (EIPR)

CASES OF REPRESSION

The popular satirist and comedian **Bassem Youssef** was interrogated nearly four hours in court in March 2013 for alleged insults against President Mohamed Morsi and Islam. Youssef broadcasts a weekly satire program "Al Bernameg." He is particularly known for his imitations of the president. His case has intensified discussions about freedom of expression in the country.

In November 2012, Egypt's Ministry of Culture censored a scene in a popular new film "Abdu Mouta." The scene that sparked outrage was of a belly dancer dancing to a song in which the names of Prophet Mohammed's daughter, Fatima, and his grandsons, Hassan and Hussein, are mentioned. All three figures are revered in the Sufi and Shia sects of Islam.

¹⁵ <http://www.guardian.co.uk/world/2013/jun/05/egypt-artists-protest-government-cuts>



Ramy Essam, a 23-year-old Egyptian student and musician, known as “the singer of the Egyptian revolution” due to his popular music during the Egyptian uprising against President Hosni Mubarak, was arrested and tortured by the army police in March 2011. Essam says men in army uniforms dragged him to the Egyptian National Museum, which had become a security headquarters, and took him to a courtyard, stripped him to his shorts, and started torturing him. “They used sticks, metal rods, wires, whips.” He said he also received electric shocks.¹⁶

LIBYA



SUMMARY

In February 2011, a popular uprising turned into a civil war and led to the fall of the Col. Muammar Kadhafi regime. The transitional National Council established itself in March and was recognized by the general assembly of the United Nations in October 2011 as the legitimate representative of the Libyan people until a new government is formed. The process of building a new Libyan consensus should achieve some success in 2013 as the country experiments with new leaders, institutions and management systems. The greatest promise of progress came with the mostly peaceful elections of the 7th July 2012.¹⁷

With regard to the cultural and creative sector, the regime of Muammar Kadhafi severely restricted artists in their freedom of expression. Since Libya is officially an Islamic Republic, art cannot challenge traditional Muslim beliefs. Art that deals with sensitive issues in relation to religion, like sexuality, is censored. Criticising the government is also forbidden, as Article 195, a Gaddafi era law bans the “insulting of constitutional and popular authorities.”

But now that a revolution has taken place, artists working in a post-Kadhafi world are experiencing newfound freedom.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Libya has been a member state of the United Nations since 1955. The country therefore recognizes the Universal Declaration of Human Rights. In addition to the UDHR, Libya is a signatory to the following international instruments:

¹⁶ <http://edition.cnn.com/2011/WORLD/meast/03/17/egypt.activists/index.html>

¹⁷ The Africa Report, Africa in 2013, number 46, December 2012- January 2013, p.189

- The International Covenant on Civil and Political Rights, ratified in 1970
- The International Covenant on Economic, Social and Cultural Rights, ratified in 1970

Monitoring of adherence to these instruments is done primarily by the Intellectual Property Office. Domestic laws exist to protect copyright, trademarks, and patents.

To date, Libya is not party to the following instruments:

- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression
- The Rome Convention on Intellectual Property
- UNESCO's Recommendations concerning the Status of the Artist

Regional

Libya is a signatory to the following regional instruments:

- African Charter on Human and People's Rights, ratified in 1986

National

- In August 2011, the Transitional National Council issued a constitutional declaration that amended the previous 1951 constitution. The document, composed of 37 articles, was put in place by the new "revolutionary" regime and was meant to remain effective until a new constitution was put in place. Since the 2012 elections, the Libyan people are still waiting for the adoption of a new constitution.

Article (1) of the constitutional declaration guarantees cultural rights: "The State shall guarantee the cultural rights for all components of the Libyan society and its languages shall be deemed national ones." The Article (7) states that human rights and his basic freedoms shall be respected by the state.

Article (8) of the constitutional declaration also guarantees to every citizen the right to intellectual and private property.¹⁸

At the moment, the constitutional declaration does not mention freedom of expression nor does it recognize freedom to creative expression.

- Libya does not have a cultural policy

LIMITATIONS TO ARTISTIC FREEDOM

The government restricts freedom of religion. Under the constitution, Islam is Libya's official religion and the government publicly supports a preference for a moderate practice of Islam. About 97% of the people are Sunni Muslim.

Though other religions are generally tolerated, the government places a number of restrictions which essentially limit the practice of non-Muslim faiths. For example, there is a government-imposed limit of one church per denomination per city and there are no known places of worship for the small number of Hindus, Baha'is and Buddhists within the country.

People impacted

With the end of Gaddafi regime, the consequences for the Libyan people remain uncertain. What the cultural life of a liberated republic will look like is difficult to imagine, because almost no Arab art

¹⁸ WIPO resources: <http://www.wipo.int/wipolex/en/details.jsp?id=11248>

and literature in particular has been as heavily marked by the history of dictatorship as that of modern Libya.¹⁹ This has been, in part, due to the limits on free expression under Gaddafi.

Writers were particular targets of the restrictions of freedom of expression. Their active involvement before and during the Libyan revolution was tremendous. Many of them have been detained and tortured.

Motivations

Religious

The government restricts freedom of religion. Under the constitution, Islam is Libya's official religion and the government publicly supports a preference for a moderate practice of Islam. About 97% of the people are Sunni Muslim.

Though other religions are generally tolerated, the government places a number of restrictions which essentially limit the practice of non-Muslim faiths. For example, there is a government imposed limit of one church per denomination per city and there are no known places of worship for the small number of Hindus, Baha'is and Buddhists within the country.

Artists in Libya have been accused of blasphemy or religious defamation. Controversial activities include quoting sacred texts, using religious symbols and adopting a conduct not deemed to follow religious precepts.

Issues relating to gender, sexuality and sexual orientation, in relation to religion, continue to be highly debated in connection with artistic expressions and creations.

Political

The demand for freedom of speech was one of the main sparks that triggered the Libyan revolution in 2011. People felt the need to express their feelings about various political and even social issues that were considered taboo or criminalized by the Gaddafi regime. Many Libyans also felt that true freedom of expression would enable them to voice their opinions and ideas to advocate for change. Yet, the arrest of the Libyan newspaper editor Amara al-Khattabi in December 2012 charged with the violation of Article 195, a Gaddafi era law banning the "insulting of constitutional and popular authorities," is an obvious violation of the freedom of expression.

Actors imposing restrictions

Governments, religious leaders, the police and secret services are the main actors when it comes to restrictions to freedom of artistic expression.

Under the old regime, artists could face threats, attacks, harassment and arrests from these actors. It remains to be seen to what extent this will change now that the revolution has taken place.

Economic and financial issues

No information is provided by the questionnaire

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Libya:

- Amnesty International

¹⁹ Blog: <http://www.newstatesman.com/blogs/cultural-capital/2011/08/libyan-gaddafi-regime-arab>

- Human Rights Watch Libya
- United Nations High Commissioner for Refugees (UNHCR)

National

In practice nongovernmental organizations were not allowed in the country. Only the National Organization for Libyan Youth, a state organization, is mentioned by the questionnaire.

CASES OF REPRESSION



During Gaddafi's regime, writers were imprisoned, including short-story writer and poet **Giuma Bukleb**. Born in Tripoli in 1952, Giuma Bukleb published his short stories in Libyan literary magazines but stopped writing for many years after being imprisoned by the Gaddafi regime for 10 years in the late 1970s. Hunted by the security services and revolutionary committees, about a dozen young writers were falsely accused of conspiring against the regime and were sentenced to life imprisonment. They were released under amnesty ten years later. Bukleb has lived in London since 1988.

He has published works in Arab newspapers and in one collection, and in English translation in *Banipal 40 – Libyan Fiction*. Some of his poems are published online.

In December 2010, **Abdullah Ashini**, a popular Amazigh singer in Libya, was convicted on charges of "illegal migration." Ashini has, from the beginning of the court case against him, denied all charges. Reporters of Kabyle.com write that his main "crime" is that he participated in Festival of Amazigh Culture and Berber Music at Las Palmas on the Canary Islands in 2008. Upon his return, the Libyan authorities withdrew his passport and have since prevented him from travelling to other festivals. Furthermore, he has not been allowed to record any albums in Libya because he sings in a language which is different from Arabic.

The Libyan singer started a hunger strike to call for attention from the international community, local and international NGOs, and human rights organisations.²⁰

²⁰ <http://freemuse.org/archives/1687>

MAURITANIA



SUMMARY

The political instability of 2012 is likely to continue in 2013. On 13 October, armed forces testified that a soldier accidentally shot the president Mohamed Ould Abdel Aziz.

Aziz's relationship with the opposition has been troubled since he overthrew the democratically elected president, Sidi Ould Cheikh Abdallahi, in 2008. In May last year, Abdel Aziz removed the president of the Supreme Court and named him to an ambassadorial post. The current president is now facing stiff opposition from other political parties and civil society groups.²¹

With regards to the cultural sector, artists do not enjoy a high level of freedom of creative expression in Mauritania. Due to social, religious, and political motivations for artistic restrictions, many subjects are off-limits for artists. This, along with the fact that artists are not well-respected, has prevented Mauritania's art scene from thriving.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS INTERNATIONAL

Mauritania has been a member state of the United Nations since 1961. The country therefore recognizes the Universal Declaration of Human Rights.

There is no state mechanism to monitor adherence to the UDHR.

In addition to the UDHR, Mauritania is a signatory to the following international instruments:

- The International Covenant on Civil and Political Rights, ratified in 2004
- The International Covenant on Economic, Social and Cultural Rights, ratified in 2004

To date, Mauritania is not party to the following instruments:

- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression
- UNESCO's Recommendations concerning the Status of the Artist
- The Rome Convention on Intellectual Property

²¹ The Africa Report, *Africa in 2013*, number 46, December 2012-January 2013, p.190

Regional

Mauritania is a signatory to the following regional instruments:

- African Charter on Human and people's rights, ratified in 1986

National

- The 1991 constitution defines the country as an Islamic republic and recognizes Islam as the religion of its citizens and the State. Sharia (Islamic law) provides legal principles upon which the country's laws and legal procedures are based.²²
- Mauritania's constitution in its Article (10) guarantees freedom of expression and the right of association and freedom of creative expression. No mention is made to the cultural rights.
- Mauritania doesn't have a cultural policy.

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

Mauritania is a country with a rigid caste system that favours "noble-borns". The artists and griots caste is usually marginalized in Mauritania; as a result, they suffer from injustice and are considered as inferior in the society.

Restrictions on artistic freedoms also target women making a living as artists, or wishing to engage in artistic careers.

Motivations

Social

Mauritanian society as a whole does not respect artists. Mauritania has a caste system that favours "noble-borns." The caste that includes artists and griots is considered inferior, which leads to marginalization.

Religious

Issues relating to gender, sexuality and sexual orientation, in relation to religion and morals, continue to be highly contested in Mauritania.

Because the constitution establishes Mauritania as an Islamic republic with Islam as the religion of the country, importing, printing or selling Bibles is banned, as is any literature that undermines, contradicts or threatens Islam. All television and radio are state controlled. All non-Muslim missionary activity is prohibited. Apostasy (leaving Islam) is banned. Sharia (Islamic law) has been enshrined as the law of the land since 1983.²³

Mauritania's cultural sector also suffers from aesthetic censorship. Artists are not free to choose their preferred style. Artistic expressions that are considered too western are usually prohibited.

Political

Since the country is still dealing with slavery practices, artistic expressions questioning slavery are frequently marginalized or suppressed. Antislavery activists face harassment and arrest.

²² <http://www.state.gov/documents/organization/171625.pdf>

²³ <http://www.ea.org.au/ea-family/Religious-Liberty/MAURITANIA--REPRESSION-AND-SPIRITUAL-BONDAGE.aspx>

In addition to this, all the people who seem to overshadow the regime are potential targets and are subject to harassment of all kinds, movement restrictions or measures to make them economically poorer. These coercion measures have forced thousands of young , artists and intellectuals, to exile.

Actors imposing restrictions

Governments, religious leaders and traditional leaders are the main actors when it comes to restrictions to freedom of artistic expression.

Artists can face censorship, marginalization, threats, attacks, harassment and arrests from these actors.

Economic and financial issues

Only 1% of the nation's budget goes towards arts and culture.

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Mauritania:

- Haut-Commissariat des Nations Unies aux droits de l'Homme
- Fédération internationale des droits de l'Homme (FIDH)

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Mauritania:

- SOS Esclaves
- FONADH
- AMDH

CASES OF REPRESSION



Artists have paid a heavy price for their commitment to freedom of expression in Mauritania. The most illustrative figure is **Malouma Mint Meidah**, whose fame goes beyond the borders of Mauritania. Known for her activism, Malouma's music defended the improvement of the situation for women in the country, she also sang for national unity while denouncing the evils of the Taya regime. This has led to her to be banned from the state media.²⁴ She was elected senator in 2007 and continues to fight for freedom of creative expression.

²⁴ Mauritanie: Rapport sur la liberté d'expression – Nous revenons de loin, mais restons vigilants – ARTICLE 19, London, 2007 http://www.bbc.co.uk/french/highlights/story/2007/05/070506_malouma.shtml

MOROCCO



SUMMARY

With the formation of the *Coalition pour la Démocratie*, composed of socialists, liberals and centrists with the objective of preventing the moderate Islamist *Parti de la Justice et du Développement* from taking power, the Moroccan political scene is in even greater flux than at the beginning of the Arab Spring. In response to protests against corruption, the royal entourage's grip on the economy, a partisan judicial system and dysfunctional education and health sectors, in 2012, Mohammed VI announced constitutional reforms and new elections. In theory, the reforms should lead to the separation of the judiciary, executive and legislature, with more regional devolution. The economy of Morocco is expected to grow due to higher agricultural production and the performance of the service sector.²⁵

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Morocco has been a member state of the United Nations since 1948. Morocco is signatory to the Universal Declaration of Human Rights (UDHR) and therefore has a moral obligation to advance the rights. There are no mechanisms to monitor and evaluate adherence or implementation of the UDHR in Morocco.

In addition to the UDHR, Morocco is a signatory to the following international instruments:

- The International Covenant on Civil and Political Rights, ratified in 1979
- The International Covenant on Economic, Social and Cultural Rights, ratified in 1979
- The Convention on the Protection and Promotion of the Diversity of Cultural Expressions, ratified in 2013

To date, Morocco is not party to the following international and regional instruments:

- UNESCO's Recommendations concerning the Status of the Artist
- The Rome Convention on Intellectual Property
- African Charter on Human and People's Rights

National

- The **Constitution of Morocco** does guarantee freedom of expression and the right of association. Article (25) of the constitution also recognizes freedom of creative expression. But this article is

²⁵ The Africa Report 2013

nullified under article 263 that states: "Showing contempt to and undermining the honour of public servants or toward state institutions could be punishable with up to two years in jail." No specific reference is made to cultural rights.

- **The national cultural policy**, provides the framework for the promotion of culture. The document includes the status of the artists and guarantees freedom to participate in cultural life.

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

No indication is given by the questionnaire as to the limitations of artistic freedoms, but all those who create or distribute art, especially music, are impacted by these limitations.

Motivations

Religious

No information available in the questionnaire, but since Islam is the majority and constitutionally established religion in Morocco, artists, who create work that challenges the ideals of Islam or criticises the religion itself, are repressed. Issues relating to gender, sexuality and sexual orientation, in relation to religion and morals, are highly contested.

Political:

No information available in the questionnaire but it is evident that criticism of Mohamed VI's regime is actively discouraged. In Article 41, the press code states that any offence against the King or the Royal Princes will be punished by three to five years imprisonment and a fine of up to 100.000 dirhams. The same punishment will be meted out for an offence against Islam, the monarchical system or Morocco's territorial integrity. Also, any conviction under this article will lead, if applicable, to the suspension of the offending journal for no less than three months if not more. The Moroccan media has been limited by these constitutional principles during the reign of both King Hassan and his son Mohamed VI.²⁶

Actors imposing restrictions

Governments are the main actors when it comes to restrictions to freedom of artistic expression. Artists could face threats, attacks, harassment and arrests from these actors.

Economic and financial issues

Only 0.30 % of the national budget is set apart for culture in Morocco.

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Morocco:

- Amnesty International
- Human Rights Watch Morocco

²⁶ <http://www.ihrc.org.uk/publications/briefings/5375-freedom-of-expression-in-morocco-retraction-of-freedom-of-expression-in-morocco-the-case-of-al-adal-wa-al-ihsan-justice-and-spirituality-movement->

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Morocco:

- Moroccan organisation for human rights
- Moroccan association for human rights

CASES OF REPRESSION



24-year-old rapper Mouad Belghouate, known as **El Haked** ("The Rancorous One"), was arrested in March 2012 for insulting the police in a song called "Dogs of the State," which denounces police corruption, injustice, poverty and social inequality in Morocco and has been circulating on YouTube.com since 2008 with a photo-montage depicting a policeman whose head is replaced a donkey's. In May 2012, El Haked was sentenced to one year in prison and to pay a fine of 1,000 dirhams. El Haked confirmed writing the lyrics and making the song, but denied any connection to the people who did the photo-montage circulating on YouTube.com together with the song.²⁷

In 2011, Moroccan novelist **Mohammad Lafath**'s (1946-2008) *al-Maaraka al-Akhira Lil Qubtan Nehmat* ("The Final Battle of Captain Nehmat"), about a retired Egyptian military man who reveals his homosexuality, was released by a French publisher three years after his death. He received a Mamuniyya award for the novel but it was never circulated in Morocco. Observers believe that the book was unofficially subjected to censorship. Even though the ministry of culture has denied banning the book, it is still believed that a surreptitious form of censorship is being practiced because the book has not been imported by any distributor.²⁸

In 2010, Film by **Mohammad Ashour** was awarded best first work and best supporting actor at the National Film Festival in Tangier. But before the close of the first week of the film's screening at the biggest movie theater in Casablanca, it was suddenly withdrawn due to "its daring scenes and shocking language." The film revolves around the sexual life of a director and his wife, as he continuously searches for a topic for his first film. Its boldness shocked the puritanical audience to the point that an audience member spat on a female employee at the theater in protest.²⁹



The Satanic Music Trial: In 2003, the nine members of the heavy metal bands **Nekros**, **Infected Brain** and **Reborn**, were sentenced to between three months and a year of prison after being found in possession of skeletons, skulls, cobras, vipers and "a collection of diabolical CDs." The accused were arrested for allegedly disturbing public order and undermining the country's official religion of Islam. The judge found it "suspicious" that one of the musicians penned lyrics in English rather than Arabic, and declared that "normal people go to concerts in a suit and tie."³⁰

But today, Morocco is in the midst of a rock revolution of sorts. An indicator of this is the Tremplin Festival, a competition between alternative rock bands, which was held at Casablanca's disaffected art deco slaughterhouses in 2010.³¹

²⁷ <http://artsfreedom.org/?p=2214>

²⁸ <http://english.al-akhbar.com/node/3031>

²⁹ <http://english.al-akhbar.com/node/3031>

³⁰ <http://www.guardian.co.uk/world/2003/mar/11/arts.artsnews>

³¹ <http://latimesblogs.latimes.com/babylonbeyond/2010/04/morocco-draft-rock-music-fans-rejoice-in-newfound-freedom-.html>

TUNISIA



SUMMARY

Artists are severely restricted in Tunisia, which, arguably, has worsened since the Arab Spring. Although Tunisia was the birthplace of the uprisings that swept the Middle East, some Tunisian female artists say they feel less free than under the old regime. Women artists fear that Tunisia, considered one of the most secular nations in the Arab region, may succumb to hardline Muslim pressure and ban art deemed un-Islamic. Salafists, Muslim hardliners, have fanned those fears. In recent months, they have protested against exhibitions and performances they say violate Islamic principles, forcing more than a dozen artistic events to be cancelled.³²

Protection in International, national and regional instruments

International

Tunisia has been a member state of the United Nations since 1962. The country therefore recognizes the Universal Declaration of Human Rights. There is no state mechanism to monitor adherence to the UDHR.

In addition to the UDHR, Tunisia is a signatory to the following international instruments:

- UNESCO's Recommendation concerning the Status of the Artist
- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2007

Monitoring of adherence to these instruments is done primarily by the Ministry of Culture. A Tunisia Monitoring Group has also been set up, which is a member of the Federation of Cultural Diversity. It provides reports to UNESCO, the most recent of which was published in 2008. It can be accessed online here: <http://unesdoc.unesco.org/images/0017/001779/177924E.pdf>

To date, Tunisia is not party to the following instruments:

- The Rome Convention on Intellectual Property

Regional

Tunisia is a signatory to the following regional instruments:

- The African Union's Plan of Action on the Cultural and Creative Industries in Africa, ratified in 2005
- The Nairobi Plan on Cultural Industries, ratified in 2005

³² <http://www.voanews.com/content/tunisia-female-artist-fear-islamist-repression/1617944.html>

- The African Cultural Charter, ratified in 1977

Coordination and monitoring of the Nairobi Plan is being done by a special unit, with support from a permanent delegation of Tunisia to UNESCO. Other actors such as the private sector and intellectual property organisations (e.g. L'Organisme Tunisien de Protection des Droits d'Auteurs (OTPDA) – the Tunisian Organisation for the Protection of the Rights of Authors) are involved in the follow-up.

To date, Tunisia is not party to the following instruments:

- The African Charter for Cultural Renaissance

National

Tunisia's constitution does not guarantee cultural rights, nor does it ensure the freedom of creative expression. However, the constitution does guarantee freedom of expression and the right of association. Article 8 states that, "Freedom of opinion, expression, the press, publication, assembly and association are guaranteed and exercised according to the terms defined by the law."

There is no legal document that specifically addresses cultural rights. The Tunisian constitution recognises neither religious nor linguistic diversity and stipulates that Tunisia is a Muslim Arabic country. It also states that the President of the Republic must be Muslim (Art. 38).

While the current constitution does not explicitly protect artists and their work, the constitution is being revised after the revolution. The proposed draft constitution may be more explicit in its guarantees relating to freedom of creative expression.

In terms of policy, Tunisia does have a cultural policy that includes the protection of the status and rights of artists. However, artists' freedom of expression and the freedom to participate to cultural life are not guaranteed by this cultural policy. This means that Tunisia's laws fall short of explicit protection.

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

Obstacles to artistic freedoms impact the artists themselves, as well as all those participating in the creation, production, distribution and dissemination of all forms of art. In Tunisia, those who oppose or question religious authorities are particularly vulnerable to repression.

Motivations

Religious

Religion is the main source of restriction to freedom of creative expression in Tunisia. The government has established religious censorship committees that have the power to allow or to ban the publishing of books, theatre plays, dance and films.

The majority of cultural industries share a visa system for activity authorisation. This requires them to acquire the relevant visa before producing art as well as for raising funds and acquiring cards that identify them as professional artists and artists' associations. The decrees are as follows:

- Visa for cinema: Decree no. 64-125 of 29/04/1964, revised on 16/12/1964 (Decree no 64-409), in 1968 (Ministerial order of 7 May), and in 1981.
- Visa for publishing: Decree no. 79-748 of 21/08/1979 related to the make-up and functioning of National Council of Edition.
- Visa for theatre: Decree no. 69-87 dated 1969, which sets up the National Committee for theatre, revised in 1975 and 1981 and 1989.

- Professional card for theatre: Decree no. 64-125 dated 1964.
- Professional card for performing arts: Decree no. 89-397 of 15/03/1989.
- Professional card for music and dance: Law no. 69-32 of 9/05/1969.

Until recently, there were no religious or traditional customs that favoured repression. However, since the revolution there has been a rise in the influence of Wahhabism, a conservative fundamentalist form of Islam. Some extremist groups have attacked freedom of expression by trying to halt the dissemination of art. For example, religious groups attacked the premises of a TV channel (Nesma) because they showed the film "Persepolis," in which the main character rebels against Islamic fundamentalism.

Political:

Though freedom of expression and the right of association are guaranteed by the constitution, almost all newspapers follow the government's lead and report without a critical approach to the activities of government and the party in power.

ACTORS IMPOSING RESTRICTIONS AND TYPES OF REPRESSION

Governments, religious leaders, the police and secret services are the main actors when it comes to restrictions to freedom of artistic expression.

Under the old regime, artists could face threats, attacks, harassment and arrests from these actors. It remains to be seen to what extent this will change now that the revolution has taken place.

ECONOMIC AND FINANCIAL ISSUES

In 2009, only 1.25% of the national budget was set aside for the promotion and protection of culture.

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Tunisia:

- The Office of the High Commissioner for Human Rights (OHCHR)
- The Arabic Network for Human Rights Information: a central repository for human rights information and websites in Arabic throughout the Middle East and North Africa
- Groupe de veille sur la Tunisie (Watch Group on Tunisia): a coalition of 21 organisations that belong to the International Freedom of Expression Exchange (IFEX), a global network of non-governmental organisations that promotes and defends the right to freedom of expression and freedom of the press

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Tunisia:

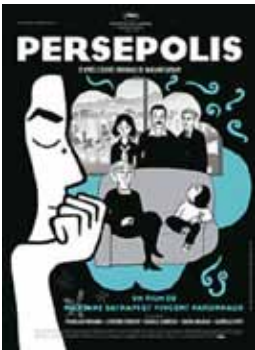
- Ligue Tunisienne des droits de l'homme (Tunisian Human Rights League)
- Association Tunisienne des Femmes Démocrates (Tunisian Association of Democratic Women)
- Les Cahiers de la Liberté (The Notebooks of Freedom): A group of youth, students and young professionals who are attempting to usher in the democratic awakening of Tunisia through online publications, think tanks and open discussions

CASES OF RESTRICTIONS



Rapper Weld El 15 (real name: Ala Yaakoubi) is wanted by the police for performing a hate speech in his music video "Cops are Dogs." Tunisian authorities claim it is a threat to national security and could incite violence. The video was uploaded to You Tube in March 2013, and just a week later, Mohamed Belgueyed, the owner of a video camera, and actress Sabine Klibi were taken into custody.³³

In June 2012, Salafists deemed blasphemous some works of art exhibited in the annual Printemps des Arts Fair. As a result, violence and riots broke out throughout Tunisia; the controversial works were destroyed, and the artists received death threats. Some artists who participated in the exhibit, like photographer Yasmine Ryan, described the targeted artists as scapegoats, arguing that censorship in Tunisia has shifted from being political to being religious and moral. Sixteen individuals taking part in the violence were recently sentenced to one month in jail.³⁴



In October 2011, the Iranian film "Persepolis" was shown on the Tunisian private television station Nessma TV. The film includes a scene depicting Allah, whose portrayal is forbidden by Islam, and a main character who rebels against Islamic fundamentalism. In May 2012, the owner of Nessma TV was fined US\$1,700 for airing the film.³⁵

³³ <http://artsfreedom.org/?p=4865>

³⁴ <http://hyperallergic.com/63757/revolution-hasnt-changed-artistic-censorship-in-tunisia/>

³⁵ <http://artsfreedom.org/?p=1495>

WEST AFRICA



BENIN



SUMMARY

Benin continues to enjoy a stable and democratic government with four presidential elections and four legislative elections organized peacefully since the end of the Marxist-Leninist regime in 1989. Local and municipal elections are planned for 2013³⁶. The economy should continue to grow quickly even without real reform of agricultural sector or port management operations which have been slowed by corruption.³⁷

Artists in Benin enjoy freedom of expression, creative expression, and right to participate in cultural life. The constitution guarantees human rights, stating that they are necessary in the development of each Beninese individual. The government rarely cracks down on artists; however, certain religious or ethnic leaders have been known to repress artists whose work offends them. In addition, tradition proves to be a source of artistic repression in Benin, as some traditional practices are limited to specific individuals, such as the royal family.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Benin has been a member state of the United Nations since 1960. The country therefore recognizes the Universal Declaration of Human Rights.

Benin has endorsed state mechanisms to monitor adherence to the UDHR. The 1990 Constitution of the Republic is the main framework of protection of human rights. A constitutional court open to all citizens ensures the constitutionality of every act of government or administration, and every law passed. In addition, the Department of Human Rights makes a periodic progress report in matters of human rights.

In addition to the UDHR, Benin is a signatory the following international instruments:

- UNESCO's Recommendations concerning the Status of the Artist, adopted in 1980
- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2007
- The International Covenant on Civil and Political Rights, ratified in 1992
- The International Covenant on Economic, Social, and Cultural Rights, ratified in 1992

³⁶ Benin Overview, World Bank Website, <http://www.worldbank.org/en/country/benin/overview>

³⁷ The Africa Report, Africa in 2013, number 46, December 2012-January 2013, p.164

To date, Benin is not party to the following instrument:

- The Rome Convention on Intellectual Property

Regional

Benin is a signatory to the following regional instrument:

- African Charter on Human and people's rights, ratified in 1986

National

Benin's constitution is very protective of cultural rights. It also ensures freedom expression and the right of association. However, no specific mention is made for freedom of creative expression.

The preamble of the Beninese constitution affirms its determination to create a State of law and a pluralistic democracy in which the fundamental human rights, shall be guaranteed, protected, and promoted as the necessary condition for the genuine harmonious development of each Beninese in his temporal, cultural, and spiritual dimensions.

Article 8 of the constitution says that the State shall assure to its citizens equal access to health, education, culture, information, vocational training, and employment. Article 10 also declares, "Every person has a right to culture. The State has the duty to safeguard and promote the national values of civilizations, as much material as spiritual, as well as the cultural traditions."

Benin has had a cultural policy since 1991. This cultural policy recognises artists' rights, freedom of expression and creative expression, and freedom to participate in cultural life. Article 5 of this policy provides that "it is the state duty to provide with freedom of creative expression the condition to the development of national cultural heritage."

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

In Benin, restrictions on artistic freedoms target some categories of the population more specifically. For instance, artists from the Rasta community are marginalized in Benin. In general, musicians, visual artists and drum artisans are the most impacted by the restrictions. They can be prohibited to practice certain forms of arts. Another type of limitation targets the audiences, who, depending of their ethnic background, may or may not be allowed to watch particular types of performances.

Motivations

Religious

There are important restrictions on artistic freedoms based on religious beliefs in Benin. Artistic activities or artworks concerned include those that quote sacred texts or use religious symbols or figures. For example, imitating the outfits of the gods (Sapata, god of the earth, Ninssouhwé, god of the water or Egun god of ancestors) is prohibited. Another restriction is related to the divine chants. Artists are not allowed to reproduce the melodies or the lyrics of songs performed in the temples of deities. References to, or descriptions of, sexuality in artwork is usually seen as obscene and face particular marginalization.

Traditions

Traditions in Benin are a source of important restrictions to artistic freedoms. In the south of Benin for instance, fabric dying is the exclusivity of the royal family Yemadje. Drum making and drum rhythms creations are also limited to certain families. Another interesting example is the one of the interdiction to certain families and social categories to practice or participate in performances like the Baatonou flute in North Benin.

Political

Beninese artists are free to criticize public figures, including those exercising the highest political authority. In general the government does not interfere with artistic rights.

Actors imposing restrictions

Interestingly enough, Benin seems to be one of the rare countries where the government does not play any role in the repression of artistic freedoms. Religious leaders, traditional leaders and ethnic groups are the main actors when it comes to restrictions to freedom of artistic expression. Artists could face threats, attacks, harassment and arrests from these actors.

Economic and financial issues

Only 0.57 % of the national budget is allocated to culture in Benin.

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Benin:

- Amnesty International Benin
- Transparency International
- Social Watch

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Benin:

- ONG Droits De l'Homme, Paix & Développement (DHPD-ONG)
- Association de Lutte contre le Racisme, l'Ethnocentrisme et le Régionalisme (ALCRER-ONG)

CASES OF REPRESSION

There are no particular cases of repression since 1989. Artists with dreadlocks used to be suspected as drug dealers or drug addicts. Two visual artists have been deadly burnt by a community in Benin in 2008 because they were mistaken as thieves walking late at night. Another artist died because of rumors that he mocked voodoo culture in his songs.

Usually artists are free in Benin but there is no truly speaking engaged artist in Benin.

BURKINA FASO



SUMMARY

Burkina Faso enters 2013 having recovered a food security crisis due to poor rains. The political situation has calmed since the end of the mutinies and student protests that shook the regime in 2011. The economy will be the dominant subject during 2013. Mining will be the main source of growth with gold being the country's most valuable export since 2009.

PROTECTION IN UNIVERSAL, REGIONAL AND NATIONAL INSTRUMENTS

International

Burkina Faso is part of the United Nations since 1960. Therefore, it has accepted the principles set by the Universal declaration of Human rights.

- In terms of explicit provisions protecting the freedom of artistic expression, Burkina Faso ratified both the ICCPR and the ICESCR in 1999.
- Since 2008, Burkina Faso ratified the UNESCO convention on the protection and the promotion of the diversity of cultural expressions

To date, Burkina Faso is not party to the following instruments:

- UNESCO recommendation concerning the status of the artist.
- Rome convention on intellectual property

Regional

The country is also party to the African Charter on Human and people's rights since 1984

National

- Burkina Faso constitution was adopted in June 1991. Its article 18 recognizes cultural rights. It also recognizes freedom of expression and a special attention is also given to freedom of creative expression.
- The national cultural policy includes artists rights and their freedom to participate in the cultural life of the country. We can say that at the national level, there is an explicit recognition of the rights of creative expression.

- The government has recently adopted an Outline Act on Education, which calls for the promotion of artistic and cultural education. In collaboration with the Ministry of Education, the Ministry of Arts and Culture is developing a strategy and action plan to integrate artistic and cultural education into the school curricula.³⁸

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

The questionnaire does not give a lot of indication on the range of people impacted by restrictions of the rights of creative expression. But it seems that musicians are the artists that are more impacted by restrictions. Indeed, the questionnaire points out the fact that Medias (TV's and Radio) are the main sources of censorship as they sometimes won't broadcast music from engaged artists.

Motivations

Religious

The Constitution of Burkina Faso guarantees freedom of religion and the government generally upholds this right, so there is no significant religious base argument for restrictions on artistic freedoms.

Political

State-run media outlets tend to avoid controversial subjects for fear of aggravating authorities. Private media are mostly free of overt censorship, do criticize the government, and cover sensitive issues.³⁹ Journalists have been targeted by the government, for example Norbert Zongo in 1998.⁴⁰

Actors imposing restrictions

Government secret services, the media, and broadcasting agencies are the main obstacles to freedom of creative expression in Burkina Faso.

Types of repression include threats, harassment, blacklisting, censorship.

Economic and financial issues

The ratio of the budget for culture with regards to the national budget is 0,33% .

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Burkina Faso:

- Union Inter-africaine des Droits de l'Homme
- Amnesty International

³⁸ <http://www.unesco.org/new/en/culture/themes/cultural-diversity/diversity-of-cultural-expressions/programmes/technical-assistance/missions/burkina-faso/>

³⁹ <http://www.freedomhouse.org/report/freedom-press/2011/burkina-faso>

⁴⁰ <http://www.article19.org/resources.php/resource/982/en/burkina-faso:-one-year-on-and-still-no-justice>

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Burkina Faso:

- Mouvement Burkinabe des Droits de l'Homme et des Peuples
- Association Semifilm
- Mouvement Burkinabe pour l'emergence de la justice (MBEJUS)

COTE D'IVOIRE



SUMMARY

A year and a half after the end of the 2010-2011 post-election stand-off between former President Gbagbo and current President Ouattara, Côte d'Ivoire's economy is showing signs of recovery. While normality seemed to have returned after the crisis, in which at least 3000 people were killed, a wave of attacks against the army in August and September showed that the political and military situation remains very precarious in the largest economy of francophone West Africa.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Côte d'Ivoire has been a member state of the United Nations since 1960. The country therefore recognizes the Universal Declaration of Human Rights.

The national commission of Human Rights⁴¹ is the state mechanism that monitors adherence to the UDHR.

In addition to the UDHR, Côte d'Ivoire is a signatory the following international instruments:

- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2007
- The International Covenant on Civil and Political Rights, ratified in 1992
- The International Covenant on Economic, Social, and Cultural Rights, ratified in 1992

⁴¹ Commission nationale des droits de l'homme (CNDH)

To date, Cote d'Ivoire is not party to the following instruments:

- UNESCO's Recommendations concerning the Status of the Artist
- The Rome Convention on Intellectual Property

Regional

Cote d'Ivoire is a signatory to the following regional instrument:

- African Charter On Human And People's Rights, ratified in 1992

National

Cote d'Ivoire's constitution guarantees cultural rights and freedom of expression. Article 9 recognizes "freedom of thought and expression, notably freedom of conscience, religious or philosophical opinion" but no specific reference is made in terms of freedom of creative expression. It is a very elusive constitution and it has the potential of restricting the human rights.

Cote d'Ivoire does not have a cultural policy that includes the protection of the status and rights of artists.

LIMITATIONS TO ARTISTIC FREEDOM

Motivations

Religious

The questionnaire is not very detailed with regards to restrictions. Nevertheless, religion seems to be a source of restrictions on artistic freedom and practice. For example, traditional dances can be considered dirty because of the sexual moves.

Actors imposing restrictions

Through marginalisation, society and government are the main actors imposing restrictions to artistic freedoms.

Economic and financial issues

In 2009, only 0.01% of the national budget was set aside for the promotion and protection of culture.

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Cote d'Ivoire:

- Amnesty International
- West African network For Peace building(WANEP)

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Cote d'Ivoire:

- Ligue Ivoirienne des Droits de l'Homme (LIDH)

- Mouvement Ivoirien des droits de l'Homme (MIDH)
- Association pour la protection des droits de l'Homme (CNDH)
- Fédération ivoirienne pour les droits de l'Homme et la vie politique (FIDHOP)

CASES OF REPRESSION

In January 2011, DJ Volcano, a DJ, dancer, and choreographer who ran a small training centre for dancers and musicians at his home in Yopougon, was arrested by pro-Gbagbo police because his music was critical of Gbagbo's regime. Pro-Gbagbo patriots then burnt down his house in March 2011, and he cannot afford to rebuild it. Many artists have suffered similar fates and have "given up," choosing to become DJ's to live clubs rather than using their music to make social or political commentary. "Politics is destroying music," he said.⁴²



Reggae singer Tiken Jah Fakoly experienced unofficial censorship. After the release of his album "Coup de Gueule" in 2005, some people close to Gbagbo told his distributor to stop selling his cassettes or they were going to burn his distributor's factory.⁴³

Other sporadic acts of violence and imprisonment against musicians have occurred over the last few years as the country spiralled into violent conflict after the elections in October 2010. But there is little documentation of attacks.⁴⁴

GHANA



SUMMARY

The Republic of Ghana, is a sovereign state and unitary presidential constitutional republic located on the Gulf of Guinea and Atlantic Ocean in West Africa. Ghana consists of ten territorial administrative regions with several islands and it is bordered by the Ivory Coast to the west, Burkina Faso to the north, Togo to the east and the Gulf of Guinea and Atlantic Ocean to the south. The word *Ghana* means "Warrior King".

Ghana was the first place in sub-Saharan Africa where Europeans arrived to trade - first in gold, later in slaves. It was also the first black African nation in the region to achieve independence from a colonial power, in this instance Britain.

⁴² http://musicfreedomday.org/wp-content/uploads/2012/02/MusicFreedomReport_Cote-dlvoire.pdf

⁴³ http://musicfreedomday.org/wp-content/uploads/2012/02/MusicFreedomReport_Cote-dlvoire.pdf

⁴⁴ http://musicfreedomday.org/wp-content/uploads/2012/02/MusicFreedomReport_Cote-dlvoire.pdf

Despite being rich in mineral resources, and endowed with a good education system and efficient civil service, Ghana fell victim to corruption and mismanagement soon after independence in 1957.

In 1966 its first president and pan-African hero, Kwame Nkrumah, was deposed in a coup, heralding years of mostly-military rule. In 1981 Flight Lieutenant Jerry Rawlings staged his second coup. The country began to move towards economic stability and democracy.

In April 1992 a constitution allowing for a multi-party system was approved in a referendum, ushering in a period of democracy. A well-administered country by regional standards, Ghana is often seen as a model for political and economic reform in Africa. Cocoa exports are an essential part of the economy; Ghana is the world's second-largest producer.

Ghana is one of the more stable nations in the region, with a good record of power changing hands peacefully. It is the world's second largest cocoa producer behind Ivory Coast, and Africa's biggest gold miner after South Africa.

It is one of the continent's fastest growing economies, and newest oil producer. The discovery of major offshore oil reserves was announced in June 2007, encouraging expectations of a major economic boost.

Ghana has a vibrant free press and freedom of speech which is guaranteed by the 1992 constitution. The constitution does not mention the rights of artistes - however, the clauses on freedom of expression do extend to them. Indeed, no artist has been prosecuted or attacked as a result of his / her artistic creation.

The Creative Economy report for 2010 does not only underline the the creative industries in Ghana as a potential sector for poverty reduction, it also emphasises its potential for employment generation, wealth creation and skill development. It has also been cited in Ghana as a contributor to sustainable development thereby making it essential to safeguard and promote artistic creations.

Accurate data is not available, however, the Government recognizes the potential of the Creative Industries to shape and reinforce Ghana's economic growth. Consequently, the Ministry of Finance allocated an amount of GHc 3 million to the creative sector for the year 2013.

The government has further pledged to facilitate the development of cultural villages and enclaves as critical appendages to tourism, which is fast gaining economic relevance as a source of revenue generation and employment.

Government is in the process of reviewing and ratifying UNESCO Conventions on cultural development including the Universal Copyright Convention, the Protection of the Underwater Cultural Heritage and the Safeguarding of the Intangible Cultural Heritage.

With regards to freedom of creative expression, Ghana is one of the few very tolerant countries on the continent. There are no cases of repression of artistic freedom in the recent years.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Ghana has been a member state of the United Nations since 1957. The country therefore recognizes the Universal Declaration of Human Rights. There are state mechanisms to monitor adherence to the UDHR. Civil society equally does monitor adherence.

GHANA is NOT a signatory to the following international instruments:

- UNESCO's Recommendations concerning the Status of the Artist
- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression

To date, Ghana is not party to the following instruments: However, the government of Ghana is currently reviewing the above instruments for possible ratification.

- UNESCO's Recommendations concerning the Status of the Artist
- The Rome Convention on Intellectual Property

Regional

Ghana is a signatory to the African Charter on Human and people's rights, ratified in 1981.

National

- The Ghanaian constitution grants freedom to the media – and by extension to the freedom of expression. It does not explicitly mention the artistic freedoms neither does it make any reference to artistic practice. Nevertheless, artistes are protected by the right to freedom of expression. Artists have not been victims of attacks owing to their artistic creations.
- Artistic freedoms are not clearly mentioned. There is no specific reference to the artistic practice. Nevertheless, artistic creation is also a tool for communication therefore freedom of expression as a statute equally extends and protects the rights of artists.
- The Ghanaian constitution is explicit in the right to free expression – and this by extension include artistic creations.

Ghana's constitution does not guarantee cultural rights, nor does it ensure the freedom of creative expression. However, the constitution does guarantee freedom of expression and the right of association.

Article 12 Section 5 sub section 2 states that *“Every person in Ghana, whatever his race, place of origin, political opinion, colour, religion, creed or gender shall be entitled to the fundamental human rights and freedoms of the individual contained in this Chapter but subject to respect for the rights and freedoms of others and for the public interest.”*

There is no legal document that specifically addresses cultural rights.

LIMITATIONS TO ARTISTIC FREEDOM

Economic and financial issues

The Ghanaian Cultural Policy is dedicated to the realization of the Vision of the people of Ghana to respect, preserve, harness and use their cultural heritage and resources to develop a united, vibrant and prosperous national community with a distinctive African identity and personality and a collective confidence and pride of place among the community of Nations.

It is also aimed at enhancing the status of artistes, identifying, developing and rewarding creative talent, making artistic products contribute to wealth creation both for creative individuals and the nation as a whole.

It is equally intended to create positive linkages between all cultural institutions thereby ensuring synergy in all cultural activities and maximise the benefits of the limited resources available to the cultural sector.

A budget 6.5 million US Dollars for the year 2013 was allocated to a broader sector known as Ministry of Tourism, Culture and Creative Arts. There has not been cuts on budgets for the arts - indeed, there has been a gradual increase. Undeniably, government set aside 1 million US Dollars in 2011 as an incentive for the Arts Sector. This is a remarkable since it is a pioneering act by the government of Ghana. A total of USD 3 million has been allocated for the creative sector the year 2013.

SUPPORTING INSTITUTIONS

International

Note: According to the 2011 press freedom report by Freedom House, the media in Ghana is ranked as "free".

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Ghana:

- Amnesty International
- Journalists Without Borders
- Commonwealth Press Institute
- Media Foundation for West Africa

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Ghana:

- National Media Commission
- Ghana Journalists Association
- Ghana Bar Association
- Musicians Union of Ghana
- Centre for Democratic Governance

CASES OF REPRESSION

Ghana has been able to strengthen its democratic institutions over the past twenty years as a multi-party democracy. Consequently, freedom of expression and association is guaranteed by the constitution. There are no cases of repression of artistic expression as Ghanaian are known to vigorously defend their right to freedom of expression.

MALI



SUMMARY

In March 2012, a military coup ousted the democratically elected government and threw over one of Africa's most acclaimed democracies. A Transitional Government of National Unity was formed and recognized by the international community, with the mandate of restoring sovereignty over the entire territory of Mali and organizing fair and transparent national elections. Under the mandate of the UN Security Council, a France-led coalition of Malian and African troops launched military operations in Northern Mali in January 2013. The roadmap envisages the establishment of an elected government and the re-building of trust in the Malian government.⁴⁵

The Malian crisis impacted the creative sector in the worst way imaginable. In September 2012, the Islamic militants in Northern Mali announced that they were effectively banning all music in the country. The armed militants sent death threats to local musicians, many were forced into exile. Live music venues were shut down and militants set fire to guitars and drum kits. The world famous Festival in the Desert was moved to Burkina Faso, and then postponed because of the security risk. Prior 2012, Malian artists enjoyed a good level of creative freedom although some artists, especially musicians, faced threats and censorship from religious leaders and radical militants.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Mali has been a member state of the United Nations since 1960. The country therefore recognizes the Universal Declaration of Human Rights. There is a state mechanism to monitor adherence to the UDHR, hosted under the ministry of Justice. The "forum for democratic enquiry"⁴⁶ was created in 1991 as a way towards the creation of a dialogue between civil society and the government around human rights issues. Nevertheless, critics to this instrument argue that this instrument was imagined by the government in order to appeal to the international community rather than to solve national level problems which remain unsolved for the most part.

Apart from this forum, Mali also established in 2009, a National Human Rights , an independent institution contributing to the promotion and the protection of human rights through regular assessments.

In addition to the UDHR, Mali is a signatory the following international instruments:

⁴⁵ The Africa Report, Africa in 2013, number 46, December 2012-January 2013

⁴⁶ Espace interpellation démocratique: http://www.mediateur.insti.ml/discours/discours_2.pdf

- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression. Mali acceded to the convention in 2006.
- The International Covenant on Civil and Political Rights, ratified in 1974
- The International Covenant on Economic, Social and Cultural Rights, ratified in 1974

To date, Mali is not party to the following instruments:

- UNESCO's Recommendations concerning the Status of the Artist.
- The Rome Convention on Intellectual Property.

Regional

Mali is a signatory to the following regional instrument:

- African Charter on Human and people's rights ratified in 1982

National

On April 1, 2012, Amadou Haya Sanogo, the de facto head of Mali since the military took control, announced that the country's 1992 Constitution will be reinstated. Mali's constitution guarantees cultural rights and freedom of creative expression. Article (8) recognizes and protects freedom of creative expression, artistic and cultural rights under the limitations fixed by the government.⁴⁷ Article (4) also recognizes freedom of thought, freedom of expression and creation in the respect of the law.

Mali has had a cultural policy since 1985.

Mali has several laws regulating the arts and culture.

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

Obstacles to artistic freedoms in Mali impact the artists themselves as well as those participating in the creation, production, distribution and dissemination of art work. The music sector has been a particular target of the Islamic militants in Northern Mali.

Motivations

Religious

Although there is no law restricting freedom of creative expression, or a religious code limiting those freedoms, we must acknowledge that a strong religious based argument against freedom of creative expression exist in this country. Orthodox Islam, for instance rejects specific artistic fields such as sculpture especially when it materializes human and animal forms. These principles have an indirect impact on other artistic genres such as music, dance, photography and cinema.

The result is a sort of aesthetic censorship, artist not being able to choose their preferred style. In addition to that, artists have been accused of blasphemy or breaching honour, human integrity and moral order. Artworks representing or exposing nudity are also very sensitive in this country and are easily associated with those resorting to pornography or certain forms of pornography.

⁴⁷Article 8 : La liberté de création artistique et culturelle est reconnue et garantie. Elle s'exerce dans les conditions fixées par la loi.

Political

In a country with high illiteracy rates, music rather than newspapers or books, is a prime means of sharing information about the armed conflict. This is one of the reasons why music with its potential to question the legitimacy or the conduct of the war was suppressed by religious/political extremists.

Actors imposing restrictions

Although, the questionnaire doesn't give any indication with regards to the actors imposing restrictions and the type of restrictions, we can affirm that religious leaders are at the basis of those limitations. We can also say that censorship, and threats are the kind of limitations faced by artists in this country.

Economic and financial issues:

In 2009, only 0.45% of the national budget was set aside for the promotion and protection of culture.

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Mali:

- Amnesty international – Mali Section
- Association pour le Progrès et la Défense des Droits des Femmes (APDF)
- Women in Law and Development in Africa/Femmes Droit et Développement en Afrique

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Mali:

- F.E.D.A.MA (La Fédération des Artistes du Mali) / Artist federation in Mali

CASES OF REPRESSION



In September 2012, the Islamic militants in Northern Mali announced that they were effectively banning all music in the country. Many theories were developed on the reasons underpinning this ban, but religious fanaticism that sees music as a distraction from single-minded devotion is the most important.⁴⁸ "We do not want Satan's music," declared an Islamic spokesman, as he banned the broadcasting of all Western music in Gao.⁴⁹

Before the military coup, there was some cases of restrictions but not as radical as what is happening now. For example, the famous Malian filmmaker Souleymane Cisse's movie "Finye" was rejected and disapproved by a certain category of "Puritans" because of partial nudity in one scene. This film was criticized for not respecting that the body is sacred and for breaching good morals.

Another case was made against the famous group of young Malian rappers "Tata Pound". Accused of blasphemy, the group was censored and forced to rewrite their lyrics.

⁴⁸ http://www.nytimes.com/2013/05/20/opinion/the-day-the-music-died-in-mali.html?_r=0

⁴⁹ <http://freemuse.org/archives/2018>

NIGER



SUMMARY

Niger internal political situation had been relatively stable since 2000. According to the African Development Bank, Niger's growth will reach 6% in 2013. Agriculture is becoming a real focus for the government given the challenge of the Sahara advancing 10 km per year.⁵⁰

On the cultural side, Niger has ratified the main international conventions dealing with artistic freedoms. However, this has not been translated at the national level. Although, Niger has a cultural policy, there is still an inadequate and insufficient regulations framework. Moreover, the institutions responsible for the management of the cultural sector are not functioning properly. The influence of Islam together with the social stratification is the main hindrance to freedom of creative expression. Arts practice is still considered today as a social practice destined to a certain category of people.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Niger has been a member state of the United Nations since 1960. The country therefore recognizes the Universal Declaration of Human Rights.

In terms of monitoring adherence to the UDHR, the National Observatory for the Defence of Human Rights and Fundamental Freedoms gives regular reports on the situation of human rights at the national level. Civil society through associations and national NGOs working in the field of human rights also monitor human Rights.

In addition to the UDHR, Niger is a signatory to the following international instruments:

- The International Covenant on Civil and Political Rights ratified in 1986
- The International Covenant on Economic, Social and Cultural Rights ratified in 1986
- The Rome Convention on Intellectual Property ratified in 1963
- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2007.

⁵⁰ Niger country profile, The Africa Report, Africa in 2013, December 2012- January 2013, p.176

Monitoring of adherence to this instrument is done primarily by the civil society through the Nigerien Coalition for Cultural Diversity. This body is the voice of cultural professionals. Its aim is to protect and promote diversity of cultural expressions and to support the development and the implementation of national policies.

To date, Niger is not party to the following instrument:

- UNESCO's Recommendations concerning the Status of the Artist.

Regional

Niger is a signatory to the following regional instrument:

- African Charter on Human and people's rights, ratified in 1986

National

Niger's constitution guarantees cultural rights and ensures the freedom of expression. Article 30 states that "Everyone has the right to freedom of thought, opinion, expression, conscience, religion and worship". However, there is no specific mention of freedom of creative expression.

Niger's cultural policy considers culture as an expression of freedom and democracy; as the cement of national unity; as a way promotes the development of international cooperation through cultural exchanges.

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

Obstacles to artistic freedoms in Niger mainly impact musicians, visual artists and dancers. For instance, visual artists can be skilled, talented and interested in figurative art; most of them will choose the path to abstract art.

It is also important to note that social stratification is a hindrance to freedom of creative expression in Niger. Social status, social order and the division of roles are so strong that many people give up on their creative ambitions. The social role defines who is born to be an artist, and this is not the right of all families regardless of talent.

Motivations

Religious

Religion is the second main source of restrictions to artistic freedoms in Niger. Islam and the Sharia Law prohibits various forms of artistic expressions representing animals or human beings but also music and dance .

Actors imposing restrictions

Governments, religious leaders, civil society, ethnic groups, are the main actors when it comes to restrictions to freedom of artistic expression. Artists could face threats, attacks, harassment, social marginalization, blackmail, and arrests from these actors.

It is very interesting to note that in Niger, families can be strong sources of restrictions of freedom of creative expression. People willing to engage in artistic careers may encounter strong family opposition, exclusion or threats to be disinherited.

Economic and financial issues

Less than 1% of the national budget is allocated to culture in Niger. There is a commission in charge of supporting artistic development where artists can apply for funding. This Commission is under the Ministry of Culture.

SUPPORTING INSTITUTIONS

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Niger:

- Association Nigérienne Pour La Défense Des Droits De l'homme
- Association Timidria – fights slavery practices
- Mouvement Nigérien pour la défense et la promotion des droits de l'homme et des peuples

NIGERIA



SUMMARY

Nigeria has made progress in holding credible elections in 2011, when Goodluck Jonathan was elected president, and in launching reforms to attract investment, but its politics remain difficult, especially in the north, and it urgently needs to industrialise and diversify the economy.⁵¹

Artists in Nigeria are fairly restricted in terms of creative freedom. One major motivation is religion with the Sharia law as the operative body of civil and criminal law in 9 of the 36 states of the Nigerian Federation. Lack of continuity proves to be a problem; regulations are implemented without consistency and often in court there is no opportunity for appeal.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Nigeria has been a member state of the United Nations since 1960. The country therefore recognizes the Universal Declaration of Human Rights.

⁵¹ <http://www.theafricareport.com/West/country-profile-2012-nigeria.html>

There is no state mechanism to monitor adherence to the UDHR, however civil society does monitor adherence through an organization called Human Rights Monitor.

In addition to the UDHR, Nigeria is a signatory to the following international instruments:

- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2008.
- The International Covenant on Civil and Political Rights, ratified in 1993
- The International Covenant on Economic, Social and Cultural Rights, ratified in 1993

To date, Nigeria is not party to the following instruments:

- UNESCO's Recommendations concerning the Status of the Artist
- The Rome Convention on Intellectual Property

Regional

Nigeria is a signatory to the following regional instruments:

- African Charter on Human and people's rights, ratified in 1983

National

Nigeria's constitution does not guarantee cultural rights, nor does it ensure the freedom of creative expression. However, the constitution does guarantee freedom of expression and the right of association. Section 2 of the constitution makes an implicit reference to cultural rights as it encourages "development of technological and scientific studies which enhance cultural values".

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

Obstacles to artistic freedoms in Nigeria mainly impact artists, authors, musicians, drummers, dancers and film producers, but also festival directors.

Motivations

Religious

Sharia law has been introduced as the operative body of civil and criminal law in 9 of the 36 states of the Nigerian Federation. The states are: Zamfara, Kano, Sokoto, Katsina, Bauchi, Borno, Jigawa, Kebbi and Yobe. Three other states with large Muslim populations have also imposed partial sharia. These states are Kaduna, Niger and Gombe State.

The Sharia law in the North is the most notable religious instrument restricting artistic freedom of expression. The Islamic legal code is also one of the tools used by the state to censor art and artists. In all the states that have declared Sharia law as the ruling law, singing to drums is prohibited because it is considered immoral.

Specific measures: prior-censorship bodies

- The film and video censorship board: each participant in the film industry, from actor to editor to distributor, must register individually with the censorship board. Most "censorship"-related cases are tried in state magistrate courts.

- There are also mobile courts where suspects are convicted within an hour, without the benefit of legal representation. Some are given prison sentences while others are given the option of paying a fine. One of such mobile courts is on Airport Road and is presided over by magistrate Mukhtar Ahmed.

Although there are laws and courts dealing with censorship in Nigeria, in too many cases, regulations are implemented without consistency by non-transparent mechanisms with no possibility of appeal. The areas of cinema and music are at particular risk.

Actors imposing restrictions

Governments, religious leaders, the police, and secret services are the main actors restricting freedom of creative expression.

Marketing cartels are also responsible for restricting artistic freedom. They have developed ways of dictating scripts, and casting film productions. Because film makers are unable to access formal funding due to official bureaucracy and corruption, the big film producers, who have the means, thus become the godfathers of the industry deciding arbitrarily what stories to tell and who tells them. More often, this limits creativity

SUPPORTING INSTITUTIONS

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Nigeria:

- Action Aid International Nigeria
- Civil Liberties Organization
- Socio-Economic Rights Initiative (SERI)
- Constitutional Rights Project

CASES OF REPRESSION

In Kano state, in order to avoid the Sharia Censorship Board, filmmakers are forced to seek markets outside the state. To do this, they write clearly on the DVD jackets "Not for sale in Kano state".



In September 2007, actor, musician, and director **Adam Zango** was arrested and sentenced to three months imprisonment and a fine of N100,000 for releasing a music video CD "Bahaushiya" without first submitting it to the Kano State censorship board.

In October 2008, within an hour of their arrest, popular Hausa comedian **Rabilu Musa** ('dan Ibro) and colleague Lawal Alhassan Kaura were sentenced to two months in prison by a mobile court for "indecent dancing" in a film "Ibro Aloko" and for operating a production company without registering with the board. Ironically, the film had a certificate from the previous administration. This thus points to the issue of continuity and sustainability of policies on one side.



In May 2008, **Hamisu Lamido Iyan-Tama**, one of the pioneers of the Hausa film industry, who was also a gubernatorial candidate in the 2007 election, was arrested and subsequently sentenced to 15 months in prison and a fine of N300,000. The actor, director, producer, was accused of not registering his company with the Kano State Censorship Board and for releasing same film in Kano without passing it through the State Censorship Board.

In March 2008 there was a raid on the home of Hausa film actress **Zainab Umar**. She and her sisters were accused of living “in a house without suitable relation.” They were detained without food and water overnight in a cell with other men, propositioned by police, and warned not to speak with the media.

In December 2008, **Director Rabi'u Ibrahim** of HRB studio, was arrested and fined N80,000 for selling a DVD compilation with an “indecent cover” of the American television series “Desperate Housewives.” His shop was closed and sealed for three days. When the authorities came to re-open the shop three days later, they saw the remaining copies of “Desperate Housewives” and the recently banned film “Ibro Aloko.” He was taken back to court and given another N60,000 fine.

As in the case of writers, each participant in the film industry, from actor to editor to video seller, register individually with the censorship board since intimidation against studios and lower profile film industry workers are on the rise. In each of the cases, although Sharia law is invoked, most “censorship”-related cases are tried in state magistrate courts. There are mobile courts where suspects are convicted within an hour, without the benefit of legal representation. Some are given prison sentences while others are given the option of paying a fine. One of such mobile courts is on Airport Road and is presided over by magistrate Mukhtar Ahmed.

SENEGAL



SUMMARY

Senegal has maintained one of Africa's most stable democracies and has a long history in participating in international and regional peace keeping. Its former president Abdoulaye Wade, elected in 2000, was recently defeated after running for a third term in 2012 by Macky Sall.⁵²

Historically, artists in Senegal have enjoyed freedom of expression and limited government censorship. The constitution recognizes cultural rights and freedom of expression. This has allowed the arts and culture sector, specifically hip hop and rap music, to flourish. But recently, rappers have expressed concern for their own safety, as music artists who oppose the government are targeted by government or religious officials.

“In 2000, rappers encouraged young people to go out and vote in the presidential election. But today, that confidence is tempered by fear, driving some artists to tone down their socially-conscious lyrics for fear of sparking conflict with politicians or other figures of authority in the mainly Muslim country.”- Rose Skelton (writer specializing in West African Music)⁵³

⁵² <https://www.cia.gov/library/publications/the-world-factbook/geos/sg.html>

⁵³ <http://freemuse.org/archives/799>

PROTECTION IN INTERNATIONAL NATIONAL AND REGIONAL INSTRUMENTS

International

Senegal has been a member state of the United Nations since 1960. The country therefore recognizes the Universal Declaration of Human Rights.

The high commissioner for the Human Rights and the promotion of peace is the body in charge of monitoring the adherence to the UDHR. In addition to this mechanism are the national reports submitted by the state on how the rights are being implemented in the country. Every 5 years, Senegal reports to the UN Committee on Economic, Social and Cultural Rights, which in turn examines each report and addresses its concerns and recommendations to the State in the form of "concluding observations".

In addition to the UDHR, Senegal is a signatory the following international instruments:

- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2006
- The International Covenant on Civil and Political Rights, ratified in 1978
- The International Covenant on Economic, Social, and Cultural Rights, ratified in 1978
- The Rome Convention on Intellectual Property, ratified in 1977

To date, Senegal is not party to the following instruments:

- UNESCO's Recommendations concerning the Status of the Artist.

Regional

Senegal is a signatory to the following regional instruments:

- African Charter on Human and people's rights, ratified in 1982

National

- The Preamble of the constitution of Senegal declares its adherence to the Universal Declaration of Human Rights.
- Senegal's constitution does guarantee cultural rights. It also ensures the freedom of expression. However, no specific reference is made to the freedom of creative expression.
- Since 1966, the Republic of Senegal set up the Ministry of Culture and put in place institutional and legal mechanisms necessary to advance the culture sector in Senegal. The cultural policy was formulated in line with the constitution but also considering the Universal Declaration of Human Rights.

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

Women artists are still targets of restrictions. In some communities, women are prohibited from performing or practicing certain kinds of instruments strictly reserved to men. In the Senegalese caste system, specific ethnic groups are forbidden to practice drumming.

Motivations

Social

It appears that social restrictions to the practice of arts still exist in Senegal. Women were traditionally forbidden to play the Kora instrument. Today, that restriction is not important anymore, but women who would like to develop a career in the Casamance region are likely to be socially marginalized because society recognizes neither their talent nor their capability in this art form.

In the Senegalese caste system, the Wolof ethnic group and, more precisely, the Gueer caste are not allowed to touch a drum. In the Serrer ethnic group, drums are not allowed during specific times of the year,

Religious

Senegal is a primarily Muslim country (94%) so artists who express messages against the beliefs of Islam are targeted.⁵⁴

Political

No indication is provided by the questionnaire with regards to political restrictions.

Actors imposing restrictions

Governments and religious leaders are the main actors when it comes to restrictions to freedom of artistic expression.

Artists in Senegal can face threats and harassment from these actors.

Economic and financial issues

Only 0.0041% of the national budget is set aside for culture in Senegal.

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Senegal:

- Amnesty International

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Senegal:

- Organisation Nationale des Droits Humains (ONDHLigue Sénégalaise des Droits de l'Homme (LSDH)Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO)
- Comité Sénégalais des Droits de l'Homme (CSDH)
- Forum Civil

⁵⁴ <https://www.cia.gov/library/publications/the-world-factbook/geos/sg.html>

CASES OF REPRESSION



For the most part, Senegalese rappers enjoy freedom of expression. They often use their music as an avenue for voicing political opinion to inspire the youth. This freedom has allowed for Senegal's rap industry to flourish. Momodou Kasse said, "If there wasn't this freedom of expression, I am convinced that rap would not be developed in this country." But there has been political bullying. For example, Didier Awadi, one of Senegal's most celebrated rappers, was approached by officials of the new government in the hope that he would infuse his music with positive political support. But he refused, saying, "My position is still the same. If you don't do your job correctly, I will be the

first to criticise you, to point it out." But consequences of refusal can be ruinous to a career. Rappers who criticise the government claim to be served backdated tax bills and have difficulty getting their songs on the radio. Awadi is determined to fight against this censorship: "Senegal is used to this kind of thing, we need to talk, we need to express ourselves. But don't put us in jail because we don't like you." The government denies any restrictions on freedom of speech.⁵⁵

Rap artist Bamba Diop was subjected to months of harassment and threats in 2000 by disciples of a marabout that he criticised in one of his songs. He ultimately gave up writing overtly political or religious lyrics and fled to England.⁵⁶

TOGO



SUMMARY

President Faure Gnassingbe has been in power since his president father's death in 2005. He faces increasing opposition, mainly criticising the lack of government transparency. The opposition wants reforms from the regime that has long been dominated by a single party. In June 2013, the government is set to hold legislative elections, since they were delayed by opposition protests throughout the year in Lomé.

With regards to the cultural and creative sector in Togo, it seems that musicians are the most targeted artists. The government proves to be the main perpetrator of restricting freedom of creative expression. Artists often resort to self-censorship so they can continue to find success in their careers.

⁵⁵ <http://news.bbc.co.uk/2/hi/africa/6366133.stm>

⁵⁶ <http://freemuse.org/archives/799>

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Togo has been a member state of the United Nations since 1990. The country therefore recognizes the Universal Declaration of Human Rights.

In addition to the UDHR, Togo is a signatory to the following international instruments:

- UNESCO's Recommendations concerning the Status of the Artist.
- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2006
- The International Covenant on Civil and Political Rights, ratified in 1984
- The International Covenant on Economic, Social and Cultural Rights, ratified in 1984
- The Rome Convention on Intellectual Property

To date, Togo is not party to the following instruments:

- UNESCO's Recommendations concerning the Status of the Artist

Regional

Togo is a signatory to the following regional instruments:

- African Charter on Human and people's rights, ratified in 1982

National

Togo's constitution does not guarantee freedom of creative expression. The constitution does, however, ensure freedom of expression, religious freedom, freedom of press, freedom of assembly and association, and freedom to join and form unions. The constitution guarantees equality, and specifically, the equality between women and men. (Titre II.)⁵⁷

Relevant articles in Togo's Constitution:

- Article 12: "Every human being has the right to physical, intellectual, moral, and cultural develop oneself"
- Article 40: "The state ensures the protection and promotion of a national cultural heritage"
- Article 50: "All rights and duties expressed in the Universal Declaration of Human Rights and all international human rights instruments ratified by Togo"

Togo has a cultural policy that was adopted on 13 March, 2011. It includes seven chapters that explain Togo's strategic plan to construct "a unified nation under one diverse and rehabilitated cultural sector." The cultural policy mentions specifically finding strategies with respect to the youth, women, and diaspora.

⁵⁷ http://www.wipo.int/wipolex/en/text.jsp?file_id=200884

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

Journalists and media workers are the most impacted by artistic repression in Togo, but musicians are as well. Popular hip-hop artist Elom explains that it is not the government that commonly censors music in Togo, but musicians often censor themselves. To produce music, one needs capital, to attain capital, one needs investors, and to attract investors one needs to make mainstream music. Politically-conscious music is not sellable. He laments, "In a country where much of the power and money is concentrated within a few hands close to government circles, who might want to support an artist who speaks openly against poor governance? In Togo the censorship is not so much imposed by the government, as it is self-inflicted by the media."⁵⁸

Motivations

Religious

Tensions sometimes arise between Togo's Christian majority and Muslim minority. For the most part, however, there are no restrictions on artistic freedoms based on religious arguments.⁵⁹

Political

The press in Togo has experienced trouble from the government since the beginning. The government has given Togo's media regulatory agency (HAAC) the power to impose harsh penalties on journalists who commit "serious errors", which usually involves criticism of the government (2010 State Department Report). Many journalists have to resort to self-censorship to avoid punishment.

Progress towards a truly free press has recently come in the form of a court order in late March 2013. According to *Global Voices Online*, the Constitutional Court ruled against a law proposal that would have severely restricted media freedom and allowed HAAC to censor, punish, and even shut down news outlets and journalists without receiving a court order. This is a huge step forward for the journalists of Togo who can express their opinions freely without the threat of retaliation from the government.⁶⁰

Actors imposing restrictions

Governments, the police and secret services are the main actors when it comes to restrictions to freedom of artistic expression.

Artists could face threats, attacks, harassment and arrests from these actors.

Specific measures and practices impacting on the right to freedom of artistic expression

Supreme Audiovisual and Communication Authority (HAAC), Togo's media regulatory agency

Economic and financial issues

Economic and financial issues are the main obstacles hindering artists in Togo. There is a lack of investors, financial resources, and organisation in the arts and culture sector. A plan for the foundation of financial aid was adopted in 2009, but has not been operated.

⁵⁸ <http://www.thisisafrika.me/music/detail/19501/Autopsy-of-a-Nation--Political-hip-hop-in-Togo>

⁵⁹ <http://www.freedomhouse.org/report/freedom-world/2011/togo>

⁶⁰ <http://humanrightstogo.wordpress.com/current-human-rights-situation/freedom-of-speech-and-the-press/>

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Togo:

- Amnesty International
- Human Rights Watch

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Togo:

- Union Nationale des Artistes Musiciens (UNAM)
- Syndicat des Artistes Interprètes et Auteurs Compositeurs (SARIAC)
- Association Togolaise des Artistes Plasticiens (ASTAP)
- League for the Promotion of Human Rights in Togo (LPDH)⁶¹

Note: Human Rights Organisations work in difficult conditions in Togo, and the Ministry of International Affairs rarely officially recognizes the organisations. Here are some unofficial organisations working to defend human rights in Togo:

- Christian Action for the Abolition of Torture (ACAT-Togo)
- Togolese Association for Struggle against Torture (ATLT)
- International League for the Rights of the Child (LIDE)
- Togolese League for Human Rights (LTDH)
- Togolese League for the Defense of Human Rights and Public Liberties (LTDHLP)⁶²

CASES OF REPRESSION

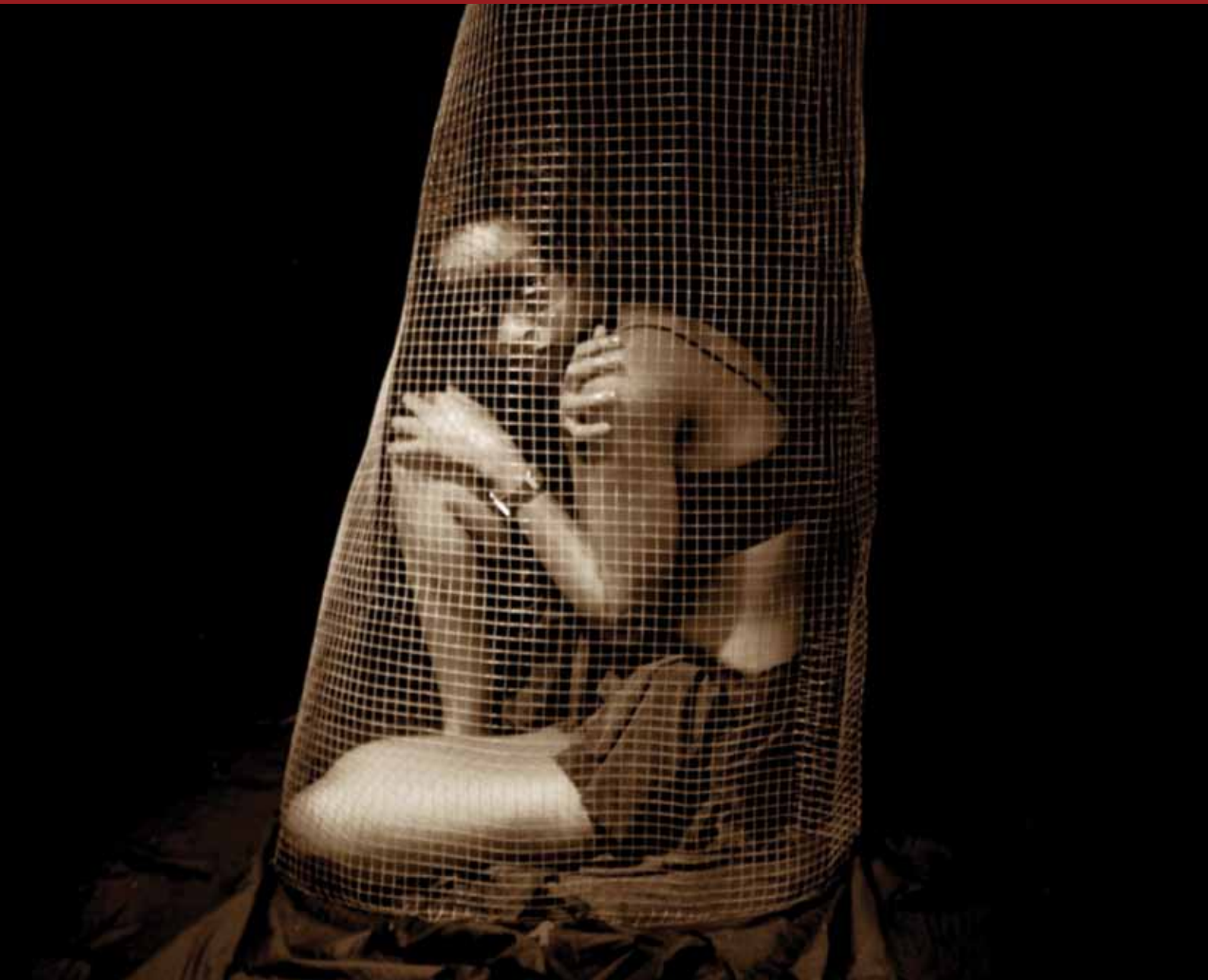
Yao Bobby and **Elom Kossi**, two Togolese musical activists, use hip-hop music as a “weapon to fight injustice.” In an interview, Yao Bobby explains, “In Togo it’s very difficult to speak about politics, about consciousness, about freedom. But I choose to rap and my ‘mission’ is to wake up the consciousness, to open the eyes of the world about what happens in Africa. Of course the government tries to censor my hip-hop. But in Togo the dictator is a hypocrite. They like the idea of democracy. That is why they play my tracks on the radio.” Elom echoes this sentiment: “In the nineties, in Togo, you could not talk about the president and political issues loudly. You had to check to your left and to your right before speaking your mind. It was Big Brother... Today’s date it is more relaxed, but it is still dangerous. You are not beaten by the military as in the past. But your music and art can be in trouble.” Elom experienced censorship from the government when appearing on a television station to premier his video for the song “L’orage approche” (The Storm Approach’s). He was asked to remove the introduction because it included a quote from the former president of Burkina Faso Thomas Sankara that stated, “only the struggle frees.”⁶³

⁶¹ <http://www1.umn.edu/humanrts/africa/togo.htm>

⁶² <http://www1.umn.edu/humanrts/africa/togo.htm>

⁶³ <http://mission.tv/features/togolese-hip-hop-yao-bobby-elom-kossi-artists-for-a-united-a.html>

EAST AFRICA



BURUNDI



SUMMARY

National elections due in 2015 are already worrying the political class. In his state of nation address on the 25 August 2012, President Pierre Nkurunziza said he plans to modify the constitution and the electoral code. Opposition voices are already suggesting that he wants to run again in 2015.

The relationship between private media and the government will continue to be a subject of debate in 2013. The courts gave journalist Hassan Ruvukuki a life sentence in June 2012 for reporting on a rebel attack.⁶⁴

The creative and cultural industries, without being named as such are included in many cooperation agreements signed with international donor development and in international instruments ratified by Burundi. The cultural sector in Burundi is slowly growing with young upcoming and very promising artists in the fields of literature, photography, music and film. However these artists are evolving in a more and more restrictive public sphere.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Burundi has been a member state of the United Nations since 1962. The country therefore recognizes the Universal Declaration of Human Rights.

In addition to the UDHR, Burundi is a signatory to the following international instruments:

- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2008
- The International Covenant on Civil and Political Rights ratified in 1990
- The International Covenant on Economic, Social and Cultural Rights ratified in 1990

To date, Burundi is not party to the following instruments:

- UNESCO's Recommendations concerning the Status of the Artist
- The Rome Convention on Intellectual Property

⁶⁴ The Africa Report, Africa in 2013, number 46, December 2012- January 2013, p.128

Regional

Burundi is a signatory to the following regional instrument:

- African Charter on Human and people's rights, ratified in 1989

National

Burundi's constitution does not guarantee cultural rights, nor does it ensure the freedom of creative expression. However, the constitution does guarantee freedom of expression and the right of association. Article 31 states that "*Freedom of expression is guaranteed. The State shall respects freedom of religion, of thought, of conscience and opinion.*" There is no legal document that specifically addresses cultural rights.⁶⁵

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

Obstacles to artistic freedoms impact on the enjoyment of rights by a wide range of artists. In Burundi, the artists that are more at risk are the musicians, photographers and the filmmakers. Women artists are not a peculiar target of restrictions to freedom of creative expression, what applies for me applies for women. No specific restriction is attached to the gender.

Motivations

Religious

Like its neighbouring countries, Rwanda and DRC, « Christian evangelical » churches influence is more and more important in Burundi. They play a major role in restricting freedom of creative expression because of their capacity to reach a very important number of people. The wife of the president herself is a pastor. This results in some kind of aesthetic censorship in Burundi.

Issues relating to homosexuality, gender, nudity, HIV and sexuality in relation to religion and morals, or politics continue to be highly debated in connection with artistic expressions and creations. References to, or descriptions of these subjects in dance, literature, music and visual arts are particularly badly seen in this context. In this regard, the 2011 contemporary photo exhibition "Free and chained" by Nelson Niyakire and Christian Mbanza, found a hard time to get exhibited.

Political

- Burundi is a young democracy that still has authoritarian impulses. This is quite obvious when one looks at the laws that are proposed by the council of ministers. The very recent media law, approved by the president, is a good example. This law reduces freedom of expression by forcing journalists to reveal sources and forbidding stories deemed to undermine national security, drawing condemnation from reporters and rights groups. Journalists said they would ignore the legislation and challenge it in the constitutional court.⁶⁶
- Another very interesting trend that is limiting freedom of creative expression is the "buying" of artists during electoral campaigns. Usually the campaign target very talented, independent and sometimes controversial artists. This is a form of censorship as the artists won't be free to express their views while working under a political party contract.

⁶⁵ Constitution intérimaire post-transition de la République du Burundi : http://www.wipo.int/wipolex/en/text.jsp?file_id=195947

⁶⁶ <http://www.voanews.com/content/burundi-media-law-reporters-press-freedoms/1675302.html>

Actors imposing restrictions

Governments, religious leaders, the police and secret services are the main actors when it comes to restrictions to freedom of artistic expression. Artists could face threats, harassment and arrests from these actors.

Economic and financial issues

Burundian artists evolve in a very precarious economic and social situation. Most of the artists in the country are self-funded. There is an absence of philanthropist or sponsors for the arts.

The other problem is that Burundi buying power is very low therefore the art work produced is not easy to sell.

With regards to access to state funding, there is feeling from the artists that available money is never for "controversial" artists. Furthermore, it seems that in general, political patronage is the rule to win state tenders and to access to public funds for artistic projects.

CASES OF REPRESSION

A recent example of "censorship" occurred in September 2012, with the collaborative photo project "Free and chained" by Christian MBANZA, photographer and Nelson NIYAKIRE a painter. The project was aimed at showing and sharing the pain which surrounds them, particularly the interior pain. It was an African view on how people try to live with these visible and invisible chains. How they design their



own live with this kind of limitations they face. Although very innovative and professional, the artists really experienced resistance even from the Institut Français du Burundi arguing that the pieces were too violent, or had too much nudity. They were not allowed to exhibit in their premises, unless they removed some of their pieces. This is very important as the IFB is the only art center in Burundi. What is even more interesting is that the artists say that they already self-censored themselves thinking that were not sure the society and the audience was ready for their work. They finally had to raise their own money and rent an exhibition place.

Lion Story, a reggae band and one of the most popular music groups in Burundi, articulate the growing frustration of Burundians today. Lion Story's activities exemplify civil society's resistance to the government's increasing authoritarianism.⁶⁷ In 2011, one of the singer of the group was arrested and sentenced 6 months prison for reasons that are still not clear today. But artists believe it was because of their engagement. More recently, in July 2013, a concert by Lion Story was stopped during the performance. The reason that was given by the police was that they were enforcing a new city directive that forbids to play music after 8pm.

⁶⁷ <http://www.english.rfi.fr/africa/20120402-lion-story-reggae-group-burundi>

ERITREA



SUMMARY

Eritrea was one of the fastest growing African economies. In 2012, the growth in gross domestic product (GDP) was estimated 8.7%. Yet, the political situation in Eritrea is far from acceptable in terms of democratic standards. *The Economist's* 2011 Democracy Index ranked Eritrea 154 out of 167 countries, labelling it as authoritarian and thus one of the worst political regimes currently in the international political arena. Since 1993, Eritrea has been ruled by a one-party state, headed by Afewerki under the ruse of the Popular Front for Democracy and Justice (PFDJ). While elections have on numerous occasions been promised, Eritrea has yet to actually hold a national election, or implement a constitution.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

1. International

Eritrea has been a member state of the United Nations since 1992. The country should therefore recognize the Universal Declaration of Human Rights but, to date, there is no legitimate legal system under which the rights of citizens are disclosed and upheld. There is no state mechanism to monitor adherence to the UDHR.

Eritrea is a signatory the following international instruments:

- The International Covenant on Civil and Political Rights, ratified in 2002
- The International Covenant on Economic, Social and Cultural Rights ratified in 2001

To date, Eritrea is not party to the following instruments:

- UNESCO's Recommendation concerning the Status of the Artist
- The Rome Convention on Intellectual Property
- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression

2. Regional

Eritrea is a signatory to the African Charter on Human and people's rights, ratified in 1999

3. National

- In 1993, the government permitted the preparation of a constitution. The constitution-making process lasted from 1993 to 1997, and on 24 May 1997, the Constitution was finally 'ratified' by the Constituent Assembly. The main problem is that the constituent assembly did not stipulate a

date of its entry into force, nor did it mention transitional provisions. The popular expectation was that the ratified Constitution would come into effect soon after its ratification, and transformation to a constitutional setting would start from the date of ratification. However, the Constitution has not been implemented and is not in force. The country is therefore still governed by a Transitional National Assembly. Nevertheless, the 1997 constitution recognizes freedom of expression and cultural rights. No specific mention is made for freedom of creative expression. But said earlier, these rights are not guaranteed as the constitution isn't active.

- Eritrea does not have a cultural policy.

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

The questionnaire does not provide information on the category of people impacted by freedom restrictions.

Motivations

Religious

The questionnaire doesn't address the religious motives towards the art but gives a good into on the situation in Eritrea. Islam is the country's religion.

In 22 May 2002, all churches that were not affiliated with the Catholic, Evangelical Lutheran or Orthodox denominations were effectively closed, and all other religious practices except Sunni Islam were ended. The government claimed religious groups could apply for official recognition but requirements were stringent, intrusive, and discriminatory, since they did not apply to government-sanctioned groups. Authorised Christian denominations have now begun to experience mounting repression, and an increasing number of Orthodox Christians are being detained. Most significantly, from 2005-6, in a series of highly irregular, government-initiated punitive measures, the legitimate patriarch of the Eritrean Orthodox Church Abune Antonios was removed from office in violation of canon law. He was initially deprived of administrative powers by a government-appointed layman, and placed under stringent house arrest. He was then forcibly evicted from his official residence, and ultimately replaced by a bishop neither appointed nor recognised by the Orthodox Papacy in Egypt.

Political

Eritrea ranks near or at the bottom of almost every survey of governance and adherence to international norms. Freedom House in 2011 gave Eritrea the lowest possible scores for political rights and civil liberties, one of nine countries it regarded as the "worst of the worst." The Mo Ibrahim Foundation's Index of African Governance listed Eritrea as the fourth worst governed nation in Africa (50 of 53); in the political participation and human rights category, Eritrea was last for political participation (with Libya) and also last with respect to protecting human rights.

No specific information was given with regards to the artistic freedom relation to the politics.

Actors imposing restrictions

Governments, the police and secret services are the main actors when it comes to restrictions to freedom of artistic expression.

Artists in this country can face threats, harassment, arrests, blacklist, death and kidnapping from these actors. It remains to be seen to what extent this will change now that the revolution has taken place.

SUPPORTING INSTITUTIONS

There are no human rights institutions working in Eritrea.

ETHIOPIA



SUMMARY

In light of the violent regime changes in 1974 and 1991, it was significant for Ethiopia that power passed peacefully in 2012.

Following the death of Prime Minister Meles Zenawi in August 2012, who had led the government since 1991, the appointment of his successor Hailemariam Dessalegn marked a historical moment in the country's politics. For the first time in its modern history, Ethiopia undertook a peaceful and constitutional transition of power. For much of the 20th century, Ethiopia was ruled by highly centralized governments. Although the formal Ethiopian state structure has been transformed from a highly centralized system to a federal and increasingly decentralized one, a number of challenges remain.⁶⁸ **Ethiopian authorities continue to severely restrict freedom of expression, association, and assembly.**⁶⁹

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Ethiopia has been a member state of the United Nations since 1998. The country therefore recognizes the Universal Declaration of Human Rights. There is no state mechanism to monitor adherence to the UDHR, however civil society does monitor adherence.

In addition to the UDHR, Ethiopia is a signatory to the following international instruments:

- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2008
- The International Covenant on Civil and Political Rights, ratified in 1993
- The International Covenant on Economic, Social and Cultural Rights ratified in 1993
- UNESCO's Recommendations concerning the Status of the Artist
- The Rome Convention on Intellectual Property

Regional

Ethiopia is a signatory to the following regional instrument:

- African Charter on Human and people's rights, ratified in 1998

⁶⁸ <http://www.worldbank.org/en/country/ethiopia/overview>

⁶⁹ <http://www.hrw.org/africa/ethiopia>

National

- Ethiopia's constitution does guarantee cultural rights. Article 41 states that "the State has the responsibility to protect and preserve historical and cultural legacies, and to contribute to the promotion of the arts and sports."

The constitution also ensures freedom of expression. Freedom of creative expression is also guaranteed by the article 29 that states "Freedom of the press and other mass media and freedom of artistic creativity is guaranteed." Ethiopia's constitution is therefore very favourable to artistic freedoms.

- Ethiopia's cultural policy was endorsed by the Council of Ministers in October 1997 and entered into effect. The status and the rights of the artist and the freedom to participate in cultural life is guaranteed by the policy,

On the paper, Ethiopia seems to have adopted all the relevant instruments for a well-functioning cultural sector.

LIMITATIONS TO ARTISTIC FREEDOM

The questionnaire doesn't provide information with regards to the limitations of artistic freedom in Ethiopia. It doesn't give any idea on the people impacted, the motivations and the actors imposing those restrictions.

SUPPORTING INSTITUTIONS

International

Foreign human rights organizations are not allowed in the Ethiopian territory. The Democratic Institution Program is the government body in charge of funding Ethiopian Human Rights Commission.

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Ethiopia:

- Ethiopian Human Rights Commission (Governmental and working with United nation human rights program)
- Action Professionals' Association for the People (APAP)

KENYA



SUMMARY

The republic of Kenya, is a sovereign state in East Africa. The capital and largest city is Nairobi. Kenya lies on the equator with the Indian Ocean to the south-east, Tanzania to the south, Uganda to the west, South Sudan to the north-west, Ethiopia to the north and Somalia to the north-east. Kenya covers 581,309 km² (224,445 sq mi) and has a population of about 44 million in July 2012.

The Kenyan constitution guarantees cultural rights and is very explicit with regards to freedom of creative expression. However, the Kenyan Government has found itself in several occasions in the early 80s repressing the freedom of artistic expression. The most affected genres being music, theatre and literature. Some of the artists sought political asylum while others stopped producing in the country because their work was seen to be anti-government. Most recently the oppression has shifted to visual arts and music with government banning or sending the city council to impound or delete graffiti that seems to talk against political oppression.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

Kenya has been a member state of the United Nations hours after attaining independence in December 1963. The country therefore recognizes the Universal Declaration of Human Rights. There is a specific state mechanism to monitor adherence to the UDHR, the Kenya National Human Rights and Equality Commission. The functions of the Commission are amongst other things to promote respect for human rights and develop a culture of human rights in the Republic of Kenya.

Regional

Kenya is a signatory to the following regional instrument:

- African Charter on Human and people's rights, ratified in 23/01/1992

National

The Kenyan Constitution in its chapter 11. (1) Recognises culture as the foundation of the nation and as the cumulative civilization of the Kenyan people and nation. (2) The State shall promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.

Chapter 4 , 19 (2) states that The purpose of recognising and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realisation of the potential of all human beings. It also states in its chapter 44. (1) that Every person has the right to use the language, and to participate in the cultural life, of the person's choice.

Kenya's constitution guarantees cultural rights, and it ensures the freedom of creative expression. Chapter 33. (1) states that every person has the right to freedom of expression which includes (b) freedom of artistic creativity;

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

1. Almost all the artist have been impacted by lack of artistic freedom of expression. Musicians composing anti-government songs, films that speak negatively on the government lack of credibility, visual artists expressing their political views are constantly aware that they can be arrested at any moment. The state, despite protecting the freedom of artistic expression, still finds itself in a position where they want to gag artistic expression. And this goes to Media gag as well. Authors, musicians and play writes have been arrested and some sought amnesty during the previous regime for expressing themselves through their art. One of them was the renowned writer Ngugi wa Thiongo who flee Kenya during the Moi era that was famed for oppressing artists who were bold enough to stand for their creative expressions.
2. Restrictions on artistic freedoms have recently been prevalent in Kenya with the police arresting graffiti artists expressing their opinion through public art. Artists are constantly vigilant on what they are creating just in case they are arrested by the police.

Motivations

Religious

- Issues relating to sexuality and sexual orientation continue to be controversial in Kenya with connection to artistic expressions and creations. One particular restaurant once removed art works by artists who had planned a nude exhibition. Management decided to pull it down because some of the customers felt offended by the art work. Many establishments that work as galleries are still not very open to exhibiting nude photos or paintings. The society still remains conservative despite having a lot of open minded individuals who are ready to discuss alcohol, night life, prostitution, corruption etc. Conservative minds by a large group of middle class also affect the way artistic expression is perceived by the local audiences.
- The aesthetic censorship of art especially music in Kenya by young and upcoming artists is not deemed original. Most rhymes are foreign borrowed, sound the same, lack originality in context and are unable to attract the middle class who has the most buying power in Kenya today.

Political

The Kenyan Government has found itself in several occasions in the early 80s repressing the freedom of artistic expression. The hardest hit genres being music, theatre and literature. Some of the artists sort political asylum while others stopped producing in the country because their work was seen to be anti-government. Most recently the oppression has shifted to visual arts and music with government banning or sending the city council to impound or delete graffiti that seem to talk against political oppression.

The media has also failed to escape this oppression where government has on occasion shut down or confiscated materials meant to be used to print anti- government content for public consumption.

Specific measures and practices impacting on the right to freedom of artistic expression

Freedom of artistic expression is still limited to specific spaces and audiences in Kenya. Most artists are not bold enough to venture into the public because they fear to be arrested by the police, as it has happened in the past. As a result, this has stifled the artists voices and limited the scope of work and audience reach that appreciate freedom of artistic expression in the country.

Economic and financial issues

For a long while the government has not been able to articulate the kind of support it provides to the artists. The department of culture requires that artists register with the department in order to access funds. Having always viewed the government with suspicion, the artists translate this requirement as a means of placing artists under the tax bracket. At the same time, they feel that the government has not done enough for them in terms of, opening distribution channels for their work, promoting their work, creating tax incentives for art materials, availing mobility funds for artists etc to warrant their corporation. As a result artist's have resorted to getting assistance from foreign donor agencies to do all these things for them. This suspicion has created a rift between government and artists and has made the playing ground work against both. The budget for the arts as compared to other sectors is negligible; the staffs at the department of culture lack the necessary training to make the sector thrive.

While there is potential for growth within the creative sector, both financially and from a social development point of view, the task at hand remains that weak legislation hinder these to advance. The Kenya Culture and Heritage policy as well as the National constitution put Culture at the core of human development yet it does not recognise the potential of the arts and the artists to rightfully do this. The viability of economic growth remains stagnant even as the artists themselves have not been able to form strong lobbying groups to mandate the government through its ministry to take its tasks seriously. The artists themselves need to be educated on the content of the culture and heritage policy in order to have a strong voice.

Budget cuts both through government and foreign donor agencies has meant that the artists have now got to work extra hard to market their products locally in order to survive. The middle class is a potential market that has since 5 years ago been coming out in good numbers to enjoy the arts hence helping to keep this financial crunch manageable.

The Ministry of Sports arts and Culture aims to develop, promote, preserve and disseminate Kenya's diverse cultural and national heritage through formulation and implementation of policies to build national pride.

The MTEF Budget for the 2013/14 - 2015/16 period will amongst other things be applied in development of Kenya's National Library and community libraries across the country and support the operations of the Kenya National Library Service, development of the national heroes' monument, support the operations of the National Museums of Kenya which is responsible for preserving Kenya's National Heritage and support development of the cultural centres.

The Ministry through the Sports Stadia Management Board expects to construct sports academies that will promote development of sports at all levels. This initiative will notably link the Ministry's strategic objectives to the delivery of the goals and objectives of Social Pillar of Vision 2030. The Arterial Network will be following this budget keenly to ensure that its allocation reaches diverse artists so that the sector can broadly benefit.

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Kenya:

1. Amnesty International
2. Kenya Human Rights Commission

National

The following national organisations and institutions are active in defending freedom of expression and/ or human rights in Kenya – Kenya Human Rights Organisation, Arterial Network Kenya chapter through its affiliation with Art Watch Africa.

CASES OF REPRESSION

- **Play banned over upsetting remarks:** Mumias, Kenya: The Ministry of Education officials banned a winning play from the National Drama Festival set for Mombasa in April 2013. According to the Kenya Schools and Colleges Drama Festival Executive Secretary Sirengo Khaemba, the play from Butere Girls in Western Kenya did not meet the national values of cohesion and integration. There was a huge uproar in support of and keelhauling the 'controversial' play by Butere Girls high School. The period during which the issue came up is quite significant. It was the 'let us keep the peace and move on' period. A period when any utterances questioning, dissenting or raising concern about things going wrong was immediately categorized as hate speech and gagged. A period referred to as the return of the 'Republic of Fear'. What was exasperating was the castigation of the Media house that first aired the story, a condemnation of both the school and the playwright, and the apparent uniformed support for the Kenya National Drama Festival's unprocedural, unconstitutional decision to ban the play on the basis that it would "put national cohesion and integration in danger. A ruling of the petition delivered on 16 April, 2013 by Justice Majanja sheds light into why the protection of the freedom of Artistic Expression is important for a democratic society:

"Artistic expression is not merely intended to gratify the soul. It also stirs our conscience so that we can reflect on the difficult questions of the day. The political and social history of our nation is replete with instances where plays were banned for being seditious or subversive. This is the country of Ngugi wa Thiong'o, Micere Mugo, Francis Imbuga, Okoth Obonyo and other great playwrights who through their writings contributed to the cause of freedom we now enjoy. Some plays were banned because they went against the grain of the accepted political thinking. Kenya has moved on and a ban, such as the one imposed by the Kenya National Drama Festival must be justified as it constitutes a limitation of the freedom of expression. I am not convinced that Kenya is such a weak democracy whose foundation cannot withstand a play by high school students."

- Nairobi, Kenya (CNN) A white bus drives through Nairobi at midnight. It looks like the type tourists hire to drive out on safari but this one is stuffed with a gang dressed in black hoodies. They target Kenya's political elite with a single message-- they are graffiti artists whose work likens their nation's political leaders to vultures. «We tried many other animals like the hyena but the closest animal that describes a Kenyan politician is the vulture. They prey on the weak,» says Boniface Mwangi, a Kenyan photographer and the group's leader. Mwangi marshals his artists at a blank white wall next to a bank. A graffiti artist named Uhuru focuses a tiny projector onto the murky wall as Banksy and Smokey spray the first black outlines. They put up traffic cones to make it all look a bit more official. These Graffiti artists were constantly being arrested by Kenyan police for speaking to the public through Graffiti art.
- Kenyan Artist Ato Malinda was arrested in the streets of Nairobi for her performance art. A recurrent theme in Malinda's artworks, is women's role and social status in Kenya today. In the performance Is Free Dumb, Malinda was personifying the modern Kenyan woman, who reads women's magazines and is dressed in the traditional East African kanga. The performance shows the tension between tradition and modernity, and the cage, that Ato Malinda has put herself in, symbolically points to the legacy of repressive social mechanisms and constraints which women in Kenya are experiencing today. There were many people who did not understand this performance and therefore started gathering around the cage and creating commotion. The police were called and they arrested the artist for creating disturbance despite having had city council licence to perform on the streets. It took a lot of persuasion and bribery to release the artist.

MAURITIUS

SUMMARY

Overall Mauritius has limited censorship in regard to the arts and creative expression (its constitutional rights include freedom of expression). The only censorship apparatus that exists in the country is the Board of Film Censors. However there have been instances of controversy, especially when politics or religion is involved, such as when Rikesh Boodhun showcased a Hindu goddess in the nude.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Mauritius has been a member state of the United Nations since 1968. The country has been committed to the Universal Declaration of Human Rights through its support for UN resolutions dealing with Human Rights that have with time affirmed and re-affirmed the Declaration.

In addition to the UDHR, Mauritius is a signatory to the following international instruments:

- UNESCO's Recommendations concerning the Status of the Artist.
- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2006.
- The International Covenant on Civil and Political Rights ratified in 1973
- The International Covenant on Economic, Social and Cultural Rights in 1973
- The Rome Convention on Intellectual Property

Regional

Mauritius is a signatory to the following regional instruments:

- African Charter on Human and people's rights, ratified in 1992

National

Freedom of Creative expression in Mauritius falls within the constitutional rights of its citizens under the Fundamental Rights and Freedoms of the Individual Chapter; the Protection of Freedom of Conscience Chapter, and the Protection of Freedom of Expression Chapter.

With the objective to allow Mauritians of all cultural denominations the opportunity to participate in religious and cultural activities of their choice and to foster harmony and mutual respect, laws have been enacted to provide for the establishment of different cultural centres.

LIMITATIONS TO ARTISTIC FREEDOM

There are no censorship mechanisms with regards to the creative arts, or creative expression, both in arts and publishing in Mauritania. However, a code of ethics exists in advertising. The only censorship apparatus nationally is the Board of Film Censors.

The Board of Film Censors (under the aegis of the Ministry of Arts and Culture) reviews and rates all films before their public distribution under the Films Act 2002, so as to:

- protect viewers from materials that may be offensive;
- protect children from harmful materials; and
- assist viewers to make an informed choice about the films

(from Annex IV, The Films Act 2002)

So far no provision has been made for visual artists. They enjoy the freedom to show their works as long as it does not violate any section of the constitution.

People impacted

Artists in Mauritius have enjoyed relative freedom in their creative pursuits and productions. There exists many cases of political and religious uproars against some artists' works but none has had a major impact on their fundamental rights so far.

After years of struggle and demands, musicians and singers have obtained the right to a pension after their retirement. The Mauritius Society of Authors (MASA) officially launched the MASA Artists Solidarity Scheme (MASS) in August 2010. Set up and run by MASA, the Artists Solidarity Scheme is a solidarity scheme to support artists who have already retired from the cultural industry. MASA is the second Collecting Management Organisation (CMO) in the African region to set up a solidarity scheme for its members and the first Society in the Indian Ocean.

Motivations

Religious

As a secular state, the country has no religious/traditional laws in place, and the Constitution is the supreme law.

However being a multi-ethnic country, the main problems arise when artists transgress the boundaries of respect and tolerance between different religious groups. This is where we can talk about restrictions on artistic freedoms of expression based on religious argument. These restrictions range from the accusation of "blasphemy" to insulting "religious feelings". Treating iconic religious symbolism in a caricature or in a blasphemous way has proven to incite groups who can be regarded as fundamentalists, to react, sometimes with force and intimidation.

Artworks addressing, representing or exposing nudity are usually prohibited and associated to those resorting to pornography.

Political

Politicians play a big role in Mauritius in promulgating communalism. In many times they are seen to distort certain creative works that touch upon religion to incite more division amongst the different ethnic groups, and in certain cases, they have directly attacked the artists in public and official speeches.

Actors imposing restrictions

Governments and religious leaders are the main actors when it comes to restrictions to freedom of artistic expression.

These actors could censor, threaten, attack, or harass artists.

Economic and financial issues

Public funds or other perks are used to intimidate or censor artists. In 2009, script writer and performer Gaston Valayden was invited by the San Francisco Fringe Festival to play a theatre piece called the Maddogs of Diego, which dealt with the subject of Diego Garcia and the Chagos Archipelago that Mauritius had to trade off to the British to obtain our independence.

The Chagos Archipelago is currently an American naval base, made up of islands rented to Mauritius by the British. Valayden's play treated the subject of forced eviction of the inhabitants of Chagos in a satirical way.

The artist was denied funding from public funds that are available through the Ministry of Arts and Culture (the International Development Grants Scheme for performing artists), under the pretext that the content of his play might create a diplomatic incident. In protest, Mr. Valayden returned the medal of Honour that he had previously received from the President of the Republic. The Prime minister later intervened in favour of the artist as he realized that the decision to deny funding had caused a huge blunder and that the artist's file was treated without really researching the problems and assumptions were made in haste. Mr. V. ...alayden got the support of the Ministry of Arts and Culture to show his play subsequently in 2011 in San Francisco.⁷⁰

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Mauritius:

- Amnesty International Mauritius
- Gender Links Mauritius

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Mauritius:

- Lalit

⁷⁰<http://www.lexpress.mu/story/14482-parlement-mukeshwar-choonee-ratrape-par-les-madogs-of-diego-de-gaston-valayden.html>

CASES OF REPRESSION

1. In 1994, Lindsay Collen (South African born, married to a Hindu Mauritian and a now Mauritian National), published a book "The Rape of Sita" which caused enormous controversy because of its title. In Hindu religion Sita is the wife of Lord Ram. Collen received death threats and even threats of public rape and acid attacks, and the then Prime Minister made a public statement asking the police to act and arrest Collen. Collen withdrew the books from the library shelves, so police did not act. The books are today published by Heinemann and Bloomsbury, and can be found in local and international bookstores.⁷¹
2. "The Satanic Verses" by Salman Rushdie is banned in Mauritius, together with his other books, which can only be ordered online or through post but not sold in bookstores.
3. In June 2005, the young artist Rikesh Boodhun showed a painting titled "Maa" (Mother), which depicted the Hindu Goddess Kali with exposed breasts. The extremist group "the Voice of Hindu" forced their way into the Gallery and took the painting off the wall. The director of the gallery negotiated so that they did not destroy the work as they were threatening to do, and promised to remove the work from the exhibition.
4. Caricaturist Pov from L'Express newspaper in Mauritius regularly receives enormous criticism for his satirical drawings on religion and society in Mauritius but his publisher vehemently defends his creative rights.
5. In 1982, administrative authorities asked artist Firoz Ghantly to remove four paintings from the walls of the municipal gallery Max Bouleee in Rose Hill, Mauritius, because it showed the female nude. The artist removed them because the authorities threatened to close down the show, but also replaced the empty space on the wall with a copy of the Universal Declaration of Human Rights. He was asked to remove that too, which he did, then gathered the press with this issue. He received the support of all fellow artists and intellectuals; however he did not show the nude paintings in the gallery again for the remainder of the show.
6. In 2007, visual artist Nirmal Hurry had one of his artworks refused by the Salon d'Ete organizers- the then director of the National Art Gallery. In his work, comprised of a text in Creole, Hurry made a satirical denunciation of the inability of the local authorities to establish viable policies in the Arts in Mauritius

⁷¹ Interview with Lindsay Collen, November 2011

RWANDA



SUMMARY

Rwanda has achieved impressive development progress since the 1994 genocide perpetrated against the Tutsi and civil war. The country is on course to achieve its MDGs targets by 2015⁷². It is now consolidating gains in social development and accelerating growth. Central to Rwanda's goal is to ensure inclusive development while promoting local development in an environment of good governance. It seeks to foster citizens' empowerment as well as transparency and upward/downward accountability.⁷³ The year 2012 was very interesting for Rwanda. The country was elected to sit on the United Nations Security Council for the next two years while at the same time was accused of supporting the ongoing rebellion in neighbouring Democratic Republic of Congo. The impact of the conflict was that key donors withdrew or suspended aid to Kigali. The country was expected to delay some key projects planned for 2013 following the suspension of aid disbursements, but the success of the Agaciro Development Fund mitigated the negative impact and eventually international aid was restored. The next parliamentary elections are to be held in September 2013 and will be the first to be held in five years.

Rwanda cultural and creative industries are booming and the country is currently questioning the development strategies of this sector. The country is cautious of adopting art disciplines and legal framework that will not serve the national values and priorities. In 2012, Rwanda ratified the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression. A draft cultural policy is still waiting to be fully validated by the Ministry of Culture and the main culture stakeholders. In general, artists benefit of a fairly good level of freedom in their Arts practice. The main hindrance towards the advancement of the sector lies in the lack of Infrastructures, training and education facilities as well as the unclear development policy and funding mechanisms for culture.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Rwanda has been a member state of the United Nations since its independence in 1962. The country therefore recognizes the Universal Declaration of Human Rights.

The office of the High Commissioner for Human Rights is the main body in charge of monitoring adherence to the UDHR, however civil society also monitors adherence.

⁷² Millenium Development Report 2012, Available online
<http://www.un.org/millenniumgoals/pdf/MDG%20Report%202012.pdf>

⁷³ Rwanda country overview, World Bank website,
<http://www.worldbank.org/en/country/rwanda/overview>

In addition to the UDHR, Rwanda is a signatory to the following international instruments:

- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2012.
- The International Covenant on Civil and Political Rights ratified in 1975
- The International Covenant on Economic, Social and Cultural Rights ratified in 1975

To date, Rwanda is not party to the following instruments:

- UNESCO's Recommendations concerning the Status of the Artist.
- The Rome Convention on Intellectual Property

Regional

Rwanda is a signatory to the following regional instruments:

- African Charter on Human and people's rights, ratified in 1981

National

- Rwanda's constitution does not guarantee freedom of creative expression per say. However, it does guarantee cultural rights, freedom expression. Article 33 states that "Freedom of thought, opinion, conscience, religion, worship and the public manifestation thereof is guaranteed by the State in accordance with conditions determined by law. Propagation of ethnic, regional, racial or discrimination or any other form of division is punishable by law". Article 34 also stipulates that "Freedom of the press and freedom of information are recognized and guaranteed by the State".
- The national law have three types of legal restrictions that can impact freedom of creative expression:
 - a) Art work that can qualify as vehicle of hatred propaganda or and divisionism
 - b) Art work that jeopardizes public order
 - c) Art work that touches children protection
- To date, Rwanda has not adopted a cultural policy. However, there are two draft cultural policies. The last draft was presented in 2010. A consultation undertaken by the Ministry of Sports and culture, gathered the main stakeholders in Arts and Culture, to discuss the "creative Arts Policy". No consensus was reached as the document was perceived as not understanding the Rwandan creative cultural sector. The issue is still pending.

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

Obstacles to artistic freedoms in Rwanda do not target a particular category of artists but rather a category of population, women art practitioners; and youth and children audiences⁷⁴. Women making a living as artists, or wishing to engage in artistic careers, continue to be regarded as "different" by the society and some artistic disciplines like drumming are forbidden for them. However, in the most recent times, women projects like "Ingoma Nshya" (new drums) have challenged traditional values and have for the first time allowed seeing women drummers to perform both nationally and internationally in this art discipline. Lastly, young girls from the Muslim communities are allowed to rehearse but not to perform traditional dance because their head and hands can't be covered.

⁷⁴ Rwanda answers to the questionnaire on artistic freedoms prepared by Mrs Farida Shaheed special Rapporteur on cultural rights, ONHRC Website, <http://www.ohchr.org/Documents/Issues/CulturalRights/ConsultationArtistic/CNDPRwanda.pdf>, p.4

Motivations

Religious

Despite the Catholic church complicity in the genocide perpetrated against the Tutsi, Christianity remains the main religion in Rwanda with 56,5% of Roman Catholics, 26% of Protestants, and 11,1% of Adventists. Islam, the second religion of the country represents 4.6% of the population. Lastly, indigenous beliefs share is 0.1%, and atheists share is 1.7% of the population.

« Christian revival » churches influence is more and more important in Rwanda. They play a major role restricting of freedom of creative expression because of their capacity to reach a very important number of people. In general, they tend to consider all non-Christian music as inappropriate for their followers.

There is also some kind of aesthetic censorship in Rwanda. Specific styles of music or visual arts are considered to carry foreign values such as feminine nudity and beauty aesthetics.

Issues relating to gender, sexuality and sexual orientation, in relation to religion and morals, or politics continue to be highly debated in connection with artistic expressions and creations. References to, or descriptions of, homosexual relationships in dance, literature, music and visual arts are particularly badly seen in this context. In this regard, the 2011 contemporary Dance piece "Frontiers: between me and you" by Wesley Ruzibiza was really opposite the official line. Through the provocative examination of "inner and outer" frontiers, it raised the issues of national borders, individual identity, sexual orientation and the boundaries in skin colour, religion and gender.

Political

Although, no law exists to protect public figures from being criticized, high level authorities including those exercising the highest political authority, are not legitimately subject to criticism and political opposition.

Furthermore, in a country that has borders conflict with Eastern Congo, artistic expressions questioning the narrative, the legitimacy or the conduct of the war could be labelled as "unpatriotic".

Actors imposing restriction

Religious leaders and secret services are the main actors when it comes to restrictions to freedom of artistic expression or economic coercion.

Economic and financial issues

Only 0.05% of the national budget is allocated to culture in Rwanda.

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Rwanda:

- Office Of United Nations High Commission ff Human Rights
- Human Rights Watch
- Transparency International

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Rwanda:

- Haguruka

SEYCHELLES



SUMMARY

After successfully neutralising serious political opposition in the 2011 elections, President James Michel improved the country's image among investors, financiers and foreign governments, while minimising turbulence and uncertainty at home. The key economic determinant has been Michel's strategy of rebooting the tourism industry. Since Seychelles is known for its beaches, Turquoise Ocean, and wildlife, its economy depends heavily on tourism.⁷⁵ Seychelles is a diverse country, made up of French, African, Indian, Chinese, and Arab populations, thus its arts and culture sector is also diverse. The citizens of Seychelles enjoy a high per capita income, good health care and education.⁷⁶ For the most part, Seychelles has a vibrant art scene and artists enjoy a high level of freedom of expression, but the press is limited by the government.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Seychelles has been a member state of the United Nations since 1976. The country therefore recognizes the Universal Declaration of Human Rights.

In addition to the UDHR, Seychelles is a signatory to the following international instruments:

- The International Covenant on Civil and Political Rights, ratified in 1992
- The International Covenant on Economic, Social and Cultural Rights, ratified in 1992
- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2005⁷⁷

To date, Seychelles is not party to the following instruments:

- UNESCO's Recommendations concerning the Status of the Artist
- The Rome Convention on Intellectual Property

⁷⁵ The Africa Report 2013

⁷⁶ <http://www.bbc.co.uk/news/world-africa-14093816>

⁷⁷ <http://www.forimmediaterelease.net/pm/6538.html>

Regional

Seychelles is a signatory to the following regional instruments:

- African Charter on Human and people's rights, ratified in 1992

National

The constitution of Seychelles guarantees freedom of expression and creative expression and recognizes cultural rights.

The right to artistic freedom in Seychelles is protected under the Constitution of the Republic of Seychelles (revised Edition 1994), Article 22 states that "Every person has a right to freedom of expression and for the purpose of this article this right includes the freedom to hold opinions and to seek, receive and impart ideas and information without interference."

Despite the constitution's guarantee of freedom of expression, there are some qualifications: "The right under clause (1) [of Charter of Fundamental Human Rights and Freedoms, Article 22] may be subject to such restrictions as may be prescribed by a law and necessary in a democratic society – "(a) In the interest of defense , public safety, public order, public morality or public health;

(b) for protecting the reputation, rights and freedoms or private lives of persons; (c) for preventing the disclosure of information received in confidence; (d) for maintaining the authority and independence of the courts or the National Assembly; (e) for regulating the technical administration, technical operation, or general efficiency of telephones, telegraphy, posts, wireless broadcasting, television, or other means of communication or regulating public exhibitions or public entertainment; or (f) for the imposition of restrictions upon public officers."

Some applicable restrictions to artistic freedom can also be found in Article 39 of the Constitution of Seychelles: "39. (1) The state recognizes the right of every person to take part in cultural life and to profess, promote, enjoy and protect the cultural and customary values of the Seychellois people subject to such restrictions as may be provided by law and necessary in a democratic society including - (a) The protection of public order, public morals and public health; (b) The prevention of crime (c) The protection of the rights and freedom of other persons.

Seychelles has a national cultural policy. The Government of Seychelles adopted The Cultural Policy of the Republic of Seychelles in 2004 as the official document governing all aspects of the protection, promotion, preservation, conservation, and expression of the Cultural Heritage of Seychelles, including all forms of artistic expressions.

There is also the National Arts Council of Seychelles Act (1991) which is responsible for the promotion and protection of artists, their artistic creations as well as their respective rights and freedoms.

The Creative Industries Policy (2012), Chapter 6: Creative Workers and Creative Entrepreneurs also states: "This Creative Industries Policy recognizes the importance of enshrining the rights of professional artists, creative workers and creative people and improving their status in Seychelles. The Government will continue to ensure the legal, regulatory and economic conditions necessary for the exercise of their creative work and guarantee the protection of their copyright which involves the suppression of piracy."

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

Obstacles to artistic freedoms in Seychelles impact mainly journalists.

Motivations

Religious

There was no mention in the report of any religious reason for limiting artistic freedom in Seychelles.

Political:

In the past decade, the government has monopolized the radio and television industry and passed strict libel laws that are used against opposition voices. There have been occasional attacks aimed at media workers. The constitution grants the minister of information the power to prohibit the broadcast of any material deemed contradictory to “national interest.”⁷⁸

Actors imposing restrictions

Governments, the police and secret services are the main actors when it comes to restrictions to freedom of artistic expression.

Artists could face threats, attacks, harassment, blacklisting, and arrests from these actors.

Specific measures and practices impacting on the right to freedom of artistic expression

The Film Classification Board, governed by The Film Classification Act of 1994, and regulates the exhibition, transmission, and sale or hire of films. According to the Act, Clause 3 (5) the Board is at liberty to regulate its own procedure. However, the Board is still answerable to the Principal Secretary for Culture as well as the Minister of Tourism and Culture.

Economic and financial issues

The country has inadequate means for sponsoring artists in order to create innovative artistic creations that will enhance the development of respective artistic domains. Raw materials both for artists and artisans are not easily available because artists have to depend on imports from abroad. The prices of materials have also soared with the current inflation and economic depression.

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Seychelles:

- Amnesty International
- Human Rights Watch

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Seychelles:

- The National Arts Council of Seychelles

⁷⁸ <http://www.freedomhouse.org/report/freedom-press/2012/seychelles>

- Seychelles Agency for the Creative Industries, created in 2013
- The Seychelles Authors and Composers Society (SACS)
- Atelye Pour Apran Nouvo Atrizana (APANA)⁷⁹
- Association of Seychellois Craftmen⁸⁰
- Centre for Rights and Development (CEFRAD)⁸¹
- Association of Concerned Citizens of Seychelles⁸²

CASES OF REPRESSION

On July 10, 2011, police confiscated the camera of the editor of opposition newspaper, *Le Seychellois Hebdo*, and deleted photos he had taken while reporting on an antinarcotics operation in Mont Fleuri.⁸³

In October 2011 a court convicted *Le Nouveau Seychelles Weekly* chief editor **Ralph Volcere** of contempt and sentenced him to “delivering an apology” to an Appeals Court judge. In December 2011 Volcere had been arrested and charged with contempt of court for allegedly discrediting the judge in a December 2011 newspaper article.⁸⁴

SOMALIA

SUMMARY

Somalia has suffered from major Human Rights crisis for the past 20 years. The country is not party to the main international and regional instruments protecting freedom of artistic expression. Artists are continually faced with intimidation and killings coming from religious leaders implementing a strict and harsh interpretation of Islamic Sharia law.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Somalia has been a member state of the United Nations since 1986 and is a signatory to the Universal Declaration Human Rights. Nonetheless, for the past 20 years, the country has suffered a Human rights crisis, characterized by serious violations of human rights and humanitarian law. The protection of civilians in the context of the armed conflict, combined with impunity and lack of accountability, has been of major concern. The lack of rule of law and the climate of insecurity has created an environment in which certain categories of professionals, such as journalists, judges, and artists are increasingly targeted for extrajudicial killings⁸⁵.

Apart from the UDHR, Somalia is a signatory the following international instruments:

⁷⁹ <http://apanango.org/index.php>

⁸⁰ <http://www.civilsociety.sc/wp-content/uploads/2013/03/LUNGOS-COMMISSION-INDEX.pdf>

⁸¹ <http://www.civilsociety.sc/wp-content/uploads/2013/03/LUNGOS-COMMISSION-INDEX.pdf>

⁸² <http://www.civilsociety.sc/wp-content/uploads/2013/03/LUNGOS-COMMISSION-INDEX.pdf>

⁸³ http://photos.state.gov/libraries/mauritius/882940/hr_2012_seychelles/seychelles_2012_human_rights_report.pdf

⁸⁴ http://photos.state.gov/libraries/mauritius/882940/hr_2012_seychelles/seychelles_2012_human_rights_report.pdf

⁸⁵ United Nations political office for Somalia,
<http://unpos.unmissions.org/Default.aspx?tabid=9739&language=en-US>

- The International Covenant on Civil and Political Rights ratified in 1990
- The International Covenant on Economic, Social and Cultural Rights ratified in 1990

To date, Somalia is not party to the following instruments:

- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression
- UNESCO's Recommendations concerning the Status of the Artist
- The Rome Convention on Intellectual Property

Regional

Somalia is a signatory to the following regional instruments:

- African Charter on Human and People's Rights, ratified in 1986

National

- Somalia does not have a constitution as such. Its organising document is the Transitional Federal Charter for the Somali Republic, which is distinguished from a constitution. This charter recognizes Islam as the national religion and the sharia as the main source of national legislation.

Somalia's charter does not guarantee cultural rights, nor does it ensure the freedom of creative expression. However, the charter does refer to freedom of expression but in a very vague way. Article (19) of the Transitional Charter on the right to assemble and freedom to strike states that "Everyone shall have the right to freely express his/her opinion orally, in written form, or in any other manner, without censorship"⁸⁶.

- To date, Somalia does not have a cultural policy

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

No information is provided by the questionnaires

Motivations

Religious

Somalia is a very rigid Islamic country. Almost all Somalis are Sunni Muslims and Sharia is the rule of law. Attitudes, social customs and gender roles in Somalia are based primarily on Islamic tradition. Therefore issues relating to gender, sexuality and sexual orientation, in relation to religion and morals are highly controversial and subject to censorship and/or punishment.

Political

- No information is provided by the questionnaire

⁸⁶ Somali Transitional Charter. Transitional Federal Charter for the Somali Republic, February 2004, available at: <http://www.refworld.org/docid/4795c2d22.html> [accessed 24 June 2013]

Actors imposing restrictions

Governments, religious leaders, the army, the police and secret services are the main actors when it comes to restrictions to freedom of artistic expression.

Under the old regime, artists could face threats, attacks, harassment and arrests from these actors. It remains to be seen to what extent this will change now that the revolution has taken place.

Economic and financial issues

There is no budget for culture set aside by the government.

SUPPORTING INSTITUTIONS

1. International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Somalia:

No information is given by the questionnaire

2. National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Somalia:

- The Peace and Human Rights Network (PHRN)
- Somali Human Rights Defenders Networks (SOHRIDEN)

CASES OF REPRESSION

- Somali artists who remain in the country – because they are either unable to flee or have chosen not to do so – are continually faced with targeted killings, intimidation, injuries, and deprivation of their basic rights to work and express themselves freely by all sides in the conflict, but these violations are not reported to the outside world.⁸⁷ On 18 June 2008, unidentified men armed with knives killed a multi-skilled musician singer in Mogadishu: the musician Abdulkadir Adow Ali was stabbed to death.
- During the occupation of Mogadishu by the Al-Qaeda-affiliated militant group Al Shabaab up until August 2011, many Somali artists were either forced to work in secret or stop practising their art for fear of retribution and punishment – even death - by the extremist group who were fighting to overthrow the government and implement a strict and harsh interpretation of Islamic Sharia law.⁸⁸

⁸⁷ <http://freemuse.org/archives/1304>

⁸⁸ UNPOS - <http://www.flickr.com/photos/unpos/sets/72157632584510150/comments/>

UGANDA



SUMMARY

President Museveni was elected to a first term through a non-party election in 1996. He has been in power for 17 years and is expected to seek re-election in 2016. Parliament lifted the two five-year presidential term limits, which allowed President Museveni to seek a third term in office.

President Museveni's current term in office has been characterized by increased opposition action and mounting parliamentary pressure on the government, especially over governance. Nevertheless, since 2005, the country has not seen any major security incidents.

On the creative and cultural side, the constitution guarantees freedom of expression and right of association but not freedom of creative expression. Gender and sexuality issues are highly controversial; reference to a homosexual relationship in the artistic field is illegal. Election time in Uganda is dangerous, and during this time, public and political figures are not subject to public criticism. Essentially, the government in Uganda severely limits artists' creative freedom, especially when it comes to politics.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Uganda has been a member state of the United Nations since 1962. Uganda is signatory to the Universal Declaration of Human Rights (UDHR) and therefore has a moral obligation to advance the rights.

In addition to the UDHR, Uganda is a signatory to the following international instruments:

- The International Covenant on Civil and Political Rights ratified in 1995
- The International Covenant on Economic, Social and Cultural Rights in 1987. Article 15 of ICESCR recognizes everyone's right to freely participate in cultural life. Although Uganda is a signatory to this declaration, it has not been fully domesticated because of the government.

To date, Uganda is not party to the following instruments:

- The Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Uganda has not yet ratified this Convention. The Ministry of Gender, Labour and Social Development (MGLSD) conducted national wide consultations for the ratification of the Convention and the process for ratification is still on going.
- UNESCO's Recommendations concerning the Status of the Artist

Regional

Uganda is a signatory to the following regional instruments:

- African Charter on Human and People's Rights, ratified in 1986

National

The 1995 Uganda's **Constitution of the Republic of Uganda** does not ensure the freedom of creative expression. However, the constitution does guarantee freedom of expression and the right of association.

In terms of cultural rights, Article 37 of the 1995 Constitution of Uganda provides as follows: "Every person has a right, as applicable, to belong to, enjoy, practice, profess, maintain and promote any culture, cultural institution, language, tradition, creed or religion in community with others."

The 2006 Uganda National Culture Policy, provides the framework for the promotion of culture for development and complies with international and regional instruments on culture. The policy also promotes social change and encourages adapting new ideas and approaches within laws of Uganda. Although the policy emphasizes protection and respect for culture, it does not have mitigation measures to stop rampant destruction of heritage sites.

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

The music industry in Uganda is very vibrant. Obstacles to artistic freedoms usually impact musicians as well as all those participating in the creation, production, distribution and dissemination of music.

Motivations

Religious

Issues relating to gender, sexuality in relation to religion and morals, continue to be highly controversial in connection with artistic practice. The 2009 Anti-Homosexuality Bill sought the death penalty against people convicted of aggravated homosexuality with minors and those who knowingly infect others with HIV. Therefore, sexual orientation and reference to homosexual relationship face particular censorship in the cinema field.

Artworks that represent or expose nudity are also likely to fall under the 2010 anti-pornography bill, as they can be considered to resort to pornography or certain forms of pornography. References to, or descriptions of, homosexual relationships in literature, music and visual arts are criminalized in Uganda.

Political

Election time in Uganda is usually a very dangerous time for critical artists. In election periods, public figures, including those exercising the highest political authority, are not subject to criticism and political opposition.

About 70% of radio stations in Uganda are owned by politicians, severely compromising independent journalism and limiting creative expression.⁸⁹

Actors imposing restrictions

Governments, religious leaders, the police and secret services are the main actors when it comes to restrictions to freedom of artistic expression. Artists could face threats, attacks, harassment and arrests from these actors.

⁸⁹ Report by Ellady Muyambi

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Uganda:

- Human Rights Watch (HRW)
- United Nations office of the High Commissioner for Human Rights (UNOHCHR)
- Commonwealth Human Rights Initiative (CHRI)
- United Nations High Commissioner for Refugees (UNHCR)
- Foundation for Human Rights Initiative (FHRI)

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Uganda:

- Uganda Human Rights Commission (UHRC)
- Uganda Legal Information Institute (ULII)
- Human Rights Concern (HURICO)

CASES OF REPRESSION

Artists in Uganda have been adversely affected by different types of intimidation other than those legally or culturally based. Political intimidation is one form of intimidation. For instance, when Ronald composed his song “Turikubunkenke Twena” meaning “we are all badly off”, the political leadership threatened to arrest him. All media houses were politically intimidated not to play the song in their studios. Another song titled “Emboko” by Master Teacher was also banned in the country.



Another serious challenge facing artists in Uganda is death threats. For example, in January 2010, police shot at and injured musician Bebe Cool, whose real name is Moses Ssali, the son of the veteran politician Jaberu Bidandi Ssali.

Banning of “State of the Nation” and “The River and the Mountain”:

“In Uganda, the emphasis on state or state-sanctioned censorship has appeared to do with suppressing views that contradict or criticise the government’s position and practices. The second dominant form of censorship in the last few years has to do with the issue of homosexuality. The government seems worryingly far less concerned with issues like the pornographic content in some national newspapers.

The two plays that were banned in 2012, not coincidentally, raised issues that provoked the government’s primary concerns: opposition politics and homosexuality. The government’s position when it banned these two plays was ostensibly to protect the peace and the moral beliefs of the country respectively.”⁹⁰

⁹⁰ <http://startjournal.org/2013/03/censorship-and-the-arts-in-uganda/>

CENTRAL AFRICA



CAMEROON



SUMMARY

Since achieving independence, Cameroon has remained very stable politically. Paul Biya and the ruling party, “Rassemblement Démocratique du peuple Camerounais RDPC” won the presidential elections in 1997, 2004, and 2011. The next legislative elections are scheduled for September 2013.⁹¹ Internally, there are tensions over the two mainly English-speaking southern provinces. Cameroon has one of the highest literacy rates in Africa. However, the country’s progress is hampered by a level of corruption that is among the highest in the world.⁹²

Artists in Cameroon do not enjoy a high level of freedom of creative expression. The constitution does not explicitly mention any freedoms or rights. To pursue a career, many artists go elsewhere, especially in France. Manu Dibango, a Cameroonian saxophonist, is convinced that “the next musical generation will have to leave Cameroon en masse like ‘musical guerrillas’, to seek new horizons, given how costly freedom of creativity is in the country, and how little anyone cares for anything more than ‘wheeling and dealing.’”⁹³

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Cameroon has been a member state of the United Nations since 1960. The country recognizes the Universal Declaration of Human Rights. The National Commission on Human Rights and Freedoms is the state mechanism to monitor adherence to the UDHR.

In addition to the UDHR, Cameroon is a signatory to the following international instruments:

- UNESCO’s Recommendations concerning the Status of the Artist
- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2007
- The International Covenant on Civil and Political Rights, ratified in 1984
- The International Covenant on Economic, Social and Cultural Rights, ratified in 1984

⁹¹ Cameroon country overview, World Bank Website
<http://www.worldbank.org/en/country/cameroon/overview>

⁹² Cameroon Profile, News Africa, BBC website
<http://www.bbc.co.uk/news/world-africa-13146029>, accessed on July 7th 2013

⁹³ http://academia.edu/3682177/Entertaining_Repression_Music_and_Politics_in_Postcolonial_Cameroon

To date, Cameroon is not party to the following instruments:

- The Rome Convention on Intellectual Property

Regional

Cameroon is a signatory to the following regional instruments:

- African Charter on Human and people's rights, ratified in 1984

National

- Cameroon's constitution does not guarantee cultural rights, nor does it ensure the freedom of creative expression. In fact, there is no explicit mention of any rights and freedoms by the constitution. Nevertheless, the constitution makes very strong references to the Universal Declaration of Human Rights and to the African Charter on Human and Peoples' Rights.
- Cameroon's cultural policy recognizes artistic freedoms, freedom of expression and freedom to participate in cultural life.

LIMITATIONS ON ARTISTIC FREEDOM

Motivations

Religious

Restrictions of artistic freedoms based on religious arguments in Cameroon usually emanate from a strict application of Islamic principles. In the northern regions of Cameroon, the influences of foreign religious extremists groups like Boko Haram, have a negative impact on freedom of creative expression. Issues and artworks relating to what is referred to as "immoral social phenomena" such as pornography, homosexuality and prostitution are highly controversial and censored.

Actors imposing restrictions

Governments, religious leaders, are the main actors when it comes to restrictions to freedom of artistic expression. Artists could face social marginalization, from these actors.

Specific measures impacting on the right to freedom of artistic expression

Restrictions of artistic freedoms in Cameroon result from oppressive laws and regulation. Censorship practices in Cameroon allow the State to interfere and restrict freedom of creative expression for all art forms. Censorship bodies are mandated to decide on possible restrictions on artworks. Censorship is channelled through three governmental ministries: the Ministry of Arts and Culture, The Ministry of Local Government and the Ministry of Commerce. Both prior censorship, occurring before the production or publication of an artwork, and post censorship, restricting the distribution of an artwork, occur in Cameroon.

Economic and financial issues

One of the main challenges faced by artists in Cameroon is the issue of poverty. Artists are generally economically disadvantaged in this country. The State support to the creative sector is mainly aimed at encouraging the development of literature. However, all art forms are supported. The Ministry of Culture is in charge of the disbursement of the funds allocated through the 2001 treasury special account⁹⁴.

⁹⁴ UNITED NATIONS OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, *Responses to the questionnaire on the right to artistic freedom, Member State: Cameroon, OHCHR website*, <http://www.ohchr.org/Documents/Issues/CulturalRights/ConsultationArtistic/Cameroon.pdf> accessed on June 20th

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Cameroon:

- Fédération Internationale Des Ligues De Droits De L'homme
- United Nations Centre For Human Rights And Democracy In Central Africa
- Transparency international
- Sight Savers Cameroon

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Cameroon:

- National Commission on Human Rights and Freedoms Cameroon
- Cameroon network of human rights organizations

CASES OF REPRESSION



In March 2013, Cameroonian filmmaker Richard Fouofie Djimeli was abducted by unidentified men. Djimeli was found alive in April, but his body had been harmed, including the amputation of a finger. The director and actors from his film, "139...Les dernières prédateurs" ("139... The last predators") received death threats weeks before the film's launch, warning them to stop the screening of the film. The movie is about a 139-year-old totalitarian regime in an imaginary country named Chimpanz. It is believed that the film satirises Paul Biya's regime.⁹⁵



Lambo Sandjo Pierre Roger, better known as Lapiro de Mbanga, a popular Cameroonian singer, was arrested in 2008 for criticizing President Paul Biya in the song "Constitution Constipée."⁹⁶

⁹⁵ http://www.ifex.org/international/2013/05/14/artistic_censorship/

⁹⁶ <http://www.postnewsline.com/2008/04/political-repre.html>

CONGO BRAZAVILLE



SUMMARY

Since the adoption of a new constitution in 2002, the Republic of Congo has been relatively stable and is still continuing efforts to strengthen peace, leading to the establishment of democratic institutions. President Denis Sassou Nguesso won re-election in the presidential elections held on July 12, 2009, and is serving a new seven-year term.

Although Congo's constitution guarantees cultural rights, ensures the freedom of expression and freedom of creative expression, artists do not enjoy a high level of freedom of expression. Radio and TV stations are state controlled and opposition voices are silenced.⁹⁷

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Congo has been a member state of the United Nations since 1960. The country therefore recognizes the Universal Declaration of Human Rights. The high commission of Human Rights is the body in charge of monitoring adherence to the UDHR, however the civil society also monitors adherence.

In addition to the UDHR, Congo is a signatory to the following international instruments:

- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2008
- The International Covenant on Civil and Political Rights, ratified in 1983
- The International Covenant on Economic, Social and Cultural Rights, ratified in 1983
- The Rome Convention on Intellectual Property, ratified in 1962

To date, Congo is not party to the following instruments:

- UNESCO's Recommendations concerning the Status of the Artist

Regional

Congo is a signatory to the following regional instruments:

- African Charter on Human and people's rights, ratified in 1981

⁹⁷ <http://www.freedomhouse.org/report/freedom-world/2013/congo-republic-brazzaville>

National

- Congo's constitution guarantees cultural rights, ensures the freedom of expression and freedom of creative expression.
- To date, Congo has not adopted a cultural policy

SUPPORTING INSTITUTIONS

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Congo Brazzaville:

- Observatoire Congolais des Droits de l'Homme
- Rencontre pour la Paix et les Droits de l'Homme
- Commission Justice et Paix
- Erwill Promo Entertainment⁹⁸

DEMOCRATIC REPUBLIC OF CONGO



SUMMARY

Since 2001, the country has been recovering from a series of conflicts that broke out in the 1990s. In 1999, following the signing of the Lusaka Peace accords, a transitional government was established, pending the holding of presidential elections in 2006, which were held peacefully. The second presidential elections, held in November 2011, gave rise to concerns about the credibility and transparency of the electoral process in the DRC. The resurgence of conflicts in the eastern part of the country is an important challenge to be met for the stabilization of the country.⁹⁹

For the most part, artists do not enjoy a high level of freedom of expression in the Democratic Republic of Congo. The government cracks down on political opposition. Artists who do not share the vision of those in power are often marginalized and subject to repression. Musicians, writers and filmmakers have the highest risk of being repressed because the message they convey is easily identifiable.

⁹⁸ <http://freemuse.org/archives/1145>

⁹⁹ DRC country overview, World Bank Website, <http://www.worldbank.org/en/country/drc/overview>

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

The Democratic Republic of Congo (DRC) succeeded to Zaire in 1997. Zaire had been a member state of the United Nations since 1960; therefore the DRC acceded to all the conventions previously signed by the former government. The DRC recognizes the Universal Declaration of Human Rights. The state has set up an interdepartmental committee which role is to monitor adherence to the UDHR. This body provides periodical reports on the status of Human Rights.

In addition to the UDHR, DRC is a signatory to the following international instruments:

- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2010
- The International Covenant on Civil and Political Rights, ratified in 1976
- The International Covenant on Economic, Social and Cultural Rights, ratified in 1987

To date, DRC is not party to the following instruments:

- UNESCO's Recommendations concerning the Status of the Artist
- The Rome Convention on Intellectual Property

Regional

DRC is a signatory to the following regional instruments:

- African Charter on Human and people's rights, ratified in 1987

National

- DRC's constitution guarantees cultural rights and ensures freedom of expression. However, freedom of creative expression isn't mentioned. To date, DRC has not adopted a cultural policy.

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

All artistic disciplines in Congo are potential targets of repression. But some art forms are more repressed because the message they convey is easily identifiable. In this regard, writers, filmmakers and musicians (rappers) are more vulnerable than other artists.

Motivations

Religious

« Christian revival » churches are growing and their influence is more and more important in DRC. They play a major role in the restrictions of freedom of creative expression. They have their own TV and radio channels and the trend is to censure all non-Christian music considered as pagan, satanic, against religious precepts or as vehicle of witchcraft. Christian preachers, particularly from charismatic and Pentecostal churches, have reinforced popular superstitions while whipping up emotions.

Political

Artists who do not share the vision of those in power are often marginalized or subject to repression. The Congolese government funds or supports in one way or another, artists who make the regimes propaganda. They receive money in exchange of their "artistic" support to the regime or to high officials, especially during elections.

The “frontier conflict” with Rwanda in the Kivu Region is another factor that impacts artistic freedoms. Aesthetic expressions questioning the official narrative, the relationship between these countries, and legitimacy of the war are frequently marginalized. The accusation of being “unpatriotic” can be levelled at artworks criticizing the Government.

Actors imposing restrictions

Governments and religious leaders are the main actors when it comes to restrictions to freedom of artistic expression. Artists in DRC could face censorship, threats, attacks, harassment and arrests from these actors.

Economic and financial issues

Only 0,032% of the national budget is allocated to culture in DRC.

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in DRC:

- Journalistes en danger
- Avocats sans frontières
- Réseau action femme

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in DRC:

- La voix des sans voix
- Association des femmes avocates du Congo

CASES OF REPRESSION

Junior Kudur Kasongo, the head of CMC TV, a private television channel broadcasting in Kinshasa, was arrested in August 2011 by three men who presented themselves as officers of the National Commission on Censorship. Kasongo was accused of “unauthorized distribution” of a music video from Zaïko Langa Langa’s album “Bande annonce” (“Trailer”). The video displays a new form of dance by the band, that was allegedly immoral.

In June 2004, the Committee of Censorship banned all Congolese rap groups and foreign music, a decision made by the Attorney General of the Republic. The reason given for banning the music is that rap music is “obscene and violent, and causes the youth to behave badly.”¹⁰⁰

In April 2006, **Guy Kabeya Muya** a filmmaker from the Democratic Republic of the Congo, was severely beaten by armed men who threatened to kill him because of his relations with foreigners. In 2009 he received death threats for having worked on the film *Katanga Business as assistant director to Thierry Michel*.¹⁰¹ This case is very characteristic of the ambiguous relation between the State and freedom of creative expression. Indeed, although this film received all necessary regulatory approvals, both ministerial and departmental¹⁰² it did not stop the government from threatening him.

¹⁰⁰ <http://freemuse.org/archives/270>

¹⁰¹ <http://www.africanfilmny.org/2013/guy-kabeya-muya-and-monique-mbeka-phoba/>

¹⁰² <http://www.spla.pro/fiche.php?no=5136&type=murmures>

SOUTHERN AFRICA



MALAWI



PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Malawi has been a member state of the United Nations since 1964. The country therefore recognizes the Universal Declaration of Human Rights.

In addition to the UDHR, Malawi is a signatory to the following international instruments:

- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2006
- The International Covenant on Civil and Political Rights, ratified in 1993
- The International Covenant on Economic, Social and Cultural Rights, ratified in 1993

To date, Malawi is not party to the following instruments:

- UNESCO's Recommendations concerning the Status of the Artist
- The Rome Convention on Intellectual Property

Regional

Malawi is a signatory to the following regional instrument:

- African Charter on Human and people's rights, ratified in 1990

National

- Malawi's constitution is the supreme law of the land. It provides for the full protection and enjoyment of human rights. The Constitution contains a Bill of Rights which drew inspiration from major international human rights instruments. Malawi's constitution does refer to cultural rights. Section 26, provides that "every person has the right to use the language and to participate in the cultural life of his choice. The country promotes the enjoyment of culture by its citizens". This is witnessed by the formation of numerous associations that promote their Heritage and the presence of several cultural and traditional dance troupes.

No specific reference is made to freedom of creative expression. However, the constitution does guarantee freedom of expression and the right of association. In Section 35, the Constitution states that "every person shall have the right to Freedom of Expression".

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

Obstacles to artistic freedoms in Malawi impact the artists as well as all those participating in the creation, production, distribution and dissemination of artwork. They include authors, musicians and composers, performers and distributors. Indeed, several local music distributors have been intimidated and were forced to stop distributing music considered not acceptable. As a result of the censorship practice which is very common in Malawi, audiences may also be affected.

Motivations

Religious

There is no significant religious influence affecting the artists' creativity. However, the moral issues in different religions will define what type of art will be accepted. Traditions also have an impact on the perception of art, specific styles of music or visual arts deemed to carry a foreign ideology to be immoral and not Malawian.

Political

- Censorship is the main source of restrictions of artistic freedom in Malawi. Apart from self-censorship, two main instruments are to restrict freedom of creative expression in this country:
 1. The 1968 Censorship and Control of Entertainments Act regulates films, public entertainment and publications for the sake of public morals. It controls the making and exhibition of cinematographic pictures; the importation, production, dissemination and possession of undesirable publications, pictures, statues and records; the performance or presentation of stage plays and public entertainments. Its implementation body, the Censorship Board draws its mandate from the same act. In 2002, the censorship law was reviewed. The censorship board currently runs four core technical services: Film classification services, regulation of public entertainment performances and public entertainment facilities, law enforcement against pornography, and public education on censorship regulations. Regulation is done through the various licences, permits, classification certificates, film classification services, routine inspections, investigations and law enforcement campaigns.
 2. In Malawi, public figures exercising the highest political authority are not subject to criticism. Insulting the President is an offence protected by the 1967 Protected Flag, Emblems and Names Act. Any person who does any act or utters any words or publishes or utters any writing calculated to or liable to insult, ridicule or to show disrespect to or with reference to the President, shall be liable to a fine of £1,000 and to imprisonment for two years.¹⁰³
- Self-censorship is also very common in Malawi. There is a legacy from the years of oppression (1964-1994) where artists couldn't express freely their views or criticize the system. This has resulted in a fear that continues to be part of the Malawian society. And although Freedom of expression and freedom of opinion are provisions guaranteed by the constitution, there is no ownership of the right and only few artists take that path.
- It is interesting to notice that these acts coexist with a constitution that ensures freedom of expression. Several attempts have been made in order to have this act suppressed but with no success to date.

¹⁰³ Protected Flag, Emblems and Names Act, 1967, http://ppja.org/countries/malawi/flag_emblems_names.pdf

Actors imposing restrictions

Governments, religious leaders, the police and secret services are the main actors when it comes to restrictions to freedom of artistic expression. Artists could face threats, attacks, harassment and arrests from these actors.

Economic and financial issues

In general, practicing arts is not financially rewarding in Malawi. Therefore arts practitioners in Malawi are vulnerable to government intimidation because it is the main source of funding and recognition.

SUPPORTING INSTITUTIONS

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Malawi:

- Civil Liberties Committee
- Malawi Human Rights Resource Centre
- Centre for Human Rights and Rehabilitation (Malawi)
- Malawi Watch
- Human Rights Consultative Committee

CASES OF REPRESSION

Lucius Banda's music and adverts were banned from state-controlled Malawi Broadcasting Corporation after criticizing president Mutharika. Despite the fact that his critics were based on real issues, he was viewed as partisan because the musician was a member of the opposition party, the United Democratic Front. Protesting voices against the ban have faced difficulty to prove their allegations because of the absence of significant evidence that the directives came from the office of the president or that there is a policy in place that aims to censor any opposition targeting the elite.

NAMIBIA



SUMMARY

Namibia continues to enjoy political stability since gaining independence in 1990, after a long struggle against South African rule. President Hifikepunye Pohamba was re-elected for a second and last five-year term in November 2009 after winning 76.4% of the votes. His governing South West Africa People's Organization party got 74% of the parliamentary vote, maintaining its two-thirds majority. The main opposition party won 11.3% of the vote. African observer missions declared the election largely free, fair and peaceful, except for minor and isolated incidences.¹⁰⁴

Artists in Namibia relatively work under a normal creatively free environment. Today, artists in Namibia are able to freely express themselves through different art forms.

The recent developments in the industry have shown some advanced and improved practices of creative expression. The music industry which is experiencing tremendous growth has been showing many artists exploring more with their freedom of expression; this is evident in their lyrics. Moreover, there have been several nude photographic and fine art exhibitions on the visual arts scene.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Namibia joined the United Nations in 1990, after gaining its independence from South Africa. The country recognizes the Universal Declaration of Human Rights.

In addition to the UDH, Namibia is a signatory to the following international instruments:

- UNESCO's Recommendations concerning the Status of the Artist
- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2006
- The International Covenant on Civil and Political Rights, ratified in 1994
- The International Covenant on Economic, Social and Cultural Rights, ratified in 1994
- UNESCO's Recommendations concerning the Status of the Artist

¹⁰⁴ African Economic Outlook 2012 11 | © AfDB, OECD, UNDP, UNECA, <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/Namibia%20Full%20PDF%20Country%20Note.pdf>

To date, Namibia is not party to the following instrument:

- The Rome Convention on Intellectual Property

Regional

Namibia is a signatory to the following regional instrument:

- African Charter on Human and people's rights, ratified in 1992

National

The Namibian constitution recognizes freedom of expression and cultural rights. Two articles make indirect reference to freedom of creative expression. Article (19), states that "Every person shall be entitled to enjoy, practice, profess, maintain and promote any culture, language, tradition, or religion subject to the terms of this Constitution and further subject to the condition that the rights protected by this Article do not impinge upon the rights of others or the national interest"

Article (21) states that; "(a) all persons shall have the right to freedom of speech and expression, which shall include freedom of the press and other media,(b) freedom of thought, conscience and belief, which shall include academic freedom in institutions of higher learning; (c) freedom to practise any religion and to manifest such practice; (d) assemble peaceably and without arms; (e) freedom of association, which shall include freedom to form and join associations or unions, including trade unions and political parties;...."

The "Unity Identity and Creativity for Prosperity" paper serves as the policy on arts and culture of the Republic of Namibia. This document was introduced in 2001 by the Ministry of Basic Education, Sports and Culture. It was formulated in line with the constitution but also considering the Universal Declaration of Human Rights, the UNESCO recommendations on Culture and Status of Artists, the World Report on Culture, the OAU policy on culture Industries Development and the SADC policy on culture, Information and Sports.

The national policy on arts and culture has three general aims. The goals are to support the concept of unifying the nation through its diverse cultures, to protect, promote and maintain the nation's heritage as well as generally promote the expression of all cultural and artistic practices. The government also has a direct responsibility over all national arts institutions in terms of maintenance and sustainability.

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

Artists in Namibia relatively work under a normal creatively free environment. Comparisons have been made with the situation before the country's independence, where proactive films and music were banned by the colonial government. Today, artists in Namibia are able to freely express themselves through different art forms.

The recent developments in the industry have shown some advanced and improved practices of creative expression. The music industry which is experiencing tremendous growth has been showing many artists exploring more with their freedom of expression; this is evident in their lyrics. Moreover, there have been several nude photographic and fine art exhibitions on the visual arts scene.

Motivations

Religious

As mentioned above Namibian artists benefit from a fairly good level freedom of expression. Nevertheless there are social norms that tend to place limitations on them. The issue of self-censorship that was highly pin-pointed in the questionnaire is linked to the fact that more than 90 percent of people in Namibia are Christians. This forces artists to conform to pre-set social values.

There is also some kind of aesthetic censorship; Arts in Namibia being prejudiced to be foreign and overlooked as belonging to western practices. Therefore arts have been less considered by Namibian society.

Actors imposing restrictions

Governments, religious leaders, the police and secret services are the main actors when it comes to restrictions to freedom of artistic expression.

Economic and financial issues

Artists are still economically challenged in Namibia. To find economic freedom in the arts is a major challenge. There is a lot of economic exploitation of artists and their skills by arts managers, institutions and even corporate funders. More than half of practitioners across all artistic practices do not have formal education. This has been one of the reasons why the exploitation has been very prevalent over the years, and obviously affecting the freedom of creative expression.

SUPPORTING INSTITUTIONS

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Namibia:

- National Institute of Democracy
- Legal Assistance Center
- NAMRIGHTS

CASES OF REPRESSION

- Although censorship is not common in Namibia, there have been a few cases of both direct and indirect censoring of artistic works. The case of the local singer **Lady May** is an example. She made what was referred to as a 'disrespectful and insulting' remark upon her acceptance of her music award. Her material was banned from national television and radio until the day she delivered a public apology.
- One of the most controversial satirical staged plays was 'The show isn't over until' by **Vickson Hangula**. In order to perform outside the country, the director had to cut out some of its provocative text as it was funded by the government.
- One of the most interesting events occurred in the visual arts fraternity. This was a case between visual artist Laidlow Peringanda and the National Art Gallery in the year 2000. Peringanda presented his statue which depicted begging hands to the jury. The statue was then selected for exhibition and upon the day of this exhibition, Peringanda placed dry human feces which he then placed in these hands. When these feces were removed by the gallery officials, Peringanda placed charges and accused the arts institution of interfering with his work. The gallery defended itself on the grounds that the piece of art was not presented to the jury as exhibited by the artists. Peringanda lost the case.
- In 2006, a photo of a nude model as part of an exhibition on women and child abuse caused quite a stir among conservative members of the society, resulting in withdrawals of support to well-known entertainment Namibian company, Avalon.
- The theatre director, **Fredrick Philander** who explored with nudity and violence on the live stage.
- The Namibian film director **Richard Paklepa** in 'Three and a half lives of Philip Wetu' explored sexual scenes in their productions.

SOUTH AFRICA



SUMMARY

The Republic of South Africa occupies the southernmost point of the African continent. Along with Namibia it was one of the last African countries to be decolonised' in the early 1990s. Nelson Mandela was elected the first leader of a democratic South Africa in 1994. It has a population of 51,770,560 (2011 Census).

South Africa is a country of tremendous cultural variation with eleven official languages and nine distinct provinces with variations of climate and landscape. Its cultural life is informed by a troubled past ranging from the erasure of its precolonial societies by invasions and the changes wrought by colonisation and apartheid in its wake. Today, South Africa's sophisticated modern economy is still largely in the hands of a privileged white and increasingly black minority and lives side by side with a largely black informal economy where most of its citizens eke out a living. South Africa's major challenges relate to the transformation of its society so that the majority of its population can enjoy the fruits of its recent transition to democracy. By most accounts, while there have been significant changes over the last twenty years, that process of transformation still has a long way to go and many obstacles to overcome.

South Africa has the most sophisticated and well-resourced infrastructure supporting the arts, culture and heritage sector on the continent. In 2011, for example, available public funding for the sector amounted to approximately R2.4 billion (USD240 million), while the value of works held by its public art institutions, for example, is estimated conservatively at R2.2 billion. Yet South Africa's glaring inequalities are also reflected in its creative life – between access to the arts for rich vs poor, to abundant infrastructure in certain parts of its major cities, and poor infrastructure in most of the rest of the country.

South Africa's constitutional order entrenches a central state with provision for authority delegated to nine provinces and municipalities. The ruling African National Congress and its alliance partners controls most of these with the significant exception of the Western Cape where the official opposition, the Democratic Alliance, holds sway.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

South Africa was one of the founding 51 members of the United Nations in 1945. Yet it is worth noting that South Africa (along with 7 other countries) abstained from voting for the UNDRH when it was adopted – this in the context of an ascendant Afrikaner nationalist movement in the country which sought to protect the privileges of South Africa's white minority population. In 1948, the National Party came to power in South Africa with a strong mandate to implement the policy that became known as *apartheid*.

On 11 February 1994, South Africa's Prime Minister, FW De Klerk announced the unbanning of the liberation movements in the country, including the Pan Africanist Congress and the African National Congress, and the release of all political prisoners including the most celebrated of them all, Nelson Mandela. This announcement came after a protracted period of political upheaval inside the country and a massive international mobilisation to pressurise the regime into creating the conditions for free elections and the transition to a democracy on the basis of universal suffrage. The resulting political transition saw the adoption of a universally feted constitutional order in South Africa and the adoption by the Constitutional Assembly of a new constitution on 8 May 1996.

The country therefore recognizes the Universal Declaration of Human Rights. There is no state mechanism to monitor adherence to the UDHR, however civil society does monitor adherence. Many of these are however entrenched in its Constitutional Bill of Rights.

In addition to the UDHR, South Africa is a signatory to the following international instruments:

- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified 21 December 2006.

Monitoring of adherence to these instruments is done primarily by Arterial Network South Africa (ANSA). While ANSA is not currently a member of the Federation on Cultural Diversity, it has provided reports to UNESCO, the most recent of which was published in [April 2012](#).

To date, South Africa is not party to the following instruments:¹⁰⁵

- UNESCO's Recommendations concerning the Status of the Artist
- Convention for the Safeguarding of the Intangible Cultural Heritage. Paris, 17 October 2003.
- Convention on the Protection of the Underwater Cultural Heritage. Paris, 2 November 2001.

Regional

South Africa is not a signatory to the following regional instrument:

- African Charter on Human and people's rights.¹⁰⁶

National

- On Freedom of Expression the South African Bill of Rights contained in its Constitution says:
 - Everyone has the right to freedom of expression, which includes
 - freedom of the press and other media;
 - freedom to receive or impart information or ideas;
 - freedom of artistic creativity; and
 - academic freedom and freedom of scientific research.
 - This right does not extend to
 - propaganda for war;

¹⁰⁵ "South Africa - Non Ratified Conventions," n.d., http://www.unesco.org/eri/la/conventions_by_country.asp?con=ZA&language=E&typeconv=0.

¹⁰⁶ "List of Signatories to the African Charter for Cultural Renaissance," n.d., <http://www.africa-union.org/root/au/Documents/Treaties/list/Cutural%20Renaissance%20Charter.pdf>.

- incitement of imminent violence; or
- advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.

The Bill of Rights also guarantees

- The right to freedom of movement and residence
- The right to fair labour practice, association, collective bargaining.
- Human dignity
- Equality before the law
- Freedom of security of person which includes the right not to be detained without trial or tortured.
- The right to privacy

LIMITATIONS TO ARTISTIC FREEDOM

The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including:

- the nature of the right;
- the importance of the purpose of the limitation;
- the nature and extent of the limitation;
- the relation between the limitation and its purpose; and
- less restrictive means to achieve the purpose.
- Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

Motivations for restricting artistic freedom

- South Africa has seen numerous controversies around the subject of artistic freedom. All these debates occur against the backdrop of censorship and repression under the previous apartheid regime. Hundreds of artists and entire swathes of creative society were destroyed in the government's efforts to introduce apartheid measures such as the Group Areas Act, the Land Act and the Immorality Act, to name a few. Many artists were jailed or fled into exile.
- In South Africa many of the old freedom fighters have become the new elite. Others have become the opposition, and yet others have become voices within civil society. So often the public rhetorical contests are couched in terms of the moral right to speak about the inadequacies for the present against those of the past. As the new political elite extend its influence through society, problems of 'incumbency' arise – the dilemmas of responsibility and accountability that come with political power and economic ascendancy. The ruling ANC has itself acknowledged these challenges in its own internal discussions. To read the South African newspapers is to be fed a daily diet of stories about the failures of government, of service delivery protests, of corruption and incompetence in government, and critically, of the attempts by government to defend its record and manage these perceptions by gaining political control over or restricting the media and working to limit constitutionally held freedoms.
- In their turn, government role players regularly criticise the media for its continued adherence to

the views of those who were previously privileged under the old regime. In some cases, speakers from within the ranks for the political elite also question the integrity and fairness of media coverage of corruption and government failures and conflicts within the ruling ANC-led alliance.

- Many artists and cultural organisations also take to self-censorship because they fear that public monies may be denied them if they speak up. Given the crucial development work that many of the entities perform, a choice is made between political boldness on one hand, versus choosing to benefit marginal and poor communities they may be serving on the other. There is also the related perception that those occupying positions of favour within the ruling elite, by virtue of political or struggle connections, are more likely to get access to the public resources available for the arts, thus creating an added incentive to tread cautiously in making public criticisms of government. There have been examples of party and government officials pulling support for, walking out of or actively dismantling exhibitions or works that fell foul of their cultural, political or religious sensibilities.

SUPPORTING INSTITUTIONS

International

The following international organisation is active in defending freedom of expression and/or human rights in South Africa:

Open Society Foundation of South Africa

National

Human Rights Commission

South Africa's Constitution provides for a number of institutions to protect the freedoms contained in its Bill of Rights and its general provisions. These are outlined in Chapter Nine of the Constitutions and are collectively referred to as the Chapter Nine Institutions. They include the Public Protector, the Human Rights Commission, the Electoral Commission and the Commission on Gender Equality.

Public Protector

CASES OF REPRESSION

The Spear – Freedom vs Dignity

- In a country with entrenched freedoms under a constitutional order, freedom is vigorously contested, especially when the perceived failures and weaknesses of the elite are laid bare. So, for example a painting by the artist Brett Murray is instructive. The work, borrowing an iconic image of Russia's revolutionary leader, Lenin, to depict South African President Jacob Zuma with his penis exposed was roundly condemned by many in the ruling African National Congress as insulting and inappropriate and impinging on the dignity of the President as defined within a traditional African cultural context. To many others not necessarily in the President's camp, the artist indeed had gone too far. Many commentators from across the political spectrum also expressed criticism of the work, especially a long history of the politics of sexualising black bodies – a subject which itself has been the object of many curatorial projects in the visual arts. Yet, in public discussions among artists and civil society role players, it was also clear that many artists were very supportive of Murray's right to produce and exhibit the work despite these concerns

and because his freedom to do so was more important than the cultural sensitivities which may be offended in the process. For some, the controversy was an indication of the increasing sensitivity of the ruling elite to this kind of criticism, precisely because it touched a raw nerve – commenting on a culture in which powerful politicians such as Zuma could misbehave – in sexual and ethical terms - with impunity because of their positions and because of their struggle credentials. These artists felt that the arguments about respect for black were often invoked defensively and opportunistically more than sincerely.

SWAZILAND



SUMMARY

The Kingdom of Swaziland is widely recognised as an absolute monarchy and a non-party state where executive authority lies in the king as the head of state, governing with his Advisory Council and traditional advisers.¹⁰⁷ The economy of Swaziland is very closely linked to South Africa, which accounts for over 90% of Swazi imports and about 64% of Swazi exports¹⁰⁸.

Under the cover of very valuable traditions and customary law, of consensus, respect to the elders and respect to the King, the country has a very repressive legal framework preventing art practitioners and citizens in general to criticize the highest level of the authority. There are no legal censorship organs per se, but many forms of informal censorship, such as the practices of the public and private broadcasting houses, raise concern. The result is that the creative sector of Swaziland is usually silenced and is not able to question the status quo.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Swaziland has been a member state of the United Nations since 1961. The country therefore recognizes the Universal Declaration of Human Rights.

In addition to the UDHR, Swaziland is a signatory to the following international instruments:

- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2012
- The International Covenant on Civil and Political Rights, ratified in 2004
- The International Covenant on Economic, Social and Cultural Rights, ratified in 2004

To date, Swaziland is not party to the following instrument:

- The Rome Convention on Intellectual Property.

¹⁰⁷ DIMPHO MOTSAMAI, Swaziland's non-party political system and the 2013 tinkhundla elections Breaking the SADC impasse?, Institute of Security Studies, August 2012, Available on ISS Website, <http://www.issafrica.org/uploads/SitRep2012Aug.pdf>

¹⁰⁸ Swaziland country overview, World Bank Website <http://www.worldbank.org/en/country/swaziland/overview>

Regional

Swaziland is a signatory to the following regional instrument:

- African Charter on Human and people's rights, ratified in 1995

National

The Swaziland 2005 constitution democratic legitimacy was contested because the constitution-making process was highly defective, and effectively vested legislative power in the king, Mswati III, who can veto all legislation approved by parliament¹⁰⁹.

Swaziland's constitution guarantees freedom of expression and the right of association. However no specific mention is made to cultural rights, or to freedom of creative expression. Section 24 of the constitution states that "a person has a right to freedom of expression and opinion. Section 25 also states that "a person shall not except with the free consent of that person be hindered in the enjoyment of the freedom of expression, which includes freedom of the press and other media".

To date Swaziland does have a cultural policy

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

Obstacles to artistic freedoms in Swaziland impact the artists themselves, whether professionals or amateurs, as well as all those participating in the creation, production, distribution and dissemination of artwork.

Motivations

Traditions

Swaziland customs and traditions cannot be ignored when analysing freedom of creative expression. Below are a series of non-written laws and customs restricting directly or indirectly artistic freedoms:

- **Elethu- Consensus:** Decision making in Swaziland is governed by consensus and is community driven rather than conflict oriented. The challenge with this decision making process is that it doesn't take into account individual rights and arts is in essence linked to individual freedom of expression.
- **Bunfu - Respect:** This concept can also be defined as humanity, understanding, acceptance and consideration. This is the cultural norm in Swaziland. Its general principle is that citizens of the country are expected to display this kind of behavior whereby they do not hurt, discomfort, embarrass, and expose others. This in turn limits freedom of creative expression as people may not wish to support creative works that is considered embarrassing for other people.
- **Labadzala – Respect of the elders:** This concept of respect applies specifically to elders of the nation comprising His Majesty the King, and more generally elders of the community. Respect in the context is always applied by virtue of age. The impact on freedom of creative expression is that most arts practitioners are young, especially those in performing art in Swaziland. They cannot freely question their elders through their creative works because according to Swazi Law and Custom that is a sign of disrespect and can be an offence.

¹⁰⁹ DIMPHO MOTSAMAI, Swaziland's non-party political system and the 2013 tinkhundla elections Breaking the SADC impasse?, Institute of Security Studies, August 2012, Available on ISS Website, <http://www.issafrica.org/uploads/SitRep2012Aug.pdf>

- **Umlomo Longacali Manga - “The king cannot lie”**: This concept solely refers to the King. It is a cultural taboo to think that the king may tell lies no matter what circumstances. Although recently, there have been cases where the King and his representatives have made contradictory statements in official speeches, artists cannot easily use that in their work because they can be charged under Swazi Law and Customs. Artists cannot fully address and analyze utterances by king no matter how it affects the population.

Political

In Swaziland anything dealing with the political environment or criticizing government cannot be broadcasted. Within the editorial policy of the broadcasting houses there is no possibility one can bring material that is either viewed obscene or political. As seen above, laws on matters such as disrespect for authority, disrespect of the King or “the King cannot lie” concept clearly affects artistic freedoms by limiting the scope of subject the artists can engage with.

One additional important concept restricting freedom of creative expression is the **Kubulawa**. This refers to the appointment of a person by the king to do national assignment. For instance if the King appoints the Head of Government who is the Prime Minister and if such a person mismanages his work, according to Swazi culture, he cannot be criticized because he is a king’ appointee and criticizing him would mean criticizing the king. That again limits freedom of creative expressions as artists may not be called to answer for criticism they make against the Head of Government.

Actors imposing restrictions

Governments, broadcasting houses, police, traditional leaders, civil society are the main actors when it comes to restrictions to freedom of artistic expression.

Artists could face social marginalization, threats, censorship, harassment and arrests from these actors.

Specific measures and practices impacting on the right to freedom of artistic expression

Restrictions on artistic freedoms in Swaziland are mainly the result of oppressive laws and regulations.

Proscribed Publications Act of 1968

The Act empowers the Minister of Information to declare by notice published in a gazette that any publications or series of publications “Prejudicial or potential prejudicial to the interest of the defense, public safety, public morality or public health” be revoked. This Act restricts the content of the publication. This in a way limits the creative sector from criticizing the King and his government. It prohibits the printing, publishing, selling, distribution of undesirable publications. This act also states that during a prosecution of any person under the act, if there is a proof that he has been in communication with, or attempted to communicate with a foreign agent, in Swaziland or elsewhere it shall be presumed that he has been attempting to obtain information prejudicial to the safety or interests of the country which information is likely to be used directly or in directory by an enemy.

Obscene Publication Act of 1927

The Act restrains or prohibits the publication of obscene material generally. The underlying justification of this is that such publications are offensive to public morality. The main problem with this act is that regulations are implemented without consistency and by non-transparent mechanisms with no possibility of appeal.

Cinematography Act of 1968

This act prohibits the making of films African films portraying promoting gathering of African or Africa life. The permission must be sought first from the Prime Minister beforehand. It is felt that important data, cultural information, videos and pictures will never be preserved because of these restraints. Arguments advanced by nationalist and Swazi customary authorities are that the nature of the Swazi customary

events are to be handed down from mouth to mouth from generation to generation, not through the mass and other forms of media.

Informal censorship

- Creative material that can be seen to be political and culturally sensitive cannot be broadcasted in the public broadcasting houses and the citizen will never get a satisfactory response on the reasons.
- Police confiscate creative material that they think is political and cultural insensitive.
- Program officers in all government ministries censor the work of arts and they make it a point to protect the status quo.
- School Principals censor programs targeting children in schools and always refer you to the Ministry of Education, a bureaucratic process.

CASES OF REPRESSION

Yebo Art Design wrote a report on the state of the arts in Swaziland and sent part of the report to the media houses. One of them published it. Part of the report was expressing dissatisfaction on National Tihlabani Awards Ceremony in which people in the creative sector are awarded. The CEO of the Swaziland National Council of Arts and Culture sent an email message to the director of Yebo Arts Design to retract that on the report and apologize.

ZAMBIA



SUMMARY

Zambia was colonised in the 1800s and ruled by Britain as Northern Rhodesia until it made a peaceful transition to independence in 1964. Kenneth Kaunda, who led the country during and for the three decades after independence, introduced central planning into the economy and nationalised key sectors including the copper mines. His policy, along with a drop in copper prices, are blamed for the country's current economic troubles. Zambia is known for its relatively stable political system and transparent government. However social conditions are tough; poverty is widespread, life expectancy is among the lowest in the world and the death rate is one of the highest - largely due to the prevalence of HIV/Aids. Michael Sata of the Patriotic Front was elected president in September 2011, defeating the Movement for Multi-party Democracy (MMD) which had held power for the previous 20 years.¹¹⁰

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Zambia has been a member state of the United Nations since 1964. The country therefore recognizes the Universal Declaration of Human Rights.

In addition to the UDHR, Zambia is a signatory to the following international instruments:

- The International Covenant on Civil and Political Rights, ratified in 1984
- The International Covenant on Economic, Social and Cultural Rights, ratified in 1984

To date, Zambia is not party to the following instruments:

- UNESCO's Recommendations concerning the Status of the Artist
- The Rome Convention on Intellectual Property
- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression

Regional

Zambia is a signatory to the following regional instruments:

- African Charter on Human and people's rights, ratified in 1984

¹¹⁰ <http://www.bbc.co.uk/news/world-africa-14112922>

National

While the constitution of Zambia does provide for protections of freedom of expression, it places limits on what can be expressed. It has an Act which forbids Pornography but does not clearly define what Pornography is, so, for example, a drawing of a nude scene might potentially be defined as pornography. The government has clamped down on artists using the Article 177 (i) Penal Code Chapter 87 of the Laws of Zambia to control what is deemed as pornography as opposed to artists right of expression which includes nude art.

Zambia adopted the definition of culture enshrined in the UNESCO Mexico City Declaration of 1982 on Cultural Policies to which Zambia is a signatory as; 'The whole complex of distinctive spiritual, material, intellectual and emotional features that characterize a society or social group. It includes not only the arts and letters, but also modes of life the fundamental rights of the human being, value systems, traditions and beliefs.' The MMD government domesticated the Declaration through the National Cultural Policy of June 2003.

Despite domesticating the Declaration, the MMD government has failed to appreciate the fundamental role that arts and culture plays in national development. Instead arts and culture have been reduced to the celebration of traditional ceremonies only to the detriment of promoting cultural diversity for national development. The MMD government has used traditional ceremonies as a forum for political campaigns and thereby diluting the very important display of our deep cultural heritage.

This has been compounded by lack of provincial and district arts and cultural centres and the MMD government's failure to establish the long awaited national arts and cultural centre.

The Music, Literature and dance have evolved qualitatively. There are deliberate policies to promote Dance and culture in the school curriculums. The Musicians have formed an association. The Arts on the other hand do have Art as a subject, but there are no evident policies from government to purposely promote Art and exhibitions. The new government in the Patriotic Front manifesto have debated the promotion of Arts.

Despite domesticating the Declaration, the MMD government has failed to appreciate the fundamental role that arts and culture plays in national development. Instead arts and culture have been reduced to the celebration of traditional ceremonies only to the detriment of promoting cultural diversity for national development. The MMD government has used traditional ceremonies as a forum for political campaigns and thereby diluting the very important display of our deep cultural heritage.

This has been compounded by lack of provincial and district arts and cultural centres and the MMD government's failure to establish the long awaited national arts and cultural centre.

Zimbabwe does not have a cultural policy.

But the government has a plan of action to promote arts and culture for national development:

- "Depoliticize traditional ceremonies and promote unity by ensuring that guests of honour at such ceremonies are traditional leaders from other chiefdoms instead of government functionaries;
- Establish the national arts and cultural centre;
- Establish provincial and district arts and cultural centres;
- Promote research in the fields of arts and culture;
- Encourage public and private investment in the development of arts and culture infrastructure in cities, towns and villages;
- Support visual and performing artists by incorporating them in government programmes;

- Protect intellectual property; and
- Introduce legislation to promote the above."

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

Artists in Zambia are fairly restricted, as the previous MMD government has failed to understand the significant role that arts and culture plays in society. The new PF government hopes to change this.

Motivations

Religious

Religious establishments in Zambia have significantly restricted creative expression, always making reference to a breach of moral-based doctrines. Religious laws even work against some traditional norms of artistic expression. Essentially there is always a moral conflict between tradition and religion. It is ironic to realise that traditionalists have assumed religious totems as well for the sake of identity and opportunities for power struggle.

A depiction of nudity in art is seen as very offensive in religious terms as it is often said to corrupt morals of society, but traditional ceremonies do have elements of nudity, as they evoke the spirit of their celebrated ancestors.

Political

Artists who are critical of the government are often repressed. Freedom of speech is guaranteed in the constitution, but journalists who express opposition against the government can face legal harassment and physical intimidation. As a result, journalists commonly practice self-censorship.

Actors imposing restrictions

Governments, religious leaders, the police and secret services are the main actors when it comes to restrictions to freedom of artistic expression.

Artists could face threats, attacks, harassment and arrests from these actors.

Specific measures and practices impacting on the right to freedom of artistic expression

The Drug Enforcement Commission (DEC) has been very oppressive in the artists development as it has been used to violate and abuse artists rights of expression by tramping up unfounded charges as a way of silencing them. The DEC has the power to censor and shut distribution channels. The personnel that operates within this censorship body are not very educated to understand the role of creative expressions in society; they just shut avenues without question. Zambian artists can only fully express themselves when they come to the western world.

The Defamation Act infringes on the expression of independent and critic views, limiting freedom of expression and information in Zambia.¹¹¹

Economic and financial issues

Zambia's government deliberately has not invested or allocated enough resources for artists to develop their artistic potential. The government leaves the arts to fend for itself in the harsh economic environment.

¹¹¹ <http://www.parliament.gov.zm/downloads/VOLUME%206.pdf>

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Zimbabwe:

- Amnesty International
- Jesuit Centre for Theological Reflection (JCTR)
- South African Legal Assistance Network (SALAN) Secretariat
- Caritas Zambia

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Zimbabwe:

- Human Rights Commission of Zambia
- The Post Freedom Committee
- Legal Resource Foundation
- Zambia Civic Education Association

CASES OF REPRESSION

In 2000 a young artist by the name of **Nsofwa Bowa** was commissioned to work on public sculptures in the city of Ndola at one of the roundabouts. These sculptures depicted a typical portrayal of Zambian women, exposing the breasts and half way wrapped with chitenge (traditional material wrapping cloth). A huge debate on radio, T.V. and print media ensued. Much of the criticism emanated from religious and gender based organisations. Women lobbied to have the sculptures either removed or be dressed and hide those 'sensitive' parts of the human body.

In his hit satirical song "Tomato," **Cullen Chisha**, also known as "Twice," used the symbol of tomato to lament rising prices of basic commodities and the daily struggle of regular citizens, while politicians were get richer. The song enjoyed massive air, but was immediately banned from the public broadcaster for criticizing political officials.

In 2004 the Drug Enforcement Commission raided the office of the Henry Tayali Visual Art Centre and Insaka International Artists Trust in Lusaka to search for obscene content. A mysterious pornographic video tape was found at the Henry Tayali Visual Art Centre by DEC. On the same day the Insaka International Artists Trust office was searched and documentation of a collaborative art performance by

a Zambian artist **Lutanda Mwamba** and South African artist Norman O Flynn that was recorded during the 2003 Insaka International Artists Workshop was found. **Vincentio Phiri** the Chairperson of Insaka and his coordinator **Zenzele Chulu** were arrested for possession of obscene material contrary to Article 177 (i) Penal Code Chapter 87 of the Laws of Zambia. An art expression where artists used bodies smeared with paint to print on canvas was regarded as pornographic according to the arresting officers.



ZIMBABWE



SUMMARY

The Republic of Zimbabwe, previously governed as the colony of Southern Rhodesia, received its independence from Britain in early 1980. Despite the introduction of a policy of reconciliation and independence in 1980 there was an element of continuity as the new black government inherited not only most of the restrictive and repressive colonial legislation but also the strong-arm, commandist approach towards governance. The authoritarian tendency inherited from Rhodesia was seen again in the 2000s backlash as systematic, non-democratic means were applied by the Zanu-PF government to maintain order and to prevent protest voices from being given space. Today, President Robert Mugabe presides over a nation that is economically and politically unstable, rampant with inflation and food and fuel shortages.¹¹² The country is in the process of reforming its constitution. Once adequate policy and material support is provided, the arts and culture sector of Zimbabwe has the potential to grow and gain international recognition.

The constitution does guarantee certain fundamental rights, such as freedom of conscience, of expression and of assembly and association, but harsh censorship and qualification acts allow the government to control Zimbabwe's arts and culture sector. Overall, artists in Zimbabwe are restricted when it comes to freedom of creative expression, rarely for religious reasons, but more for political or social ones. There are, however, many organisations in Zimbabwe fighting for human rights and freedom of creative expression. Along with a new constitution in place, the arts and culture sector in Zimbabwe should flourish.

PROTECTION IN INTERNATIONAL, NATIONAL AND REGIONAL INSTRUMENTS

International

Zimbabwe has been a member state of the United Nations since 1980. The country therefore recognizes the Universal Declaration of Human Rights.

In addition to the UDHR, Zimbabwe is a signatory to the following international instruments:

- UNESCO's Recommendations concerning the Status of the Artist
- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, ratified in 2008
- The International Covenant on Civil and Political Rights, ratified in 1991
- The International Covenant on Economic, Social, and Cultural Rights, ratified in 1991

¹¹² <http://www.bbc.co.uk/news/world-africa-14113249>

To date, Zimbabwe is not party to the following instrument:

- The Rome Convention on Intellectual Property

Regional

Zimbabwe is a signatory to the following regional instruments:

- The Convention Concerning the Protection of the World Cultural and Natural Heritage (1972), ratified in 1975
- Berne Convention for the Protection of Literary and Artistic Works, ratified in 1981
- African Charter on Human and people's rights, ratified in 1986
- African [Banjul] Charter on Human and Peoples' Rights, ratified in 1986
- Cultural Charter for Africa (Port Louis, 1976), ratified in 1988
- Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, entry into force in 2004

National

It is important to note that President Mugabe signed a new constitution into law in May 2013, but when this report was conducted, the Lancaster constitution, written during the time of British rule, was still in effect.

The Lancaster constitution does not have specific provisions catering for freedom of creative expression or cultural rights. However, it has an entrenched Bill of Rights (Chapter III – The Declaration of Rights), that is fully justiciable and contains a detailed list of fundamental rights and freedoms enjoyed by all citizens. These include the right to:

- a) life, liberty, security of the person and the protection of the law;
- b) freedom of conscience, of expression and of assembly and association; and
- c) protection for the privacy of home and other property from compulsory acquisition without compensation.

Despite recognizing these fundamental rights, the constitution provides that the right to free movement, assembly, conscience, expression, and association are subject to qualification by any law which is made in the interests of defence, public safety or public order. Such limitations only apply if they are "reasonably justified in a democratic society." This clause has been abused by the government.

The National Arts Council of Zimbabwe Act was established in 1985 to provide for the establishment of the National Arts Council of Zimbabwe to foster, develop and improve the knowledge, understanding and practise of the arts in Zimbabwe ; to provide for the structure and functions of the National Arts Council; to provide for the Board to manage and control the affairs of the National Arts Council; to provide for the registration and regulation of the arts organizations; to provide for the repeal of the National Arts Foundation Act [Chapter 310]; and to provide for matters incidental to or connected with the foregoing.

Zimbabwe has a cultural policy, launched in 2007 by former Minister of Education, Sport and Culture Aeneas Chigwedere. Representatives of the arts in the country have been lobbying for this national policy to be made more comprehensive in order to create the legal and economic conditions necessary for the flourishing of artist's creative work. At the end of November 2011, a preliminary policy review workshop was held. Artists and art organisations are currently tabling their submissions to the Ministry.

The next few months will tell whether the country's ongoing democratic processes will result in a new path when it comes to adhering to provisions of the relevant international conventions and to protecting the rights and fundamental freedoms of artists.

LIMITATIONS TO ARTISTIC FREEDOM

People impacted

Artists in Zimbabwe do not enjoy a high level of freedom of creative expression. The area of greatest concern for the state is the music industry since it reaches a large audience. Many artists have resorted to self-censorship for fear of being marginalized or exposed to repression.

Motivations

Political

The government's control of all things political has played a major part in negatively shaping the work and conduct of artists. Zimbabwe's government continues to clamp down on any "subversive" commentary and some artists who have gone against the expectations of the "system" have endured harassment and arrest while some of their plays, films and songs have been unconditionally censored or banned. Acts, such as the Criminal Law Act of 2004, are set in place to limit criticism and political opposition to public figures, including those exercising the highest political authority, are subject to criticism and political opposition.

Laws – some which are vague and wide - have been invoked to directly abrogate the individual rights of artists to express themselves through their work.

Besides invoking law, another clear picture that emerges from the cases we give in this study is that the government has sometimes used and abused legal processes in order to discipline artists. In order to control situations where oppositional voices are seen to emerge, for example in matters relating to expressions of Ndebele protest art, monitoring and subtle threats have been made. Detentions and arrests have been carried out, with the release of accused person on bail thwarted, sometimes even without access to evidence that will stand a chance in court.

Social

Art that covers taboo material is often censored. For example, Franco Hodobo had a song banned by the conservative Radio Zimbabwe because it was too explicit when describing French-kissing and passionate fondling.

Actors imposing restrictions

Governments, the police and secret services are the main actors when it comes to restrictions to freedom of artistic expression.

Artists have also been affected indirectly in that access to media platforms that are necessary in disseminating their creativity has been closely controlled.

Artists could face threats, attacks, harassment and arrests from these actors.

Specific measures and practices impacting on the right to freedom of artistic expression

Censorship and Entertainments Control Act (Chapter 10:04) of 2004:

- Regulates and controls the public exhibition of films, the importation, production, dissemination and possession of undesirable or prohibited video and film material, publications, pictures, statues and records and public entertainment;

- Regulates theatres and like places of public entertainment in the interests of safety;
- and provides for matters incidental to the foregoing

Important Clauses of the Censorship and Entertainments Control Act:

- PART II. CENSORSHIP BOARD
 - 3-4- Minister appoints a Board of Censors to examine any article or public entertainment submitted to it and to make such inquiries with regard to any publication, picture, statue, record or public entertainment which is alleged to be or which the Board has reason to believe is of a nature as contemplated in the Act.
- PART III. FILMS AND RECORDED VIDEO OR FILM MATERIAL
 - 9-12 Prohibits the distribution, televising or public exhibition of any film unless the film or copy or recording or film advertisement has been approved by the Board. Board then issues a certificate of approval of films and film advertisements
- PART IV. PUBLICATIONS, PICTURES, STATUES AND RECORDS
 - 13-14 Prohibits the importation, production and dissemination of undesirable publications, pictures, statues and records. Gives the Board power to examine publications, pictures, statues and records and to declare them undesirable or to declare publication or record prohibited through a notice in the government gazette.
- PART V. PUBLIC ENTERTAINMENTS
 - 16 Prohibits public entertainments unless approved and approval signified by means of a certificate.
- PART VI. PROHIBITED EXHIBITIONS AND ENTERTAINMENTS
 - 17 Prohibits certain exhibitions and entertainments.
- PART VIII. GENERAL
 - 33 Defines indecent or obscene or offensive or harmful to public morals as: "(a) indecent or obscene if—(i) it has the tendency to deprave or corrupt the minds of persons who are likely to be exposed to the effect or influence thereof or it is in any way subversive of morality; or (ii) whether or not related to any sexual content, it unduly exploits horror, cruelty or violence, whether pictorial or otherwise; (b) offensive to public morals if it is likely to be outrageous or disgusting to persons who are likely to read, hear or see it; (c) harmful to public morals if it deals in an improper or offensive manner with criminal or immoral behaviour."

Criminal Law [Codification and Reform] Act of 2004

- In Part III. CRIMES AGAINST THE STATE, Article (42) identifies that "causing offence to persons of a particular race, religion, etc." is a crime against the state: "Any person who publicly makes any insulting or otherwise grossly provocative statement that causes offence to persons of a particular race, tribe, place of origin, colour, creed or religion intending to cause such offence or realising there is a real risk or possibility of doing so, shall be guilty of causing offence to persons of a particular race, tribe, place of origin, colour, creed or religion, as the case may be, and liable to a fine not exceeding level six or imprisonment for a period not exceeding one year or both."
- This law could apply to an artist's work if it is seen as offensive to a particular race, tribe, place of origin, colour, creed, or religion, and thus could restrict freedom of creative expression.

Economic and financial issues

The harsh economic environment of hyperinflation since 2000 severely affected artists and although the economic environment has improved, the struggling and fragmented sector is yet to recover.

SUPPORTING INSTITUTIONS

International

The following international organisations and institutions are active in defending freedom of expression and/or human rights in Zimbabwe:

- British Council
- Alliance Francaise
- Goethe-Zentrum/Zimbabwe German Society
- Human Rights Watch
- Amnesty International

National

The following national organisations and institutions are active in defending freedom of expression and/or human rights in Zimbabwe:

- Ministry of Education, Sport and Culture
- The Culture Fund of Zimbabwe Trust
- The National Arts Council of Zimbabwe (NACZ)
- UNESCO Commission
- Zimbabwe Lawyers for Human Rights
- Zimbabwe Human Rights NGO Forum
- Zimbabwe Human Rights Association (ZimRights)
- Zimbabwe Poets for Human Rights (ZPHR)
- Writers International Network Zimbabwe
- Bulawayo Arts Forum (BAF)
- Artists for Democracy Trust
- Zimbabwe Association of Community Theatre (ZACT)
- The Coalition Against Censorship in Zimbabwe (CACZ)
- Zimbabwe Congress of Trade Unions (ZCTU)
- Legal Resources Foundation
- Catholic Commission for Justice and Peace in Zimbabwe (CCJPZ)

- Transparency International Zimbabwe (TI-Z)
- Zimbabwe Council of Churches (ZCC)
- Zimbabwe Association of Doctors for Human Rights (ZADHR)
- Zimbabwe Women Lawyers Association (ZWLA)

CASES OF REPRESSION

On March 26, local visual artist **Owen Maseko**, 36, opened a new exhibition at the Bulawayo National Arts Gallery called 'Sibathontisele' (a glimpse of the past) that was scheduled to run through April. Made up of graphic paintings, 3-D installations, graffiti, and effigies it showed scenes from the turbulent Gukurahundi period when government troops committed atrocities said to have killed thousands in the Matabeleland region from 1983 until the signing of the Unity Accord in 1987. His exhibition left nothing to the imagination depicting gruesome paintings of victims dripping in blood and with glaring portrayals of President Robert Mugabe and the bloodied figure of Joshua Nkomo, the late vice president, bending to sign a peace agreement.

Just one day after the launch of this exhibition police arrested and detained Maseko together with Voti Thebe, the person in charge of the gallery and they filmed all the installation and pictures before leaving. Following Maseko's arrest, his work, reportedly the first of its kind to depict the horror of the genocide in the Matabeleland and Midlands provinces was banned. Newspapers were used to cover the gallery windows, preventing onlookers from seeing the illustrations, graffiti and paintings of what Maseko dubbed, "the decade of horror."



Maseko was initially charged under the Criminal Law and Codification (Reform) Act for purveying "obscenity and ethnic bias". Section 33 of the legislation outlaws undermining the authority of the president and Section 42 makes it a crime to utter provocative statements about race, tribe, place of origin or religion.

"[A]rt has to break boundaries. Art has to move people. Art has to respond to issues and create new stories, new imaginings and new possibilities. When I first decided to produce an exhibition about Gukurahundi, I did not

view myself as a human rights activist, but simply as an artist. However, as the space for open debate continues to close around civil society, political parties and the arts, I have realised that human rights and art in Zimbabwe cannot be separated without seriously damaging both ... for as long as is necessary, art will be a public expression of my human rights and my art will publicly demand human rights.

-Owen Maseko, *Comment: Trials and Tribulations of an artist* (OSISA, 2011)

Performance poet **Comrade Fatso** (Sam Farai Monro) is one of Zimbabwe's most explosive and controversial acts. His band is called Chabvondoka, and their music is called *Toyi Toyi*, radical street poetry that mixes Shona with English and electrifying guitars with mbira and pulsating hip-hop. They released their 2008-album 'House of Hunger' praised internationally but banned by the Zimbabwean authorities because of its outspoken criticism of the government. Together with musicians like Thomas Mapfumo, Leonard Zhakata, Raymond Majongwe, C hirikure Chirikure, Cde Fatso and Chabvondoka are rarely played on ZBH. They have, however, performed extensively, having been invited to perform at festivals all over the world.

In an interview with Freemuse in October 2001, he spoke about how he experienced that cultural activism, such as performing music and organising concerts, which can create social change at the societal as well as at an individual level. However, speaking about censorship he says there's, "... the joke in Zimbabwe, you've got freedom of expression but you don't have freedom after expression."



The politically charged satire "The Good President," which tells the political history of Zimbabwe since independence was a product of a long-time collaboration between **Cont Mladla Mhlanga**, one of Zimbabwe's best known playwrights, actors, and theatre directors, as well as the founder and head of the Amakhosi Cultural Center, and **Daves Guzha** of Rooftop Promotions, who often produces Amakhosi productions. It opened in Harare on April 12, 2007 to good crowds and it certainly provoked serious debate for its portrayal of how Robert Mugabe has ruled the country since then.



During its premier in Harare the play attracted a heavy presence of security officers and the government branded it as anti-establishment and tribal as it touched on the Matabeleland atrocities which claimed over 20 000 civilians. However, for two months, this play ran in various parts of the country, exposing the things it said Mugabe's government does routinely to quash dissent. But by the time the play got to Bulawayo, Mhlanga's home town, the government-controlled Censorship Board finally banned it. It was reported that armed police on foot with guns, rubber batons, shields and teargas canisters, and supported by police dogs barricaded the venue and barred the premier. Police said the play, which was supposed to be premiered at the Bulawayo Theatre, violated sections of the draconian Public Order and Security Act (POSA). The deputy minister of information and publicity, Bright Matonga was quoted after the ban attacking the play, and insisting it was the "work of political activists masquerading as artists."

CONCLUSION

Over the past years, there has been a growing interest in the subject of freedom of creative expression. In the year 2012 a milestone was achieved with the holding of the first World Conference on Artistic Freedom of Expression in Denmark which was organized by Freemuse and Fritt Ord. Over the two days of the conference, more than 50 artists and individuals involved in the arts addressed vital complex issues concerning artists' freedom of expression.

A second milestone was the report made earlier this year, by the United Nations special Rapporteur in the field of cultural rights, Farida Shaheed on *The Right to freedom of artistic expression and creativity*. The exhaustive report was based on responses received from 28 States and 23 other stakeholders to a globally administered questionnaire.

Following this trail in the global effort to protect the right artistic expression, Arterial Network in collaboration with Mimeta and in line with its mandate of defending artists' rights, presented this country profile based report on the status of creative expression on the African continent.

The different country profiles of this report showed that Artists remain at particular risk in certain countries. As their work depends on visibly engaging people in the public domain, states, religious and social groups often try to interfere by blocking their different world views and alternative narratives. There are very serious instances of contraventions to and restrictions of to freedom of creative expression on the African continent. Even in countries like Namibia and Seychelles, with relatively high levels of the artistic freedoms, there is still work to be done in order to mitigate the impact of visible and invisible restrictions. The present conclusion will give an idea of the trends in terms of freedom of creative expression on the African continent.

Legal Framework:

The majority of African countries expressly assert or support cultural rights and freedom of expression in their constitutions, in some laws or, in regional and international conventions to which they are signatories.

There is a disparity of situations on the continent. Some countries, like Seychelles have ratified the main documents protecting freedom of creative expression while others, like Somalia and Eritrea do not yet have a constitution.

Some constitutions expressly protect freedom of creative expression through the protection of "artistic creation" or "artistic creativity". Others protect the right to "artistic/creative expression", freedom of creation", "artistic endeavour", or "cultural creativity", or make reference to freedom of the arts. Many constitutions protect the artistic freedom implicitly through the rights to freedom of expression, to participate in cultural life, to access culture and cultural development.

Although a majority of countries have adopted cultural policies frameworks, these policies are rarely accompanied with implementation and monitoring mechanisms.

People impacted:

The questionnaire shows that obstacles to freedom of creative expression impact not only the artists themselves but also a wide range of people who participate in the creation, production, distribution and dissemination of artwork. It also highlights that some categories of the population are more specifically targeted. In countries like Mauritania and Sudan and Rwanda women artists or women wishing to engage in an artistic career are likely to be marginalized. In Senegal, Mauritania, Egypt and Niger, artists from ethnic and religious minority are also impacted by restrictions to artistic Freedom. Mauritania and Niger are countries that still have a rigid caste system that favours "noble-borns" and still have slavery practices. The artists and griots are part of a specific caste.

In the south of Benin for instance, fabric dying is the exclusivity of the royal family Yemadje. Drum making

and drum rhythms creations are also limited to certain families. A similar restriction is also found in Rwanda where women are not allowed to be drummers.

Religious restrictions

It appears that the more religious the country is, the more artists are threatened.

Islam

The rise of fundamentalist movements such as Al-Shabaab in Somalia and Boko Haram in Nigeria has a very negative impact on freedom of creative expression. In the northern regions of Cameroon, the influences of foreign religious extremists groups like Boko Haram have led to the emergence of censorship towards artwork referred to as “immoral social phenomena” because it is associated with pornography, homosexuality and prostitution.

The strict imposition of the Sharia law and its censorship on many forms of non-religious music is the most notable restriction to artistic freedom. Under the Islamic legal code, issues relating to gender, sexuality and sexual orientation, in relation to religion and morals are highly controversial and subject to censorship and punishment.

In Northern Mali for instance, September 2012, saw the ban by Islamic militants of all music in the country. The armed militants sent death threats to local musicians, many were forced into exile. Live music venues were shut down and militants set fire to guitars and drum kits. Artists in Libya also struggle and have been accused of blasphemy or religious defamation.

Christianity

Islam is not the only religion restricting freedom of creative expression. Indeed, in many Christian countries, artworks addressing, representing or exposing nudity are usually prohibited and associated to those resorting to pornography. In this regard, Uganda seems to be a very restrictive Christian country. Artworks that represent or expose nudity generally fall under the 2010 anti-pornography bill. References to, or descriptions of, homosexual relationships in literature, music and visual arts are criminalized and may fall under the 2009 Anti-Homosexuality Bill.

In Rwanda and the DRC, « Christian revival » churches are growing and their influence is more and more important. They play a major role in the restrictions of freedom of creative expression. They have their own TV and radio channels and the trend is to censure all non-Christian music considered as pagan, satanic, against religious precepts or as vehicle of witchcraft.

Animist beliefs

In Benin, artistic activities or artworks concerned by restrictions include those quoting sacred texts or using religious symbols or figures. For example, artists are prohibited to adopt or imitate in their creations, the outfits of the gods (Sapata , god of the earth, Ninssouhwé , god of the water or Egun god of ancestors). Another prohibition is related to the divine chants. Artists are not allowed to reproduce the melodies or the lyrics of songs performed in the temples of deities. This results in some kind of aesthetic restrictions.

Political restrictions

African governments seem to be ambivalent in their positions towards freedom of expression. On one hand they generally embrace fundamental human rights and freedoms while on the other hand they have a tendency to give themselves escape clauses where they may use the law and order as legitimate means to deny people these rights and freedoms. Quite a number of them are also non-committal and officially, the idea of contemporary culture is too vague & inconsistent, while their idea of traditional culture is too minimal and underestimated.

States often refer to the necessity of regulating the dissemination of artistic expressions considered to,

for example, call for discrimination, hatred and violence against specific groups or person, amount to drug propaganda or contain pornographic content. The necessity to protect children and adolescents against specific contents, such as extreme violence or pornography, the right to privacy and the moral and material rights of authors has also been mentioned in the questionnaire. Sometimes, political restrictions originate in the traditions of the country.

In many countries, public figures, including those exercising the highest political authority, are not subject to criticism and political opposition. In Uganda for instance, election time in Uganda is usually a very dangerous time for critical artists. In Malawi, Insulting the President is an offence protected by the 1967 Protected Flag, Emblems and Names Act . Any person who to show disrespect to or with reference to the President, is be liable to a fine of £1,000 and to imprisonment for two years.

In this regard, the Kingdom of Swaziland might be the most restrictive. Any subject dealing with the political environment or criticizing government can never be broadcasted. Furthermore, there is series of non-written laws and customs restricting directly or indirectly artistic freedoms. Concepts like the Umlomo Longacali Manga - "The king cannot lie" or like Kubulawa – the king cannot be wrong often result in a limitation of artistic freedoms because artists cannot criticize the the Head of Government.

Censorship

Censorship in Africa exists in many different forms. Censorship practices are still imposed at various stages of artistic creation. Responses to the questionnaire indicate that a number of states still have censorship enshrined in their constitutions.

Although informal censorship exists, many countries have set up bodies entrusted with the responsibility of censoring artworks. These bodies are usually authorized to issue distribution restrictions in the area of press, movies and entertainment.

In Tunisia, religious censorship committees have been established. These censorship committees have the power to allow or to ban the publishing of books, theatre plays, dance and films. A visa system for activity authorisation requires acquiring the relevant visa before producing art or raising funds. In Malawi, as well the 1968 Censorship and Control of Entertainments Act regulates films, public entertainment and publications for the sake of public morals.

Self-censorship is also very common. It usually results from a legacy of the years of oppression were artists couldn't criticize the system or express their views freely. This fear continues to be part of the society and hold back creative expression.

In too many cases, regulations are implemented without consistency by non-transparent mechanisms with no possibility of appeal. Cinema and music are at particular risk here.

Economic and financial issues:

Responses to the questionnaire stress that the main impediments artists encounter in their work is their precarious economic and social situation. In Namibia for instance, there is a lot of economic exploitation of artists and their skills by arts managers, governmental institutions and even corporate funders. This in turn obviously affects freedom of creative expression. A similar situation prevails in Malawi were arts practitioners are vulnerable to government intimidation because it is the main source of funding and recognition. In Mauritius, an artist was denied funding from public funds under the motive that the content of his play might potentially create a diplomatic incident. Public funds or other perks are sometimes used to intimidate or censor artists.

With regards to government inputs in the culture sector, it is important to notice that on average, the budget allocated to culture in African countries rarely exceeds 0,55% of the total budget of the country, with a minimum of 0,17% - Côte d'Ivoire and a maximum of 1,25% - Tunisia. This data is not available in: Eritrea, Ethiopia, Somalia, Libya, Sudan and South Sudan.

CASES OF REPRESSION

All the mechanisms of repression/oppression have been found in those countries researched. The most common form of repression are threats, followed by arrests, harassment, black listing and social marginalization, and finally, attacks. Somalia and Eritrea are the only countries in which assassination and kidnapping occurs. Physical punishment is also found in Sudan and South Sudan.

LIMITATIONS AND THE WAY FORWARD

The present report is an important step towards understanding restrictions of freedoms of creative expression on the continent. Nevertheless, it suffers from many lacks that need to be addressed in the second phase of the project.

- The questionnaire was not built in order to fully understand the nature of repression nor did it make room to capture the most important information, the cases of repression.
- The choice of the researchers also was an issue. Some of them did not understand that they were researching artistic freedoms and although they provided valuable information, it wasn't related to this aspect but rather on freedom of expression in general. It also appeared that in some cases the researchers did not understand the topic at all. Additional training and methodology needs to be developed in order to equip the researchers with the necessary skills to undertake this very sensitive task.
- Another problem is the type of researchers recruited for the task. Governmental researchers often tended to provide information that favours their State and sometimes even to provided wrong information. This was also the case for the UN governmental responses. There is a need for a more strict selection and follow-up to reduce the disparity of the qualitative and quantitative information.
- As much as we tried to focus on artistic repression in this study, we have noticed that a wider range of variables have to be taken into account in order to understand fully the state of freedom of expression. It would be important in future research to also examine the socio-economic factors, such as the prevalence of conflict & violence, and the flow of capital (especially access to resources – money, space etc) but also movement, in terms of raw materials – such as minerals, & human capital - such as cross border refugee situations, and migration.
- It would also be important to consider and make reference to other important initiatives that have attempted to clarify the situation on the ground. One such activity was “the condition Report” conference that took place at Raw Material in Dakar in January 2010, organized by Koyo Kouoh.
- In the second phase of Art Watch Africa, input from African professionals who have represented the continent in a lot of initiatives in the last 20 years have to be captured. The report would be very detailed if it had the input of people like Okwi Enwezor, Simon Njami, Bisi Silva, Ngone Fall, Salah Hassan, Jimmy Ogonga, Koulsy Lamko, Koyo Kouoh and so on. They have played a massive role in moderating contemporary culture on the continent, and also articulating the various positions that contemporary art on the continent has had. These are just a few names. There are many more.
- Also, there are places & spaces like the university of Witts - Joburg, Dakar biennial - Dakar, Alexandria & Cairo biennials - Egypt, Apartment 22 – Morocco, and so on, which have worked hard to try and articulate the realities of their societies. If this process does not consult them, it is as if we are re-inventing the wheel all over again.
- Lastly, Education will have to have a particular place. Art Watch Africa needs to look at the consequences of having a weak education system – especially in sub-Saharan Africa. In as much as we stereotype religion, countries in the North of Africa are being open and more creatively vibrant, with spaces, support & capital more available than in “less” religiously controlled countries, such as Tanzania, Rwanda or Kenya.

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