



**The Freedom  
to Write**

## **THE CRIMINALIZATION OF CREATIVITY: WRITERS AND ARTISTS UNDER FIRE FOR FREE EXPRESSION**

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“Blasphemy Laws and Censorship by States and Non-  
State Actors: Examining Global Threats to Freedom of  
Expression”**

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### **Introduction**

Congressman Pitts and Congressman McGovern, as Co-Chairmen of the Lantos Commission, I thank you for including me in this hearing. I ask that my full testimony be submitted for the record. At this hearing, I will briefly summarize PEN America’s work and the current landscape for freedom of expression around the world, highlighting trends with examples of individual writers and artists under threat whose cases PEN has been engaged on. We believe that U.S. policymakers in all branches of government need to actively persuade governments around the world to promote the right to freedom of expression, remove or reform blasphemy and religious insult laws, and strive to hold non-state actors accountable for the heinous acts they have committed against individuals exercising their right to freedom of expression.

### **PEN America’s Work**

PEN America, founded in 1922 and with a current membership of 4,400 writers and advocates, stands at the intersection of literature and human rights to protect open expression at home and abroad. We champion the freedom to write, recognizing the power of the word to transform the world. Our mission is to unite writers and their allies to celebrate creative expression and defend the liberties that make it possible. One of the key ways we do this is by advocating on behalf of all types of individual writers under threat, including literary writers, journalists, and bloggers. The 2015 PEN International case list—which systematically tracks the persecution of writers and threats to free expression around the world—details more than 1000 cases of harassment, arrests, attacks, killings, and imprisonment of writers worldwide. In 2015, the total number of cases recorded increased by 17 per cent from 2014 and the number of writers on trial increased by 22 per cent. The number of writers killed worldwide in 2015 was 40 per cent higher than in 2014. A toxic combination of repressive laws, the desire of authoritarian regimes to censor information and creative content and restrict dissenting voices, and impunity for non-state actors who perpetrate acts of violence against writers and journalists has propelled this deterioration of the right to freedom of expression on a global scale.

### **State Censorship and Legal Restrictions**

In countries with a history of authoritarianism and censorship like China and Russia, the situation is steadily worsening. At the end of 2015, there were 58 writers in jail in **China** and the government continues to censor a range of expression from literary works to online expression, citing national security and state stability. The charges levelled against writers in China are overwhelmingly anti-state charges, such as subversion, 'splittism,' and disclosing state secrets; 27 of the 58 writers currently in jail were convicted on anti-state charges. Mainstay PEN cases and previous PEN Freedom to Write awardees Liu Xiaobo and Ilham Tohti, serving eleven years and a life sentence in prison respectively, illustrate the frequency and absurdity with which China uses anti-state charges against dissenting and democratizing voices. Ilham Tohti, an ethnic Uyghur academic and blogger, is in jail for his writings that advocate for Uyghur rights. The authorities' overwhelming use of anti-state charges stems from a need to suppress valid political and cultural dissent among both Han Chinese and ethnic minority citizens.

In China, pervasive state-sanctioned censorship encompasses news and information as well as the realms of artistic and literary creation. This censorship includes books written outside China that are published in response to a heightened demand for foreign literature, feeding one of the largest book publishing markets in the world. PEN's 2015 report *Censorship and Conscience: Foreign Authors and the Challenge of Chinese Censorship* analyzed an under-explored dimension of China's massive censorship machine: the censorship of some of the thousands of international titles published annually in China ranging from discussions of taboo topics like Tiananmen Square and some portrayals of sexual relations to the statement of facts that the government disputes. Additionally, China's censorship extends to its territories with distinctive legal structures, such as Hong Kong; in late 2015, 5 publishers and employees connected with Mighty Current/Causeway Books were forcibly disappeared, forced to confess to false crimes, and slapped with trumped-up charges. The whereabouts of one of the individuals, Gui Minhai, remain a mystery, though the consensus remains that he is being kept incommunicado in Chinese custody.

In **Russia**, as President Vladimir Putin further consolidates political power, the government has successfully pushed for legislative changes to establish stronger state control over all kinds of civic expression and introduced disproportionately harsh sanctions for violating such restrictions. A range of speech is prohibited and criminalized under the guise of combating terrorism, protecting children, and preserving Russian values. PEN's 2016 report *Discourse in Danger: Attacks on Free Expression in Putin's Russia* documented and analyzed the numerous laws banning or restricting particular types of content, including information accessible to children, arbitrary information deemed to be related to terrorism or national security, LGBT-related information, and expression that offends religious feelings. These laws have instigated ongoing state sponsored and self-induced censorship in the realms of literary publications, online expression, and other forms of the creative arts.

### **Legal Punishment for Blasphemy, Religious Insult, and Immorality**

The uptick of prosecutions against individuals on charges of blasphemy and/or immorality is a key concern in a number of Middle Eastern and Asian countries. According to the PEN case list, in **Saudi Arabia**, five writers have been imprisoned on

the basis of charges of religious insult and blasphemy. For example, the Palestinian poet, artist, and curator Ashraf Fayadh was sentenced to death by beheading in late 2015 by a Saudi court for apostasy, for his collection of poetry titled *Instructions Within*. On February 2, 2016, Fayadh's sentence was reduced to eight years in prison and 800 lashes, but the disproportionate consequences for expressing irreligious sentiments remain a serious concern.

Similar charges are also often brought against writers in **Iran**. On October 12, 2015, Fatemeh Ekhtesari and Mehdi Moosavi were sentenced to 11.5 and nine years in prison, respectively, for "insulting the holy sanctities," "publishing unauthorized content," and "spreading propaganda against the state" through their poetry. The fact that Ekhtesari and Moosavi had previously published poetry books in Iran through the correct legal channels underscores the arbitrary nature of their arrest and conviction, particularly since the charge of "insulting the holy sanctities" is one of the most common charges used against journalists and artists, according to *IranWire*, a blog-forum run by Iranian journalists living outside of the country. Ekhtesari and Moosavi were also sentenced to receive 99 lashes each for "illicit relations," for shaking hands with members of the opposite sex during international literary festivals.

Since Abdel Fattah el-Sisi assumed control in **Egypt** after Mohamed Morsi's ouster in 2013, the crackdown on Egyptian civil society on the grounds of national and religious security has sharply intensified. The shutdown of cultural institutions and the imprisonment of writers illustrate the growing persecution of those deemed to pose a "threat" not only to the Egyptian state but also to Islam. Though the 2014 Egyptian Constitution explicitly guarantees freedom of artistic and literary creation, freedom of thought and opinion, and freedom of the press, authorities have begun using Article 98 (f) to criminalize actions broadly defined as "blasphemous" and therefore quash dissent. Two recent cases exemplify this dangerous trend. In October 2015, during the annual sacrifice of animals at Eid al-Adha, the prolific poet, columnist, and former Parliamentary candidate Fatima Naoot wrote a Facebook post criticizing the practice. Authorities charged her with "insulting Islam," "making fun of the right to sacrifice," "contempt of religion," "spreading sectarian strife," and "disturbing public peace." The court found her guilty of "contempt of religion," charged her with a fine of EGP 20,000 (US\$ 2,000), and sentenced her to three years in prison. She appealed, but the Cairo Court of Appeals upheld her sentence on March 31 of this year. In a similar vein, the novelist, journalist, and 2016 PEN/Barbey Freedom to Write awardee Ahmed Naji was sentenced on February 20, 2016 to a two-year prison sentence for "violating public modesty" in his novel, *The Use of Life*. Though the book had been approved by the Egyptian censorship board, a reader filed a complaint against him after reading an excerpt that included sex and drug use in the literary magazine, *Akhbar al-Adab*. The modesty charge in Naji's case sets a worrying precedent that declares the protection of broadly-defined "public morals" as appropriate justification for the erosion of free expression in a country that increasingly equates the defense of the state with the defense of Islam.

### **Threats from Non-State Actors and Impunity**

The growing negative influence of non-state actors as a force in restricting free expression is a global phenomenon. Today, I will focus on **Bangladesh**, where Islamist extremists have killed at least nine bloggers, academics, intellectuals, students, and writers for their views or beliefs since the end of 2015. Starting in 2013, a hit list of 84 "atheist bloggers" was anonymously sent to newspapers around Bangladesh. Secularist blogger and author Avijit Roy, a Bangladeshi-American, was the first of five individuals hacked to death by extremists in Bangladesh in a series of attacks during 2015. Of the six bloggers and publishers murdered between 2013 and 2015, four were on this hit list, including Roy's publisher Faisal Arefin Deepan. Various extremist groups, including Ansarullah Bangla Team and Al-Qaeda in the Indian Subcontinent, have claimed responsibility for the deadly attacks. However, the murders have thus far resulted in impunity for the killers. For example, arrests have been made in relation to Roy's killers, but the investigation and prosecution has not significantly progressed in the case. Though the attacks have principally targeted bloggers and publishers labeled as "atheists" for their writings, extremists have begun to broaden their focus to include anyone writing or expressing any sentiments deemed "blasphemous."

The non-state actors that carry out these murders are emboldened by a coalescing of conditions in Bangladesh that have created a diminished respect for the right to freedom of expression. Law enforcement authorities' inability or unwillingness to identify or prosecute the killers plays a part, but perhaps more insidious is the government's negative rhetoric directed at the bloggers—urging them to essentially self-censor and desist from writing—as well as the utilization of legislation that criminalizes any speech seen as offensive to or critical of religion or the government. Since 2013, more than 100 bloggers, journalists, and others writing online have been arrested under Article 57 of the Information and Communication Technology (ICT) Act. At the end of 2015, five writers were on trial in relation to blasphemy and religious insult charges. Recent months have seen a sharp uptick in the number of ICT—related cases brought to court by authorities. On February 15, 2016, police arrested 73-year-old Shamsuzzoha Manik, owner of the Ba-Dwip Prakashan publishing house, in front of his stall at the annual Ekushey Boi Mela book fair for selling books deemed "insulting to Islam." He remains in jail after being denied bail and faces a 14-year prison sentence. The zealous application of Article 57 by the authorities not only punishes diverse voices in Bangladesh, but also contributes to the dangerous culture of impunity surrounding the brutal murders of writers and publishers by religious extremists.

## **Conclusion**

Despite an unprecedented ability to share news, information, and creative work on a global level, ongoing restrictions on expression and the repression of writers and artists who express dissident or diverse views shows no sign of abating. We urge policymakers at all branches of the United States Government to speak out—both publicly and privately—with their governmental counterparts in defense of the right to free expression, to call for the reform of laws which currently are used to restrict it, and to urge the release of those imprisoned for the peaceful expression of views. We also urge heightened support for individuals under grave threat, including by expanding pools of emergency assistance funding, and actively working with agencies such as the

United Nations High Commissioner for Refugees to assist with relocating those in danger for expressing their beliefs or views.