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ARTICLE 19

ARTIST ALERT September 2008

ARTICLE 19 would like to dedicate this edition of the Artist Alert to the renowned Palestinian poet Mahmoud Darwish who died on 9 August 2008. As the poet Naomi Shihab Nye puts it, Darwish was regarded as *“the Essential Breath of the Palestinian people, the eloquent witness of exile and belonging”*.

Born in the Palestinian village of El-Berwi, Galelli in 1941, Darwish’s family was uprooted during the 1948 war and fled to Lebanon. A year later the family illegally returned home to the newly established state of Israel, and were given the status of “present absent alien”, a status that marked his poetry.

Darwish discovered the power of poetry and words at an early age and wrote on identity, oppression, disposition,

humanity, love and exile. His poetry aimed to challenge the expulsion of Palestine from history and expressed a strong sense of Arab and Palestinian identity. After being harassed, placed under house arrest and arrested by the Israeli authorities Darwish left Israel in the 1970s and lived most of his life in exile.

Darwish won numerous awards for his literary work which was translated into many languages and in 1995 he was allowed to settle in the West Bank city of Ramallah, moving a step closer to home. In 2000 the Israeli Minister of Education proposed that some of Darwish’s poems be included in the curriculum, a move that almost ended the Barak government. According to Prime Minister Ehud Barak, Israel was *“not ready”* for Darwish.

USA: Burmese Writers Celebrated

A year after the “Saffron Revolution” in Burma where widespread protests were violently suppressed by the government, a PEN ceremony in New York has celebrated Burmese writers. Nobel Laureate Orhan Pamuk, Pulitzer Prize winner Joseph Lelyveld, Booker of Bookers prize winner Salman Rushdie and other famous artists and writers attended the “Reading Burma” event on 23 September to add their voices to worldwide global concern around ongoing repression in Burma. For more information, visit: <http://www.pen.org/viewmedia.php/prmMID/2842/prmID/172>

They fettered his mouth with chains,
And tied his hands to the rock of the dead.

They said: You're a murderer.

They took his food, his clothes and his banners,
And threw him into the well of the dead.

They said: You're a thief.

They threw him out of every port,
And took away his young beloved.

And then they said: You're a refugee.

- Mahmoud Darwish

Côte d'Ivoire: Reggae Singer Awarded Freedom of Expression Prize

Reggae singer Tiken Jah Fakoly has received the first ever Freemuse Award for his contribution to freedom of expression through his daring political songs. Fakoly plays music to “wake up the conscience” and much of his work is political in nature, speaking about repressed African peoples and injustice. Fakoly’s music was banned in Côte d’Ivoire and he was declared *persona non grata* in Senegal.

Cuba: Musician Detained for “Dangerousness”

Musician Gorki Águila has been detained in Cuba at the end of August for the crime of *peligrosidad* or “dangerousness”. Under Cuban law Águila can be jailed for up to four years on the grounds that he is “likely” to commit a crime “contrary to the standards of communist morality”. Águila’s punk rock lyrics are often critical of communism.

Turkey: British Artist Acquitted of Charge of Insulting Prime Minister

Under international pressure from the European Union a Turkish court has exonerated artist Michael Dickinson on 25 September from charges of insulting Prime Minister Recep Tayyip Erdogan. Dickinson was charged in 2006 for depicting the Prime Minister as a poodle next to President Bush in a cartoon. The Turkish police initially deported Dickinson who lives in Turkey, and then re-arrested him on his return a few weeks later.

Nigeria: US Filmmaker Arrested for Spying

Nigerian security services in Port Harcourt detained filmmaker Andrew Berends on 31 August along with his interpreter, on charges of spying. Berends was filming a documentary about the oil industry and its related prolonged conflict. All his film and equipment were confiscated and he was later released at the beginning of September. According to Reporters Without Borders, this is the third film crew detained by the Nigerian government for spying in less than a year.

Thailand: Australian Detained For Novel

Australian Harry Nicolaidis has been detained in Thailand from late August for authoring a novel that allegedly offends the monarch. The arrest was warranted under *lese majeste* legislation for the contents of a book published in 2005 called *Verisimilitude*. Nicolaidis who had not been detained without charge since 2 September has publicly apologised and faces fifteen years in prison. *Lese majeste* laws are often utilised by governments to censor criticism of leaders.

Bahrain: Reformist Author Banned

Sheikh Salah Al-Jowder has been banned from publishing a set of reformist sermons by the Bahraini government. Royal family member and Head of the Sunni Endowment Department of the Ministry of Islamic Affairs, Sheikh Salman bin Isa Al Khalifa, has prohibited distribution of the Friday sermons on the basis that they are too “political”. According to the Bahrain Center for Human Rights, Al-Jowder’s speeches have been the target of censorship because they promote religious tolerance and rapprochement. Although Bahrain is a constitutional monarchy, there have been recent moves by Islamist forces within the government to roll back human rights provisions, including the government’s signing of the UN *International Covenant on Civil and Political Rights*.

Background: Right to Create

Art in any form constitutes a key medium through which information and ideas are imparted and received. Freedom to create is an essential attribute of freedom of expression, in the same way that creation is essential to expression.

Freedom of expression, including the right to access to information, is a fundamental human right. It is guaranteed under Article 19 of the *Universal Declaration on Human Rights* (UDHR) as follows:

Everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

The fundamental importance of freedom of expression has been recognised by international courts and bodies worldwide. At its very first session, in 1946, the UN General Assembly adopted Resolution 59(I) which states: “*Freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the United Nations is consecrated.*”

Article 19 of the *International Covenant on Civil and Political Rights* (ICCPR) guarantees the right in more or less in similar terms as the UDHR.

“ARTICLE 19 considers that, in the absence of a specific intention to promote hatred or to commit a recognised criminal offence, censorship or criminal measures against artistic expression are illegitimate. We recognise that art may at times be offensive to some or even to many, but mere offence is not an appropriate threshold for curtailing freedom of expression.”

The right to freedom of expression is also protected in all three regional human rights treaties, at Article 10 of the *European Convention on Human Rights* (ECHR), at Article 13 of the *American Convention on Human Rights* and at Article 9 of the *African Charter on Human and Peoples’ Rights*.

This has been echoed by other courts and bodies. For example, the UN Human Rights Committee has said: “*The right to freedom of expression is of paramount importance in any democratic society.*”

The right to freedom of expression under international law is not absolute and restrictions may be imposed, for instance, to protect public morals and the reputation of others. However, any interference with the right has to be set out in law, and be necessary and proportionate for the purpose of protecting a legitimate aim recognised under international law.

Most importantly, as international human rights courts have stressed, the right to freedom of expression is applicable not only to “information” or “ideas” that are favourably received but also to those that offend. For instance, the European Court for Human Rights has ruled that: “*[F]reedom of expression constitutes one of the essential foundations of [a democratic] society, one of the basic conditions for its progress and for the development of every man ... it is applicable not only to “information” or “ideas” that are favourably received ... but also to those which offend, shock or disturb the State or any other sector of the population. Such are the*

demands of pluralism, tolerance and broadmindedness without which there is no “democratic society”.

ARTICLE 19 is working to highlight cases of censorship and repression of artists, musicians, designers, dancers, actors, poets, performers and writers.

NOTES TO EDITORS:

- For more information: please contact Oliver Charles, oliver@article19.org, +44 20 7278 9292
- ARTICLE 19 is an independent human rights organisation that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech.