

APPENDIX A

THE UNIVERSAL RIGHT TO ARTISTIC FREEDOM

Artistic creativity and expression and the freedom indispensable for this is increasingly recognised as an important human right under international law. In a 2013 report, ‘The Right to Artistic Freedom and Creativity’, the UN Special Rapporteur in the field of cultural rights, Ms Farida Shaheed, observed that the “vitality of artistic creativity is necessary for the development of vibrant cultures and the functioning of democratic societies. Artistic expressions and creations are an integral part of cultural life, which entails contesting meanings and revisiting culturally inherited ideas and concepts.”

The right to artistic freedom and creativity is explicitly guaranteed by international instruments: most importantly, Article 15(3) of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), under which state parties to the treaty “undertake to respect the freedom indispensable for . . . creative activity” and in International Covenant on Civil and Political Rights (ICCPR) Article 19(2), which provides that the right to freedom of expression includes the freedom to seek, receive and impart information and ideas of all kinds “in the form of art”.

Under UNESCO’s 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions, States shall endeavour to create “an environment which encourages individuals and social groups to create, produce, disseminate, distribute and have access to their own cultural expressions, paying due attention to the special circumstances and needs of women as well as various social groups, including persons belonging to minorities and indigenous peoples.”

According to UNESCO’s 1980 Recommendation concerning the Status of the Artist, “freedom of expression . . . is the essential prerequisite for all artistic activities, Member States should see that artists are unequivocally accorded the protection provided for in this respect by international and national legislation concerning human rights.”

Furthermore, artistic freedom is protected by other fundamental rights: chiefly, liberty and security of persons; freedom of association, assembly, and movement; freedom of thought, conscience, and religion; and equal protection of the law. The exercise of artistic freedom supports these fundamental rights and freedoms by engendering cultures that affirm the inherent and equal dignity of the person as well as reflecting actual or potential violations.