

EXPERT DISCUSSION SUMMARY AND CONCLUSIONS

**ADVANCING CULTURAL RIGHTS AND ARTISTIC EXPRESSION IN
UZBEKISTAN**

August 2024

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On 11 March 2024, the International Commission of Jurists (ICJ), the Nationwide Movement “Yuksalish”, the “Ilkhom” Theatre of Mark Weil and the United Nations Educational, Scientific and Cultural Organization (UNESCO) held an International Expert Discussion (ED)¹ on “Advancing Cultural Rights and Artistic Expression in Uzbekistan”. The event was organized within the framework of the EQUAL Project² in Tashkent³.

The event served as a platform to discuss ways of ensuring cultural rights, particularly the freedom of artistic expression. The discussion focused on the role of government and civil society in promoting universality and diversity. Additionally, the dialogue examined the legal framework crucial for fostering a safe environment for artistic expressions in various spaces such as theatres, galleries, and public and private venues across Uzbekistan.

This paper summarizes the outcomes of the event and outline conclusions concerning the advancement of freedom of artistic expression and cultural rights in Uzbekistan. It also addresses the challenges faced by the artistic community in carrying out its activities.

While this paper has greatly benefited from the event discussions, the opinions and conclusions presented here do not necessarily reflect the views and policy of the ICJ but rather those expressed during the event.

¹ The International Commission of Jurists (ICJ) and the “Yuksalish” Movement regularly convene international Expert Discussions on rights protected under the International Covenant of Economic, Social and Cultural Rights (ICESCR), ratified by Uzbekistan in 1995. These events, part of the EQUAL project, aim to bolster protection of ESC rights in Uzbekistan.

² “Enhancing the Quality of Uzbekistan's Application of International Law (EQUAL)” is a project currently implemented by the ICJ aimed towards supporting civil society’s promotion of equal protection of ESC rights for groups particularly vulnerable to discrimination in Uzbekistan.

³ International Commission of Jurists, Uzbekistan: “Advancing cultural rights and artistic expression in Uzbekistan.” It was the fifth and the last expert discussion organized within EQUAL project.

INTRODUCTION

Art, in one form or another, constitutes an essential part of life for every individual, allowing them, both individually and in community with others, to develop and express their humanity, worldview and the meanings they assign to their existence and development.⁴ Cultural rights have not always been recognized as inherent human rights due to many factors including the historical division of rights into civil, political, economic, social and cultural categories.⁵ Although cultural rights as human rights are gaining more attention⁶, artistic freedom continues to be under threat in different countries. For example, in 2012, the First World Conference on Artistic Freedom of Expression was convened to explore why, where, and how artistic expression was condemned, banned and persecuted.⁷

In 2013, the Special Rapporteur (SR) in the field of cultural rights published a report focusing on the right to freedom of artistic expression and creativity.⁸ The report noted that artistic expressions and creations come under particular attack, due to their ability to convey specific messages or articulate symbolic values in a powerful way. The SR noted that 'artists, like journalists and human rights defenders, are at particular risk as their work depends on visibly engaging people in the public domain.'⁹ According to UNESCO, globally, most brutal methods are employed to restrict or halt artistic activities, including, censorship physical threats, imprisonment and others.¹⁰

Restrictions on the freedom of artistic expressions stem from political, religious, cultural, moral or economic interests.¹¹ The SR further stated that "[t]hrough their expressions and creations, artists often question

⁴ Farida Shaheed, Report of the Special Rapporteur in the field of cultural rights : The right to freedom of artistic expression and creativity, UN Human Rights Council, 14 March 2013, available at: <https://documents.un.org/doc/undoc/gen/g13/118/44/pdf/g1311844.pdf?token=L1eHGb14N86p5Rmchd&fe=true>

⁵ See A/HRC/40/53: Cultural rights: tenth anniversary report - Report of the Special Rapporteur in the field of cultural rights; Symonides, Janusz. (2002). Cultural rights: a neglected category of human rights. International Social Science Journal. 50. 559 - 572. 10.1111/1468-2451.00168;

⁶ See e.g. Farida Shaheed, Cultural rights: what are these and why are they important for women's right to development? <https://www.ohchr.org/sites/default/files/Documents/Issues/CulturalRights/Culturalrightsofwomen/ASEANwomenconsultation2011-FSstatement.pdf>; Jo Caust, Cultural Rights as Human Rights and the Impact on the Expression of Arts Practices

https://www.researchgate.net/publication/337886267_Cultural_Rights_as_Human_Rights_and_the_Impact_on_the_Expression_of_Arts_Practices

⁷ See the programme for 'All That is Banned is Desired' – the World Conference on Artistic Freedom of Expression at the Oslo Opera House on 25–26 October, available at: <https://globalnryt.dk/kalenderopslag/world-conference-artistic-freedom-expression/>

⁸ Farida Shaheed, Report of the Special Rapporteur in the field of cultural rights : The right to freedom of artistic expression and creativity, UN Human Rights Council, 14 March 2013, available at: <https://documents.un.org/doc/undoc/gen/g13/118/44/pdf/g1311844.pdf?token=L1eHGb14N86p5Rmchd&fe=true>

⁹ Farida Shaheed, Report of the Special Rapporteur in the field of cultural rights : The right to freedom of artistic expression and creativity, UN Human Rights Council, 14 March 2013, available at: <https://documents.un.org/doc/undoc/gen/g13/118/44/pdf/g1311844.pdf?token=L1eHGb14N86p5Rmchd&fe=true>

¹⁰ UNESCO, Artistic Freedom, https://www.unesco.de/sites/default/files/2020-07/artistic_freedom_pdf_web.pdf#:~:text=Artistic%20freedomis%20the,for%20the%20wellbeing%20of%20societies.

¹¹ Farida Shaheed, Report of the Special Rapporteur in the field of cultural rights : The right to freedom of artistic expression and creativity, UN Human Rights Council, 14 March 2013, available at: <https://documents.un.org/doc/undoc/gen/g13/118/44/pdf/g1311844.pdf?token=L1eHGb14N86p5Rmchd&fe=true>

our lives, perceptions of ourselves and others, world visions, power relations, human nature and taboos, eliciting emotional as well as intellectual responses.”¹²

This issue was also highlighted in the Helsinki Declaration: “Attacks on the freedom of (cultural) expression from intolerant individuals and groups, hate speech, racism, and xenophobia, among others, denote the denial of one of the fundamental prerequisites of democracy; the right of everyone to participate in debate as free and equal individuals.”¹³

The Expert Discussion organized by the ICJ in Tashkent aimed to provide a platform for artists in Uzbekistan to discuss the challenges they face in conducting their activities. The event successfully brought together a broad range of stakeholders, including representatives of State and independent art and culture institutions, independent artists, national human rights bodies and international organizations.

Stakeholders discussed the international and national legal framework concerning the freedom of artistic expression, elaborated on its legal and practical aspects, and explored the role of civil society in ensuring freedom of artistic expression.

I. INTERNATIONAL LEGAL FRAMEWORK

The right to artistic expression is enshrined, both directly and indirectly, in several international human rights instruments. Article 19 of the Universal Declaration of Human Rights (UDHR) enshrines the universal right to freedom of expression, while Article 27(1) establishes the right to enjoy the arts. According to Article 15(3) of the International Covenant on Economic, Social and Cultural Rights (ICESCR): States “undertake to respect the freedom indispensable for ... creative activity”.¹⁴ The International Covenant on Civil and Political Rights (ICCPR) states in its Article 19 that everyone has the right to freedom of expression, which shall include freedom to seek, receive and impart information through any media, including art.¹⁵ The right is also articulated in Articles 13 and 31 of the Convention on the Rights of the Child.¹⁶ The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions acknowledges the importance of freedom of thought, expression and information, as well as media diversity, in enabling cultural expressions to flourish within societies.¹⁷

The freedom of artistic expression is further protected by regional human rights instruments, including the American Convention on Human Rights (ACHR)¹⁸, the ACHR Protocol in the area of Economic, Social and

¹² Farida Shaheed, Report of the Special Rapporteur in the field of cultural rights : The right to freedom of artistic expression and creativity, UN Human Rights Council, 14 March 2013, available at: <https://documents.un.org/doc/undoc/gen/g13/118/44/pdf/g1311844.pdf?token=L1eHGb14N86p5Rmchd&fe=true>

¹³ First World Conference on artistic freedom of expression, Oslo, 25-26 October 2012, <http://artsfreedom.org/?p=4057>. Helsinki Declaration on Promoting Diversity of Cultural Expressions and Artistic Freedom in a Digital Age, Nordic Ministers of Culture (2016)

¹⁴ United Nations (General Assembly). 1966. “International Covenant on Economic, Social, and Cultural Rights.” Treaty Series 999 (December). [Hereinafter referred to as ICESCR]

¹⁵ United Nations (General Assembly). 1966. “International Covenant on Civil and Political Rights.” Treaty Series 999 (December). [Hereinafter referred to as ICCPR]

¹⁶ United Nations. “Convention on the Rights of the Child.” Treaty Series, vol. 1577, Nov. 1989. [Hereinafter referred to as CRC]

¹⁷ UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, 2005, the text is available at: <https://www.unesco.org/en/legal-affairs/convention-protection-and-promotion-diversity-cultural-expressions>

¹⁸ American Convention on Human Rights, Art. 13 (1), Aug. 27, 1979, 1144 U.N.T.S. 123.,

Cultural Rights¹⁹ and the Arab Charter on Human Rights.²⁰ While Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)²¹ does not explicitly reference the freedom of artistic expression, case law of the European Court of Human Rights (ECtHR) affirms that artistic expression is protected under this article.²²

Moreover, the freedom of artistic expression is intrinsically linked with several other rights, such as: “(a) the right of peaceful assembly; (b) the right to freedom of association, including the right of artists and creators to form and join trade unions; (c) the right to benefit from the protection of the moral and material interests resulting from any literary or artistic production of which a person is the author; and (d) the right to leisure.”²³

According to Article 19(3) of the ICCPR: “[restrictions] shall only be such as are provided by law and are necessary for (a) respect of the rights or reputations of others; (b) the protection of national security or of public order or of public health or morals.”²⁴

Uzbekistan is a party to both the *ICCPR* and *ICESCR*, protecting the freedom of artistic expression.²⁵ The country regularly reports before relevant monitoring bodies - the Human Rights Committee (*HRC*) and the Committee on Economic, Social and Cultural Rights (*CESCR*) on the implementation of rights and takes part in the relevant Committees’ sessions.

II. BARRIERS & RESTRICTIONS

Many participants noted that the Expert Discussion was the first event of this kind to address the rights of those involved in the arts and creative industry. It was noted that the art space in Uzbekistan is restricted by numerous factors, including existing laws, regulations, informal practices and financial constraints of independent artists.

1. Freedom of association

The registration of associations, including groups that work in the arts industry, continues to be problematic in Uzbekistan. This particularly concerns independent groups. These restrictions severely impact the independent artistic space, such as non-state theatres, art museums, galleries and other art centres, which are often registered as non-governmental organizations (NGOs) or seek NGO registration to apply for grants or cooperate with international organizations.

In 2020, the HRC in its latest Concluding Observations addressed to Uzbekistan, raised concerns about the restrictions on the right to freedom of association within the legislation. The Committee identified several challenges, including: “(a) unreasonable and burdensome legal and administrative requirements for registering NGOs and political parties; (b) an extensive list of reasons to deny registration; (c) the

¹⁹ ACHR Protocol in the area of Economic, Social and Cultural Provisions, Art. 14, 16 November 1999

²⁰ League of Arab States, Arab Charter on Human Rights, Art. 42, Mar. 15, 2008.

²¹ European Convention on Human Rights (ECHR), Art. 10, Sept. 21, 1970, 213 U.N.T.S. 222.

²² ECtHR, *Karatash v. Turkey*, 8.07.1999, appl. no. 23168/94, § 49.

²³ Farida Shaheed, Report of the Special Rapporteur in the field of cultural rights : The right to freedom of artistic expression and creativity, UN Human Rights Council, 14 March 2013, available at: <https://documents.un.org/doc/undoc/gen/g13/118/44/pdf/g1311844.pdf?token=L1eHGb14N86p5Rmchd&fe=true>

²⁴ International Covenant on Civil and Political Rights art. 2(3), Dec. 16, 1966, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> [hereinafter ICCPR].

²⁵ See https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=UZB&Lang=EN

requirement for NGOs to obtain *de facto* approval from the Ministry of Justice when travelling abroad or receiving funds from foreign sources; and (d) the prohibition of NGOs from participating in “political activities”.²⁶

The persistence of these issues was confirmed at the event. Besides the existence of a procedure which is unlikely to result in registration, it was pointed out that many do not see any incentive to register as an NGO, as this will automatically lead to burdensome reporting requirements and potential interference from the registering authorities.

2. Freedom of expression

Censorship is officially prohibited by the Constitution of Uzbekistan²⁷ and several relevant laws.²⁸ However, different forms of censorship are widely used as a tool for restricting freedom of expression, including artistic expression. It can take many forms,²⁹ including the revocation of licences³⁰, accusations of breaches of laws and regulations, personal lawsuits³¹ and others. For example, there have been instances where State authorities have prohibited the staging of certain plays or the broadcasting of films.³² Another notable example of strict censorship is street art in Uzbekistan.³³

3. Licence requirements

Another barrier posed by current legislation is the license requirements for organising music concerts or employing international experts are employed, licenses must be obtained. The registering authority, a State institution called “Uzbekconcert”, has full discretion in registering or revoking licences with little recourse to legal remedies in case of arbitrary revocation. These requirements complicate the working process for independent art organizations, as obtaining licences is both costly and time-consuming. Young talents are

²⁶ E/C.12/UZB/CO/3: Concluding observations on the third periodic report of Uzbekistan, available at: <https://www.ohchr.org/en/documents/concluding-observations/ec12uzbco3-concluding-observations-third-periodic-report>

²⁷ Constitution of the Republic of Uzbekistan, Article 82

²⁸ See f.ex. the law of the Republic of Uzbekistan “On the mass media” <https://lex.uz/acts/1106875>

²⁹ “Журналисты и активисты обратились к президенту по поводу «скрытой, но жёсткой цензуры», available at: <https://www.gazeta.uz/ru/2023/03/03/freedom-of-press/>

³⁰ Мадина Турсунова “О признаках цензуры и ограничения прав человека в сфере государственного регулирования шоу-бизнеса в Узбекистане”, available at: <https://anhor.uz/society/o-priznakah-cenzuri-i-ogranicheniya-prav-cheloveka-v-sfere-gosudarstvennogo-regulirovaniya-shou-bizn/> ;

³¹ See the post in the Telegram-channel of 139 Documentary Center at: <https://t.me/ohntndocumentarycenter/1219>

³² On September 9, the administration of the Ilkhom Theater announced the forced postponement of the premiere of the play “Underground Girls” for an indefinite period. The reason given was an official letter from the Union of Theater Workers of Uzbekistan, in which members of the Union express their concern about some of the themes of the play. Despite the fact that the letter from the NGO could not serve as a official reason to prohibit the staging of the play, the authorities that provide security during performances informed that until the theater officially receives permission to hold the performance, they cannot provide with security.” Read the entire article at the following link: <https://rossaprimavera.ru/news/a7515d5c;>

On April 4, Russian director Vitaly Mansky on his Facebook page announced the disruption of the screening of his film “Eastern Front,” which took place in the 139 Documentary Center gallery as part of the International Documentary Film Festival Artdocfest/Asia, as well as a ban on the screening of all other documentaries. This was done at the direction of the Ministry of Culture of Uzbekistan. Read the entire article at the following link: <https://t.me/ohntndocumentarycenter/1069>

³³ Nikita Makarenko: “Uzbekistan Without Graffiti: Censorship Against Street Art”, available at: <https://voicesoncentralasia.org/uzbekistan-without-graffiti-censorship-against-street-art/>

particularly vulnerable for these requirements, as they often lack adequate funds at the beginning of their professional careers.

4. Lack of funding and State support

Independent art associations often face a significant lack of funding and State support. According to the Ministry of Culture, the Ministry supports 40 State theatres across the country. However, this support does not extend to independent theatres or other art organizations. Additionally, State theatres benefit from sponsors assigned by the State, while there is no explicit mechanism for sponsorship or patronage that independent art organizations can use. The inability to pay rent can threaten their very existence, as is the case with two independent art organizations: the Ilkhom Theatre, which still lacks legal documents for renting, creating an unstable situation for the theatre and its actors, and the 139 Documentary Centre, an interdisciplinary space organized by local artists, activists, and researchers, which cannot afford the rent.³⁴

5. Lack of actions in advocacy

It was noted with concern that no alternative reports on cultural rights have been submitted under any Conventions, primarily due to the lack of education provided to independent art and culture representatives on these matters. For example, while certain NGOs have received long-term support on how to prepare alternative reports, no such initiatives have been undertaken concerning cultural rights.

III. CONCLUSIONS

The International Expert Discussion highlighted several key challenges that threaten independent artistic expression in Uzbekistan. Despite legal protections, artists—especially those not supported by the State—face significant obstacles.

One major issue is censorship. Although officially banned, censorship still occurs in various ways, such as banning artistic works, revoking licenses, and using legal actions to silence or intimidate artists. This creates a climate of self-imposed censorship, where many artists feel compelled to censor themselves to avoid trouble.

Another challenge is the difficult process of registering entities involved in the arts industry. The complex legal and administrative requirements, along with the risk of government interference, discourage many independent art groups from seeking official status. This limits their access to funding and international support, which are crucial for their survival.

Additionally, independent art institutions struggle with a lack of financial support. While state-sponsored cultural institutions receive backing, independent organizations often face a difficult funding landscape. Without a clear way to secure sponsorship or grants, many of these organizations face financial difficulties, which can threaten their existence.

These challenges contribute to a cultural environment that favors State-approved art while marginalizing alternative voices. If these issues are not addressed, independent artistic expression in Uzbekistan may continue to decline, leading to a less diverse and open cultural landscape.

³⁴ See the post in the Instagram profile of 139 Documentary Center at: <https://www.instagram.com/p/COjBqIQlrQr/?igsh=MWY3NnFwY2p4ZnF1eg==>

The insights from the Expert Discussion underscore the urgent need for reforms to foster a more supportive environment for artists, enabling them to express themselves freely and without fear.

Given that independent art is currently united and under threat, this presents a significant opportunity to equip artists with the knowledge necessary for advocacy and for the preparation and presentation of alternative reports on cultural rights. This approach offers a promising means of amplifying the voices of independent art representatives and educating them how to protect cultural rights and freedom of expression. Greater visibility may enhance their chances of securing State support or at the very least, ensuring their participation in certain decision-making processes.