

ASSESSING THE IMPLEMENTATION OF CULTURAL RIGHTS

Submission to the UN Special Rapporteur in the field of cultural rights

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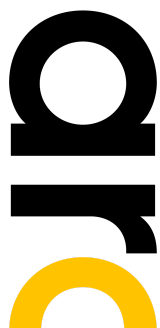
INTRODUCTION

1. Over the past fifteen years, normative progress has been made in clarifying the scope and implementation of cultural rights. This evolution, evident in the work of the UN Special Rapporteur, the Committee on Economic, Social and Cultural Rights, and UNESCO's monitoring frameworks, highlights that cultural rights remain highly complex to assess due to their transversal nature.
2. ARC – Artists at Risk Connection welcomes this timely consultation. As an independent international organization providing direct assistance to creators under threat, ARC believes artists' protection in emergencies is one of the most objective stress tests of whether cultural rights exist meaningfully in practice.
3. If cultural rights enable individuals and communities to express identities, create freely, dissent, participate in cultural life, and shape cultural futures, artists facing acute threats reveal where these rights collapse most visibly. Protecting them is not a niche security issue; it is a baseline indicator of whether a State's cultural rights ecosystem is functioning or failing. This submission bridges the gap between formal state-level guarantees and operational realities on the ground.

THEME 1: FORMAL VERSUS SUBSTANTIVE RECOGNITION OF CULTURAL DIVERSITY AND POWER TO PARTICIPATE

(Addressing Question 1: Recognition of cultural diversity; Question 2: Meaningful participation; and Question 3: Culturally appropriate design)

4. At the formal level, cultural diversity is recognized through constitutional guarantees, public policies, and commitments under international instruments, notably the UNESCO 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Over 90 percent of countries report legal



protections for artistic freedom in UNESCO's latest *Re/Shaping Policies for Creativity* report.¹ This recognition is reinforced by global policy developments, including the *MONDIACULT 2022 Declaration*,² which elevated culture as a global public good and framed its protection in emergencies as an ethical and security imperative.

5. In practice, however, ARC's casework shows that symbolic, state-led recognition is frequently decoupled from structural protection and substantive inclusion. Across regions, marginalized and dissenting artists consistently find that recognition of cultural diversity is conditional. Cultural expression is celebrated when it serves state heritage narratives, tourism strategies, or commerce, but restricted, censored, or criminalized when challenging political power, economic interests, or dominant social norms.

6. In Latin America, for example, Indigenous, Afro-descendant, LGBTQ+, rural, and politically engaged artists report institutional marginalization, unequal funding, and exclusion from decision-making. ARC has documented how consultations affecting cultural life frequently lack transparency or occur after decisions have already been taken. Development megaprojects, such as Mexico's *Tren Maya* (Maya Train), excluded communities whose cultural identities are bound to their land. Similarly, "creative economy" frameworks like those championed in Colombia boost commercial sectors but reinforce systematic inequalities, depriving independent, community-based, and politically critical artists³ of resources, even as the state projects a national image of cultural diversity.

7. When participation is unsafe or culturally inappropriate, artistic expression is forced underground. Artists fleeing Iran, Afghanistan, Sudan, Gaza, and Eastern Democratic Republic of Congo are targeted for their identity, expression, or role in documenting lived realities. Cultural diversity is not genuinely recognized if artists must self-censor, go underground, flee, or abandon their practice in order to survive.

¹ UNESCO, *Re/Shaping Policies for Creativity: we share, we act, we build*, 2026, p. 208 available at: <https://unesdoc.unesco.org/ark:/48223/pf0000397330?posInSet=1&queryId=53c2be71-1cd7-4fa4-a98e-1ebfc525fcee>

² UNESCO, *MONDIACULT 2022 Declaration*, 2022, available at: https://www.unesco.org/sites/default/files/medias/fichiers/2022/10/6.MONDIACULT_EN_DRAFT%20FINAL%20DECLARATION_FINAL_1.pdf

³ See, e.g., ARC artist profiles and country reports detailing these dynamics: Saúl Kak (Mexico) on Zoque Indigenous territorial defense <https://artistsatriskconnection.org/artist-voice/saul-kak-2/>; Antonio Paucar (Peru) on Andean communal performance <https://www.instagram.com/reels/CvxR9wmp2SE/>; Colectiva de Mujeres Muralistas (Colombia) on public space and memory <https://artistsatriskconnection.org/artist-voice/colectiva-de-mujeres-muralistas/>; and ARC Country Profile: Chile on critical and dissident artistic expression <https://artistsatriskconnection.org/country-profile/la-invisibilidad-el-arte-y-la-rabia-en-chile/>

THEME 2: OPERATIONAL PROTECTION GAPS AND BARRIERS UNDER EMERGENCY CONDITIONS

(Addressing Question 4: Respect, protection, and promotion of cultural rights)

8. Failure to protect cultural rights is most visible when threatened artists lack timely, secure, and lifesaving assistance, despite constitutional guarantees. Only 37 percent of countries have public initiatives to support artists at risk or in exile,⁴ reflecting a massive implementation chasm.

9. Through its secure *I Am At Risk* intake portal, ARC receives approximately **90 to 100 emergency requests per month** from artists facing censorship, arbitrary detention, physical violence, digital surveillance, legal harassment, armed conflict, forced displacement, and gender-based persecution. The patterns of risk differ significantly across contexts:

- In **Iran**, artists face criminal prosecution under morality, public order, and national security legislation, often accompanied by digital surveillance, confiscation of devices, movement restrictions, and family intimidation.
- In **Afghanistan**, women artists face near-total exclusion from public cultural life, forcing many into clandestinity, exile, or complete interruption of practice, essentially rendering creative work a life-threatening act.
- In **Sudan** and **Gaza**, armed conflict has destroyed cultural infrastructure, displaced artists and shattered regional creative ecosystems.
- In the **Eastern Democratic Republic of Congo**, armed militia and rebel groups target artists who speak out against violence, exposing blind spots in traditional human rights frameworks that remain structured around state-centric accountability and fail to address non-state perpetrator threats.
- In **Latin America**, threats manifest as criminalization linked to protest, territorial conflict, and organized violence against artists acting as defenders of Indigenous rights, historical memory, environmental justice, and anti-corruption efforts, especially where extractivism and megaprojects continue to fuel social conflict (e.g., cultural defenders in **Peru** and **Colombia** denouncing the environmental and social impacts of gold mining⁵).

10. A major unmeasured gap is displaced creators face “double jeopardy” escaping primary persecution only to face secondary threats. In our longitudinal casework, ARC

⁴ UNESCO, *Re/Shaping Policies for Creativity: we share, we act, we build*, 2026, p. 208 available at: <https://unesdoc.unesco.org/ark:/48223/pf0000397330?posInSet=1&queryId=53c2be71-1cd7-4fa4-a98e-1ebfc525fcee>

⁵ Guarango Cine y Video. *Wändari*. Guarango, <https://guarango.pe/wandari/>

has observed an accelerating trend toward secondary persecution. In 2022, 11 percent of ARC's total caseload consisted of artists facing threats in exile;⁶ by 2025, this figure rose to an adjusted 17 percent (isolating the exceptional influx of Gaza-related cases supported under a dedicated crisis initiative). This indicates that an ever-larger proportion of applicants are trapped in precarious first-asylum environments, including Afghan artists in Pakistan, Burmese artists in Thailand, and Iranian artists in Turkey, where a lack of durable legal status, transnational tracking, surveillance, or risk of deportation effectively suspends their creative practice.

11. Undocumented fleeing artists are forced into deep invisibility to avoid arrest or extortion and consequently, suffer a “creative death,” unable to perform, publish, exhibit, or obtain instruments vital to their practice. Displaced artists face structural barriers to cultural reintegration in host countries, including expectations that their work align with narratives of displacement or crisis, limiting their full independent creative expression.

THEME 3: DEVELOPING EMERGENCY-SENSITIVE MONITORING AND INDICATORS

(Addressing Questions 5, 6, 7, 8 and 9: Indicators, metrics, and civil society-led evaluation)

12. Current monitoring frameworks focus heavily on structural policy indicators, rather than the actual exercise of cultural rights under acute vulnerability. This reliance on formal benchmarks creates an implementation blind spot: cultural rights may appear protected in national reports while remaining functionally inaccessible in times of crisis.

13. To bridge this gap, monitoring must evaluate operational protection outcomes. ARC proposes supplementing existing structural benchmarks with a complementary framework of **emergency-sensitive operational indicators** categorized as follows:

- (a) **Emergency access metrics:** The volume, geographic distribution, and demographic data of artists actively seeking emergency protection through civil society mechanisms, capturing unmet protection demands that official state reports systematically undercount.

⁶ PEN America, Artists at Risk Connection (ARC), *Submission to the OHCHR call for inputs on cultural rights and migration*, p. 4, available at: <https://www.ohchr.org/sites/default/files/documents/issues/culturalrights/cfi-cultural-rights-and-migration/2023-01-30/PENAmerica-ARC-cfi-cultural-rights.pdf>

- (b) **Protection response latency:** The average time elapsed between an artist's initial exposure to the acute threat, their request for support, and their successful access to protection (e.g., relocation, residency, or legal defense).
- (c) **Socioeconomic continuity-of-practice rates:** The percentage of displaced or exiled artists who are actively able to resume their creative work and earn an independent income within 12 to 24 months of relocation, measuring host-country socioeconomic and legal barriers.
- (d) **Threat typology and actor disaggregation:** Tracking whether threats originate from state or non-state actors, and monitoring digital-specific threats like Pegasus spyware, online doxxing, and device confiscation.

14. Monitoring frameworks should also attempt to capture indirect restrictions, such as self-censorship, institutional exclusion, prolonged precarity, and fear, which often precede emergency situations but remain largely invisible in conventional data. While challenging to quantify, these chilling effects can be mapped through qualitative proxies, including anonymized sector-wide perception surveys, longitudinal precarity assessments, and thematic shifts in artistic programming and funding distribution.

15. Meaningful measurement requires stronger disaggregation as artists do not experience risk uniformly. Women, Indigenous, LGBTQ+, ethnic, religious, and exiled artists face intersecting vulnerabilities that remain invisible in aggregate reporting. Indicators failing to capture these differentiated experiences risks reproducing exclusion within the measurement architecture itself.

16. Operational data informed by civil society should be recognized as a vital source of evidence in cultural rights assessment. CSOs providing direct protection generate real-time information about unmet demand, emerging threat typologies, and ground-level barriers that official reporting omits, thus significantly strengthening the credibility and responsiveness of monitoring frameworks.

17. Standardized, ground-level data would directly enrich existing UN monitoring and protection processes. This empirical baseline would enable comparative analysis across regions and over time, effectively bridging the gap between national commitments and field-level security realities to establish the necessary technical foundation for a global safety architecture.

STRATEGIC RECOMMENDATIONS: TOWARD A COORDINATED GLOBAL ARCHITECTURE

(Addressing Question 10: Institutional roles, and Question 11: Global development agenda and strategic path)

18. The implementation of cultural rights cannot be assessed or improved in silos. It requires a coordinated, multi-institutional architecture connecting grassroots civil society monitoring with high-level multilateral mechanisms.

19. ARC strongly recommends that the Special Rapporteur propose a **UN Action Plan for the Safety of Artists in Emergency Situations**. This plan should establish a coordinated framework bringing together UN human rights mechanisms, UNESCO, Member States, civil society, and protection actors across three operational pillars:

(a) **Prevention:** Strengthening early warning systems, systematic monitoring of threats, documentation of violations, digital security preparedness, and local capacity-building to respond to risks before they escalate.

(b) **Protection:** Streamlining emergency relocation, fast-tracked visa pathways, temporary legal protection, psychosocial support, livelihood continuity mechanisms that enable artists to safely continue their creative practice.

(c) **Prosecution:** Reinforcing legal accountability and access to remedies for attacks against artists, clearer reporting pathways, recognizing attacks as fundamental rights violations, and addressing impunity for abuses committed by both state and non-state actors.

20. Rather than government ministries alone, National Human Rights Institutions compliant with the Paris Principles are well placed to lead these inquiries as independent national bodies. They should establish focal points to compile this data annually or biennially, integrating administrative statistics from ministries of culture and arts councils with anonymized shadow-reporting from civil society networks to ensure multi-stakeholder accountability.

21. Within UNESCO, the 2005 Convention provides a critical policy space to advance this agenda, particularly through the Intergovernmental Committee's reflection on protecting cultural expressions in emergencies.⁷ To bridge institutional divisions, the Special Rapporteur should recommend establishing a formalized cross-consultation mechanism between UNESCO's 2005 Convention Secretariat, the Aschberg Programme on the Status of the Artist, and the Office of the High Commissioner for Human Rights. This would facilitate the regular integration of UNESCO's artistic freedom monitoring data, including Quadrennial Period Reports, into Human Rights

⁷ UNESCO, *Decisions of the 19th IGC session*, DCE/26/19.IGC/Decisions Rev (Paris, 2 March 2026), available at: <https://unesdoc.unesco.org/ark:/48223/pf0000397429>

Council procedures, ensuring that cultural governance frameworks are directly aligned with broader UN protection and urgent appeal protocols.

22. This architecture should also align with the broader sustainable development agenda, specifically under SDG 16 (Peace, Justice and Strong Institutions). While SDG Target 16.10 indicators monitor the protection of fundamental freedoms, for journalists and human rights defenders, it largely omits cultural rights defenders. The Special Rapporteur should advocate for integrating artistic freedom and cultural rights into Target 16.10 reporting, and furthermore, urge Member States to include protections for independent artists and diverse cultural spaces in Voluntary National Reviews submitted to the High-Level Political Forum, establishing the safety of cultural workers as a core index of democratic resilience.

CONCLUSION

23. The safety of artists in emergencies remains an unresolved gap in cultural rights implementation. Until our international frameworks can keep human expression alive under pressure, the formal recognition of cultural diversity remains incomplete. Addressing this requires moving beyond formal compliance measures toward the implementation of operational mechanisms that respond directly to active security threats, protect vulnerable artists, and facilitate the continuity of creative practice across international borders.

24. ARC respectfully encourages the Special Rapporteur to use this consultation to advance a more coordinated, data-driven international response. By integrating operational data informed by civil society and advocating for a dedicated UN Action Plan for the Safety of Artists, the Special Rapporteur's report to the General Assembly can lay the groundwork for a protective architecture that ensures all creators, even under conditions of acute risk, can safely create, participate and contribute to our shared cultural life.