### **Report and questionnaire - UN Special Rapporteur in the field of cultural rights**

### Stakeholder submission from Freemuse

**Part II: Specific issues highlighted by the mandate’s work**

1. Please indicate any developments in regard to the legal, administrative and policy measures in the concerned country and in the work and activities of your organization, and any examples of good practice that integrate a cultural rights approach or that implement recommendations made by the Special Rapporteur. In this regard, what has been done to ensure:

1. The right to access and enjoy **cultural heritage**.

As stated in point 47 in the A/HRC/17/38 report on cultural rights, the right to freedom of expression is essential in guaranteeing dialogue about meanings and significance, alongside ensuring the development of cultural heritage. Freedom of expression is therefore central to understanding cultural rights and their significance in societies across the world, with freedom of artistic expression an essential component of freedom of expression.

Since the creation of the mandate in the field of cultural rights in 2009, Freemuse has worked closely with the mandate holder to generate a common understanding of how freedom of artistic expression is integral to cultural heritage and how states and non-state actors use international and national legal standards and cultural norms to limit the human right to express oneself freely. This has contributed to Freemuse submitting communications of both individual and thematic violations of artistic freedom with the aim of protecting human rights and cultural heritage around the world.

1. The right to freedom of **artistic expression** and creation (thematic report A/HRC/23/34).

Established on the mandate of defending and protecting freedom of musical expression, Freemuse has evolved into a leading organisation promoting the right to freedom of artistic expression and creation. A central component of our work is the collaboration with United Nations human rights procedures to highlight individual and thematic violations of freedom of artistic expression, with Freemuse documentation and artist contacts providing the information for these products to the United Nations Special Rapporteur in the field of cultural rights.

This connects to the recommendations provided by the mandate holder in her March 2013 report on *The right to freedom of artistic expression and creativity,* with Freemuse frequently citing the A/HRC/23/34 report in communications to national and international authorities. Further, Freemuse supports artists that have been threatened or violated because of their artistic expressions, which is additionally something that the mandate holder in the field of cultural rights recommended in 2013.

Freemuse contributed to the report through participating in the Experts meeting on the right to freedom of artistic expression in Geneva between 4-5 December 2012. This proximity to the report enabled us to use our research and knowledge to improve and expand the understandings of the United Nations human rights procedures. Since 2013, the procedures and practices employed by the mandate holder in the field of cultural rights has reflected the need for more streamlined avenues of communication and notable public communications to raise awareness of how state and non-state actors limit the human right to freedom of artistic expression through legal and cultural means with the aim to restrict opposition political, religious, and social views.

1. That **women** equally enjoy cultural rights (thematic report A/67/287).

Women’s cultural rights are restricted worldwide. In particular, women’s right to freedom of artistic expression is limited in many countries globally, with national legislations often contradicting international human rights standards and fascist and traditional social norms facilitating a restrictive and silencing environment for women to express themselves artistically. In 83 per cent of violations against women artists since 2013 indecency and religion are the main rationales for silencing women’s artistic voices, with music the art form that sees women artists violated the most. According to our research and documentation, 41 per cent of violators are governments, and in 34 per cent of cases women artists are threatened, harassed or persecuted; both online and offline.

With this in mind, Freemuse has worked with the mandate holder in the field of cultural rights to highlight and emphasise cases where women artists have had their right to freedom of artistic expression violated, whilst recognising that gender, culture and rights intersect to deny women of artistic expressions because they are women not because they are artists. This enables the inclusion of other mandate holders across United Nations human rights to facilitate a safe environment for women to participate in and self-express through art and culture, regardless of their political, religious, or social positions.

1. That various forms of **fundamentalism and extremism** do not infringe on the enjoyment of cultural rights.

Freedom of artistic expression and access to participation in cultural life has increasingly come under threat via anti-terrorism legislation in many states that silence alternative voices and through non-state actors, such as terrorist organisations, that silence oppositional voices.

Across the globe, government authorities are implementing anti-terrorism legislation in response to rising extremism. However, this type of legislation is silencing artistic expressions that present an alternative narrative to that of the state and hegemonic traditions. In numerous countries, artistic expressions openly critical of a government are systematically suppressed, such as rappers in Spain that are being imprisoned for being critical of the government and crown in their music, and in Poland where artists who use Polish emblems in their artistic expressions are being persecuted and prosecuted. This was mentioned in the 2013 report by the mandate holder in the field of cultural rights as something to focus on due to the rising threat to freedom of artistic expression.

In recent years, non-state actors like the Taliban, Al Shabaab, Da’esh and Ansar ud-Dine have made numerous attacks on artists, cultural events and citizens attending theatre performances, movies and concerts. Citizens and artists in Afghanistan, Pakistan, Somalia, Syria and Mali have particularly been severely affected by religiously motivated attacks. However, terrorism has also affected and damaged cultural industries which has contributed to a climate of fear, self-censorship and financial loss for artists that wish to transcend the traditional norms and values implemented by the state. The global arts and culture community has suffered from creative limitations and restrictions in fear of imprisonment or violence for their expressions, with the intentional destruction of art and cultural institutions including Taliban attacks on music in Afghanistan during the 1990s, the war on music in northern Pakistan and northern Mali, and the attacks on the Bataclan Club in Paris in 2015.

1. That **artistic and cultural** **initiatives** which contribute to creating, developing and maintaining societies that respect human rights are supported and not hindered (thematic report A/HRC/38/55).

All artists should have access to culture around the world. However, this is seldom seen and implemented. In this sense, Freemuse appreciates the thematic report on artistic freedom by the mandate holder in 2013 as it aimed to inform and promote artistic freedom as a cultural right and sought to provide a framework and recommendations for states and non-state actors to facilitate the universality of the right to freedom of artistic expression.

1. The full implementation of the **universality of human rights**.

As part of our work promoting and protecting the freedom of artistic expression we often challenge fundamentalist and populist ideologies and restrictive international and national laws. This occurs within a human rights approach, bringing freedom of artistic expression in line with global international norms and standards. This human rights approach was emphasised by the mandate holder in the field of human rights in her 2018 report on *Universality, cultural diversity and cultural rights*.

1. In light of your experience, please indicate the main **difficulties or obstacles** preventing the respect, protection and realisation of cultural rights.

The mandate in cultural rights has made significant progress across the globe by highlighting and recognising the specificities and nuances associated with a multitude of issues within cultural rights, such as the freedom to artistic expression. This has assisted our work because the issue has become well known and increasingly recognised as a valid human right around the world. Additionally, the focus of the mandate in understanding how these various issues work together to limit the rights of individuals around the world has facilitated an open channel where Freemuse can provide expert briefings and reports on freedom of artistic expression concerns and violations.

However, states and non-states continuing to implement policies and practices that restrict freedom of artistic expression provide the main challenge to the realisation of cultural rights. Governments, as the key artistic freedom violators, obstruct oppositional and critical voices through a variety of methods, including implementing vague laws that allow for wide interpretation, declaring states of emergencies that suspend laws, or by simply ignoring their obligation to international human rights treaties they are party to. Further, in a growing culture of impunity toward matters of freedom of artistic expression, authorities implement direct intimidation tactics toward artists and their families or bring criminal charges to silence voices in a way that does not raise flags for observers and human rights activists.

Another growing and troubling obstacle preventing the realisation of freedom of artistic expression, and cultural rights in general, is that of the dominant religious authority, which in many contexts is also aligned with government structures. Religious authorities and groups often take the law in their own hands and distribute their own brand of justice to artists who they see as going against their doctrine. While government and religion dominate the list of violators of artistic freedom, we are starting to see that freedom fall victim to armed violent groups, cultural institutions and non-state that also follow their own stifling agendas.

Because of this, the mandate can further address cultural rights across the globe by providing feedback on actions taken in relation to specific cases or country visits so that organisations are aware of how their work on the specific issue or case can progress on the backdrop of the mandates help. In the field of artistic freedom, it would be helpful to have updates on the actions taken towards a government or ministry in relation to violations of artistic freedom so that Freemuse can ascertain how to take its future campaigns and research on the cases.

**Part III: Lessons learned and the way forward**

1. Are there **new and emerging issues** related to cultural rights that need to be addressed at the national, regional and international levels?

The 2013 publication of the Special Rapporteur in the field of cultural rights’ report on *The right to freedom of artistic expression and creativity* increased the understanding and interpretation of freedom of artistic expression throughout the globe. However, freedom of artistic expression remains an emerging issue as government administrations and non-state actors continue to overlook the human right in favor of upholding and asserting populist or traditional ideologies, which has facilitated an environment where freedom of artistic expression lingers within a restrictive society.

Through Freemuse research and documentation it is evident that different regions around the world limit artistic expressions in different ways, such as the rising fascism and threat of terrorism in the West silencing artistic voices through persecution, whereas states in the Middle East and Indian sub-continent are prosecuting and imprisoning artists for their creative expressions.

Further, Freemuse has observed a new issue relating to artistic freedom in the digital sphere where online freedom of artistic expression remains restricted by community standards that fall short of international human rights laws. Vague rules in content regulations are used to restrict artistic freedom, such as Facebook and Instagram prohibiting “sexually suggestive” content where photos present the human body in a state of “sexual arousal” and “implied stimulation” around the genitalia/anus region, and Instagram correlating it with nudity. Additionally, Facebook’s “Policy Rationale” pledges that “photographs of paintings, sculptures, and other art that depicts nude figures” are allowed to be shared on the site.

1. What could the Special Rapporteur do to enhance **follow up, implementation and effectiveness**?

## The Special Rapporteur can enhance the follow up, implementation and effectiveness of her work in the field of freedom of artistic expression and overall cultural rights across the globe by providing feedback on actions taken in relation to specific cases or country visits so that organizations are aware of how their work on the specific issue or case can progress on the backdrop of the mandates help. It would be helpful to have updates on the actions taken towards a government or ministry in relation to violations of artistic freedom so that Freemuse can implement future campaigns and conduct research on the cases.

Further, the disturbing geographical spread and growing group of violators is enabled by weak accountability mechanisms that fail to hold authorities to task and continue to create a wide space for impunity. However, the Special Rapporteur in the field of cultural rights should focus on investing additional resources into fighting discriminations of women, LGBTI and minorities within cultural rights; improve the use of civil society research and information in her work; be more engaging on policy opportunities and exchanges; and provide developments on her cultural rights work to civil society organizations throughout the year. Having these suggestions would elevate the efficiency of the connection and collaboration between the mandate holder and civil society organisations, leading to more effective, coordinated implementation.