

STATE OF ARTISTIC FREEDOM IN TANZANIA

(The role of CSOs and HROs in Safeguarding Artistic Freedom)
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Agenda: State of Artistic Freedom in Tanzania



The major highlights

1. Overview of the current state of Artistic Freedom in Tanzania
2. Recent incidences or Challenges faced by artists
3. Solution and recommendations for improvements

1. Overview of the current state of Artistic Freedom in Tanzania

1.1 Concept of Artistic Freedom

- According to UNESCO 2019, Artistic freedom is the freedom to imagine, create, and distribute diverse cultural expressions without government censorship, political interference, and pressure from non-state actors.
- it includes the artist's enjoyment of a bundle of rights (six rights) such as:-
 - a) Right to create without censorship or intimidation (**Indispensable freedom of creativity or diverse cultural expressions or Freedom of artistic expression**)
 - b) The right to have artistic work supported, distributed, and remunerated
 - c) Right to the association
 - d) The right to freedom of movement
 - e) The right to protection of social and economic rights and,
 - f) The right to participate in cultural life





1.2 Legitimacy of Artistic Freedom

Both local and international laws do not recognize the term **“Artistic Freedom”**. But they recognize individual rights attached to it.

A. International laws

- **UNESCO Convention 2005**, no term artistic freedom, the protection measures for member states are discretionary and not mandatory due to the use of ‘may’ instead of ‘shall’ in obligations
- International Covenant on Economic, Social and Cultural Rights **(ICESCR) 1966**
- International Covenant on Civil and Political Rights **(ICCPR) 1966**
- African Charter on Human and Peoples Rights
- **The Charter for African Cultural Renaissance (2006)**, is very remarkable African convention with cultural orientation but not enforceable since it has not attained signatories of three-quarters of the member states



➤ **Culture Charter for Africa (1976)** is the only African charter protecting artists expressly. , it is a most detailed legal instrument that covers almost all aspects of cultural practices including artistic activities. It expressly protects and promotes freedom of creativity in artistic conduct. However, it has rested the protection of freedom of artistic expression under the limitation of local legislation of member states

B. Local laws

➤ In the Constitution of the United Republic of Tanzania (1977), no words creativity, art, or culture are mentioned, despite the fact culture is an identity of any nation.

➤ **Copyright and Neighbouring Rights Act** no 7 of 1999 (Cap 218. Re 2002).Protection of economic rights of authors

➤ **Films and stage Plays Act** no.4 of 1976.it governs all filming activities.

➤ **National Arts Act.** No. 23 of 1984 (All field s of art except film and,

➤ **The law for the establishment of the Swahili Language Board**

In 2015, several legislations in the sector were amended, contrary to international commitments, due to certain identifiable political crises. The current regime corresponds to civil society organizations and human rights organizations, therefore, we hope for the scenario to be rectified.

2. Recent incidences or challenges faced by Artists

The demonstration will focus on the violations of rights attached to Artistic Freedom

2.1 Right to create without censorship or intimidation

- a) **Dawa Juma (May 2023)**, in the Chato district, a traditional musician, released a provocative song called DAWA, which addressed the rise of commodities prices. He was arrested, prosecuted, and sentenced to 6 years in prison. Application of Section 16 of the Cybercrimes Act(Misleading the Public)
- b) **Sifa Bajune and his producer (Sept 2023)**, Mbeya region, released a song on the injustice of the police force, with a repeated phrase "They see us like monkeys". She was arrested and prosecuted with charges contrary to s.16 of the Cybercrimes Act. it is an ongoing case
- c) **Clam Vevo and Kicheche (Nov 2023)**- They posted comic film content on YouTube without being registered to the Tanzania Film Board and their content being approved. In Tanzania, it is a crime to engage in art without being registered and pay fees for approval or a permit.
- d) **Bando Mc (Sept 2023)**, used a dress code that resembles a "**prison army uniform** " in his music video of the song SEGEREA. Arrested but later released and apologized for the conduct. He was ordered to remove the music video posted on YouTube.



2.2 Right of artistic work to be supported, distributed, and remunerated.

- Gender-based violence against female artists in the arts and cultural sector
- Copyright infringement in physical and a digital environment. Eg. Common victims (artists who made their career in 2000's)
- Burden of fees to artistic activities. (mostly from arts authorities, commercial authorities and municipal authorities)
- Poor financial aid to artists. For example loans instead of grants
- Non-equitable access to government opportunities in the sector
- Weak law governing collection of Royalties. Eg. Finance Act no.4 of 2022, amended Copyright and Neighbouring rights act, CMOs

2.3 The right to movement

- The National Arts Act requires a permit and fee for any artistic activity abroad.



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2.4 The right to association

- The practices of National Arts Council restrict the formation of Arts Federations to four entities such as :-
 - Federation of arts and Crafts
 - Federation of filming activities
 - Federation of performing arts
 - Federation of music

Regardless of their performances, artists are forced to be a party of them. Allowing formations of other federations according to the interests of artists would improve the current situation in art.



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3. Solutions and recommendations



- **Public awareness of Artistic Freedom**
- **Advocacy of Law review and reform in the cultural sector to:-**
 - uphold and recognize Artistic Freedom
 - Eliminate monitoring function of arts authorities
 - Decentralization of art authorities.
 - Promotion of public art and its access to the public
 - Ensure participation and involvement of Artists in the art sector



- **Increase budget allocation in the cultural sector for:-**
 - Grants instead of loans to artists and cultural practitioners
 - Promotion of public arts which leads to the creation of tourist attractions and new jobs
- **Gender-mainstreaming in the arts and cultural sector**
- **Inter-sectorial engagement.** Example: Ministry of legal and constitutional affairs. Tanganyika Law Society (TLS) in arts dispute settlements. It has skilled and experienced legal personnel, facilities, etc





• **Provision of Legal aid to Artists on issues of:-**

- Contracts in arts
- Institutionalization of arts
- Copyrights infringement
- Legal representation of Artists At Risk (Execution of Artistic expression)





THANK YOU



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