



UNITED STATES MISSION
TO THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS
IN GENEVA

January 30, 2013

OHCHR REGISTRY

14 FEB 2013

Recipients SPD
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Ms. Farida Shaheed
Special Rapporteur in the Field of Cultural Rights
c/o UNOG OHCHR
8-14 Avenue de la Paix
Geneva, Switzerland

In response to your letter of October 24, 2012, the United States hereby provides the following information:

The United States views artistic freedom as grounded in the right to freedom of expression, which is protected under Article 19 of the International Covenant on Civil and Political Rights and, in our domestic system, under the First Amendment of the U.S. Constitution. Protecting freedom of expression is essential to the enjoyment of many other rights, including cultural rights. We provide the same legal protection for expression, including artistic expression, for all individuals, on a non-discriminatory basis, regardless of cultural identity or background.

U.S. Legal Framework Regarding Freedom of Expression

The United States Supreme Court has made clear that the First Amendment protects artistic as well as political expression, including painting, music, poetry, motion pictures and other types of artistic expression as detailed in the following cases. Legal precedents have been set in the following judicial cases: Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, Inc., 515 U.S. 557, 569 (1995) (painting, music, and poetry are “unquestionably shielded” by the First Amendment), Ward v. Rock Against Racism, 491 U.S. 781, 790 (1989) (“Music, as a form of expression and communication, is protected under the First Amendment”); Schad v. Mount Ephraim, 452 U.S. 61, 65 (1981) (“Entertainment, as well as political and ideological speech, is protected; motion pictures, programs broadcast by radio and television, and live entertainment, such as musical and dramatic works, fall within the First Amendment guarantee”); Kaplan v. California, 413 U.S. 115, 119-120 (1973) (“[P]ictures, films, paintings, drawings, and engravings ... have First Amendment protection”).

The Supreme Court also recently noted that constitutional protection of artistic works depends not on the political significance that may be attributable to such productions, though they may indeed comment on the political, but simply on their expressive character, which falls within a spectrum of protected “speech” extending outward from the core of overtly political declarations.