

**ARTISTIC
FREEDOM
INITIATIVE**

**Artistic Freedom Initiative's Submission to the Fourth Cycle
of the Universal Periodic Review of Nicaragua**

Human Rights Council Universal Periodic Review 47th Session

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New York, April 4, 2024

ABOUT ARTISTIC FREEDOM INITIATIVE

Led by immigration and human rights attorneys, Artistic Freedom Initiative (AFI) has provided pro bono immigration representation and resettlement assistance for international artists at risk since our establishment in 2017. AFI directly assists artists who have experienced persecution, censorship, or other restrictions on their freedom of expression, and supports artists committed to advancing social change and fundamental human rights. We work with immigrant artists to champion art produced in exile and improve conditions for artists in their home countries. At the United Nations, AFI seeks to draw international attention to the persecution of artists and to the suppression of the right to artistic expression.

INTRODUCTION

In preparation for the UPR review of Nicaragua at the UPR Working Group's 47th session, this submission evaluates artistic freedom in Nicaragua from 2019 to present. The current situation features systematic attacks on artists and widespread violations of Nicaraguans' rights to freedom of expression and association, as well as state-led harassment, intimidation, arbitrary arrest and detention of artists and cultural workers, and enforced denaturalization resulting in statelessness.

FOLLOW UP TO THE PREVIOUS REVIEW

1. In the previous UPR cycle, Nicaragua received 259 recommendations, of which it supported 135 recommendations.¹ Nicaragua supported recommendations related to the legal and general framework of implementation, universal and cross-cutting issues, civil and political rights, economic, social, and cultural rights, women's rights, and rights of other vulnerable groups and persons.²
2. Nicaragua supported nine recommendations related to freedom of opinion and expression³ and noted 18 such recommendations.⁴ In addition, Nicaragua supported three recommendations to protect human rights defenders, journalists, and media workers and the right to fully exercise freedom of expression and information⁵ and noted three such recommendations.⁶
3. Since the third UPR cycle, Nicaragua has made little progress implementing its voluntary commitments to improving freedom of expression and the protection of human rights defenders but rather has further curtailed these rights and protections.

4. Human rights defenders, including artists, journalists, lawyers, and activists critical of the Nicaraguan government are subject to harassment, arbitrary detention, deprivation of nationality, and death threats for their work.⁷ Several new laws enable the government to target dissidents under the guise of protecting the public order and national interest.
5. Freedom of association and the enjoyment of rights by non-governmental organizations have severely deteriorated since the third UPR cycle. The government can rescind the legal status and seize assets of organizations that “promote campaigns to destabilize” Nicaragua by focusing on human rights issues and exposing corruption.⁸
6. Nicaragua supported only one recommendation related to arbitrary arrest and detention, which called for immediate release of all prisoners, including several renowned artists on lists provided by the Government and Civic Alliance.⁹ Nicaragua noted an additional nineteen recommendations related to arbitrary arrests and detention.¹⁰ The Nicaraguan government initially fulfilled a pledge to release political prisoners listed by the Civic Alliance, releasing more than 100 political prisoners under an amnesty bill for crimes related to the 2018 anti-government protests.¹¹ However, the Civic Alliance revealed that 80 people considered political prisoners remained behind bars.¹² The Nicaraguan government released another 222 political prisoners in February 2023 but stripped 317 people of their nationality and expelled the political prisoners to the United States, leaving many stateless.¹³

INTERNATIONAL, REGIONAL, AND DOMESTIC HUMAN RIGHTS OBLIGATIONS

7. Nicaragua has committed to protecting and respecting the rights and freedoms included in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights.¹⁴ Nicaragua has also acceded to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness and is a signatory to the American Convention on Human Rights (Pact of San José, Costa Rica).¹⁵
8. The Political Constitution of Nicaragua (*hereafter* Nicaraguan Constitution) contains several provisions related to the protection of fundamental rights and freedoms:
9. Article 30 states that “Nicaraguans have the right to freely express their convictions in public or in private, individually or collectively, in oral, written or any other form.” Chapter VI, which delineates the rights of the communities of the Atlantic Coast, also addresses the

right to freedom of expression under Article 30, clarifying that “the communities of the Atlantic Coast have the right to free expression and preservation of their languages, art, and culture.”¹⁶

10. Article 49 states that “in Nicaragua, workers in the cities and countryside, women, youth, agricultural producers, artisans, professionals, technicians, intellectuals, artists, religious persons, the Communities of the Atlantic Coast, and the population in general have the right to form organizations with the goal of realizing their aspirations according to their own interests [...]”¹⁷
11. Article 20 declares that “no national may be deprived of his/her citizenship” and that “the status of Nicaraguan citizen is not lost by acquisition of another nationality.” Additionally, Article 21 ensures that “the granting, loss, and recuperation of nationality shall be regulated by law.”¹⁸

WRONGFUL USE OF PUBLIC ORDER AND NATIONAL SECURITY LAWS TO SENTENCE ARTISTS

12. During a period marked by the restriction of civic and democratic space in Nicaragua, the government implemented a series of overbroad laws that directly impacted the fundamental rights of citizens, including freedom of expression and freedom of association. These measures resulted in the systematic criminalization of dissenting voices and further suppression through tactics of harassment, surveillance, and persecution directed against human rights defenders and cultural rights defenders, including individual artists and cultural groups. AFI highlights that laws related to public order and national security were used to wrongfully imprison artists and to limit cultural initiatives in Nicaragua.
13. Violations of Freedom of Expression
 - a. Law N°1055 (the Law on Defense of the Rights of the People to Independence, Sovereignty and Self-Determination for Peace), passed in December 2020, granted the judiciary the authority to declare citizens as "traitors to the homeland," creating an atmosphere of intimidation and repression against any form of dissent. In practice, the law has been used to target Nicaraguans who are critical of the government, or whose activities are perceived as a threat to the Ortega administration. A number of artists have been charged and prosecuted under this law for the views expressed in their works.

- i. On February 15th 2023, the Managua District Court of Appeals found **poet Gioconda Belli** and **writer Sergio Ramírez**, whose works explore themes related to human rights and opposition to tyranny, guilty of treason for their critical works and activism under Law N°1055.¹⁹
- b. Law N°1040 (The Foreign Agents Act), passed in October 2020, has effectively limited both the right to freedom of expression and freedom of association. Under this law the government closed cultural centers and associations. Additionally, some artists that receive foreign or private funding have been arrested under this law.
 - i. The **musician Leonardo Canales Vega** was arrested under the Foreign Agents Law in April 2022 for being suspected of receiving payments to campaign against the government. He has stated that the financial support he applied to receive from a cultural association was dedicated to the pursuit of an artistic project.²⁰
- c. Law N°1042 (the Cybercrime Law), passed in October 2020, criminalized the dissemination of fake news, resulting in the detention and conviction of citizens for exercising their right to freedom of expression, even through political satire and debate on public interest issues. The lack of precision in the definition of the offense of spreading false information creates a high level of legal uncertainty and has a chilling effect on the dissemination of ideas, criticism, information, and creative works for fear of criminal prosecution. In a 2022 report, the Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) recorded numerous criminal convictions of citizens under this law for expressing criticism or dissent against the Ortega administration.²¹

14. Violations of Freedom of Association

- a. The government has also taken measures to limit civil society groups that “promote campaigns to destabilize Nicaragua.” Several arts and cultural groups have been affected.
- b. As highlighted in the 2023 report of the Organization of American States (OAS), “the closure of civil society organizations, for the most part, was justified by the State on the grounds of alleged compliance with money laundering, financing of terrorism and financing of the proliferation of weapons of mass destruction, as well as the implementation of a restrictive legal framework with provisions that would be contrary to international human rights standards.”²²
- c. Among the laws used are:

- i. Law N°977 against Money Laundering, Financing of Terrorism and Financing of the Proliferation of Weapons of Mass Destruction, approved on July 16, 2018;
 - ii. Law N°1040 on the Regulation of Foreign Agents, approved on October 15, 2020; and:
 - iii. Law N°1115 general Law on Regulation and Control of Non-Profit Organizations of the Republic of Nicaragua, approved on March 31, 2022; as well as Law no. 1127 that reforms the object of Law no. 1115, approved on March 31, 2022;
- d. Several arts and cultural groups have been forced to stop their operations under these laws, including:
- i. **PEN Nicaragua**²³ (in February 2021)
 - ii. **The Association for the Development of Solentiname**, founded by the late Nicaraguan poet Ernesto Cardenal²⁴ (in April 2022)
 - iii. **Luisa Mercado Foundation**, a cultural center founded by prestigious Nicaraguan writer exiled in Spain Sergio Ramirez²⁵ (in April 2022)
 - iv. **The Nicaraguan Association of Cinematography**²⁶ (in April 2022)
 - v. **Asociación Alforja de Talentos por la Cultura de San Marcos**²⁷ (in June 2023)

PERSECUTION OF ARTISTS

- 15. Artists reported being harassed, threatened, surveilled, and arbitrarily detained by police and paramilitary forces in retaliation for their creative work and other peaceful expression.
- 16. From the start of the 2018 demonstrations until today, state police and paramilitary groups have carried out repressive tactics against government dissidents, including harassment, surveillance, threats, and arbitrary detention. The state police and paramilitary network has been responsible for blocking the participation of artists and cultural workers in the protests, and dismantling the cultural events of arts groups seen as opponents of the regime.
 - a. The **music group Ximena** reported having to cancel concerts between 2021 and 2022 due to threats from police, paramilitary groups, and pro-government audience

members.²⁸ Their songs speak to themes of protest, unity among Nicaraguans, and support for the LGBTQ+ community.

17. Though Nicaragua supported recommendations to address arbitrary arrest and detention in the previous UPR cycle, the Ortega administration has continued to use these tactics to persecute dissidents, forcing many to flee for their safety. Since April 2022, there has been a new wave of Nicaraguan artists forced to leave the country to avoid government persecution.
 - a. **Musician Leonardo Canales Vega** stated that he was arbitrarily arrested by policemen without warrant in April 2022. He was denied procedural rights during his arrest and detention.²⁹
 - b. **Singer-songwriter Andres Somarriba** fled to Costa Rica in May 2022 for his safety after receiving several threats over his songs inspired by the 2018 protests, and having his instruments stolen.³⁰ He also cited the rapid closure of spaces for artists critical of the Nicaraguan government and the increased arbitrary detention of musicians, producers, and vocalists as contributions to his fear of persecution.
 - c. **Musician Ludwig Gómez** of the group Ximena was forced to flee to Costa Rica in May 2022 to evade detention after years of threats in Nicaragua over his work. Gómez, who lived in hiding for nearly a month before he managed to flee, believes that he would have faced a prison sentence for his work if he remained in Nicaragua.³¹
 - d. The **singer-songwriter Tania Molina** testified leaving Nicaragua for Costa Rica in July 2022 after being threatened with imprisonment for advocating for women's rights through her art.³²
18. In a recent interactive dialog on Nicaragua, the UN High Commissioner for Human Rights, Volker Türk, stated that in 2023 the persecution and harassment of people perceived as opponents of the Ortega administration did not cease.³³ On the contrary, new types of violations such as the detention of their relatives or preventing them from re-entering the country arose.

FORCED EXILE AND THE DENATURALIZATION OF ARTISTS

19. Since 2018 the government has taken measures to restrict the movement and immigration status of many Nicaraguans, including through banishment and denaturalization.

20. In several cases, artists and cultural workers have been banished by the Ortega regime, forcing them into permanent exile.
 - a. After the National Police arbitrarily detained **musician and singer Josué Monroy**, in April 2022, authorities forced him to sign a document forbidding him to return to Nicaragua and left him at the border of Honduras without any documentation.³⁴
 - b. In April 2022, **music producers Salvador Espinoza and Xóchilt Tapia**, who were held as political prisoners, were released from detention under a condition of banishment without the possibility of return.³⁵
 - c. In 2022, **musician Carlos Luis Mejía** was turned away at the border and banned from reentering Nicaragua.³⁶
21. The right to nationality is recognized in a variety of international legal instruments to which Nicaragua is a signatory. However, the Ortega administration denaturalized at least 322 Nicaraguans between 2018 and April 2023, including a number of artists.³⁷
 - a. In February 2023, the Nicaraguan authorities released 222 political prisoners, forced them to sign documents renouncing their Nicaraguan citizenship, and sent them on a plane to the United States. Among this group was **writer Oscar René Vargas Escobar**.
22. Several of the individuals that were denaturalized in 2023 were rendered stateless through the process. Without citizenship, stateless individuals are vulnerable to other human rights violations.³⁸
 - a. Among those rendered stateless after losing their Nicaragua citizenship in 2023 was **journalist Wilfredo Miranda**.³⁹ Because of his stateless status, Miranda has shared that his birth certificate was invalidated, making his legal personage difficult to prove when he requested immigration relief. He also lost all of his financial assets in Nicaragua, with no ability to seek legal recourse.
23. The Nicaraguan government also targeted artists in exile for transnational repression. In recent months, the Ortega administration has used violence against relatives of exiled artists and cultural workers to deter them from speaking out or mobilizing support against the Nicaraguan government abroad.
 - a. In November 2023, Nicaraguan authorities exiled **cultural worker Karen Celebertti**, who among other things, organized the Miss Nicaragua pageant. She was exiled after the pageant selected a Miss Nicaragua who had participated in the 2018 protests against the Ortega administration.⁴⁰ The government later raided

Celebertti's home and detained her husband and son on charges of conspiracy for two months before expelling them to Mexico.⁴¹

RECOMMENDATIONS

AFI urges UN members states to call on Nicaragua to affirm its commitments to freedom of expression and the human rights of artists, cultural workers and other human rights defenders by:

1. Affirming Nicaragua's commitments in national and international legal instruments to guarantee the right to nationality and to reduce statelessness by ending the practices of forced exile and denaturalization used to punish artists and other human rights defenders. This includes, but is not limited to:
 - a. Removing denaturalization as a possible sentence for criminal offenses and as a condition of release for political prisoners;
 - b. Permitting Nicaraguans that have been forcibly expelled to unconditionally return;
 - c. Offering to unconditionally restore the Nicaraguan citizenship of individuals whose right to nationality was violated through enforced denaturalization, and facilitating their safe return.
2. Repealing or amending legislation that criminalizes or limits artistic freedom or creative acts, with the aim of protecting, respecting, and promoting the rights of all Nicaraguans to freedom of expression and association, including but not limited to the following laws:
 - a. Law N°1055 (On Defense of the Rights of the People to Independence, Sovereignty and Self-Determination for Peace);
 - b. Law N°1040 (The Foreign Agents Act);
 - c. Law N°1042 (On Cybercrime);
 - d. Law N°977 (against Money Laundering, Financing of Terrorism and Financing of the Proliferation of Weapons of Mass Destruction);
 - e. Law N°1115 (on Regulation and Control of Non-Profit Organizations of the Republic of Nicaragua).
3. Ensuring that all human rights and cultural rights defenders, including artists and cultural workers, can safely work and create without fear of government retaliation by taking the following measures:

- a. Unconditionally releasing artists and cultural workers being held for views expressed in their creative works, their activism, or their non-violent protest, and remove pending charges against them;
 - b. Ensuring that human rights defenders and cultural rights defenders receive meaningful due process when their rights are violated, including through thorough investigations of their allegations and prosecution for violations;
 - c. Ending the use of harassment, surveillance, arbitrary arrest, and detention as means to silence or intimidate critical voices, including artists and cultural workers by:
 - i. Penalizing police and/or state authorities who engage in such practices;
 - ii. Training police and state authorities about respecting and protecting citizens' rights;
 - iii. Cutting off support to paramilitary groups that operate as informal extensions of state security.
4. Unconditionally reinstating the legal status of arts and cultural organizations affected by laws limiting the right to association, including but not limited to the following:
- a. PEN Nicaragua;
 - b. The Association for the Development of Solentiname;
 - c. Luisa Mercado Foundation;
 - d. The Nicaraguan Association of Cinematography;
 - e. Asociación Alforja de Talentos por la Cultura de San Marcos.

ENDNOTES

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ANNEX 1

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