

ARTICLE 19

**CALL FOR SUBMISSIONS: ACADEMIC FREEDOM AND THE FREEDOM
OF OPINION AND EXPRESSION**

April 2020

ARTICLE 19 - BRAZIL AND SOUTH AMERICA OFFICE

Report

REPORT ON ACADEMIC FREEDOM AND THE FREEDOM OF OPINION AND EXPRESSION
IN BRAZIL
Executive Summary

1. The article 206 of the Brazilian constitution guarantees the freedom of teaching and learning, as well as the pluralism of pedagogical ideas and conceptions. The above-mentioned statutory provision is the result of the construction of democracy, which started from the end of the civil-military dictatorship (1964-1985), reaching the school environment and reverberating across legislation that regulates the processes of democratic management, including elections for school administration, transparency in the use of financial resources and didactic, administrative and pedagogical autonomy.
2. Over the past two decades, the academic culture gained density and legal mechanisms to ensure the freedom of thought, freedom of belief and freedom of expression. In the past few years, however, a number of conservative movements opposed to the democratic pluralism have emerged, such as the “School Without Party¹” (No Indoctrination) movement, which have been making negative impacts amid an environment of democratic density.
3. Although the “School Without Party” movement exists since 2004, it was only in 2014 it started discussions at the federal level about what it calls “ideological indoctrination” in educational institutions². The movement calls for the approval in Congress of the “Lei da Mordaça” (Gag Law), as it is popularly known, which aims to require supposed neutrality from teachers in schools and universities. The state of Alagoas was the first to approve the legislation (law number 7.800/2016) in 2016, but it was suspended in 2017 by a provisional decision of Brazil’s Federal Supreme Court (STF).
4. There are currently 247 approved laws or bills in discussion in municipalities and states that were inspired by the proposals of the “School Without Party” movement, according to a recent survey of the “Frente Nacional Escola sem Mordaça”³. Some municipalities have

¹ The word "party" refers to "political party" and stems from the idea that political parties use schools to indoctrinate students.

² Website of the movement, which lists its values and actions: <https://www.escolasempartido.org/>. Accessed 29 April 2020. Press report with information about the movement: <https://www.theguardian.com/commentisfree/2020/feb/07/democracy-and-freedom-of-expression-are-under-threat-inbrazil>. Accessed 29 April 2020.

³ Frente Nacional Escola sem Mordaça. Survey made by Fernanda Moura and Renata Aquino. Available at: https://www.escolasemmordaca.org.br/?page_id=4218. Accessed 29 April 2020.

also passed legislation that specifically forbids gender and sexuality discussions in schools, some of which linked to the municipalities' education plans.

5. In addition to working to pass legislation that prevents the approach of certain subjects in class, the “School Without Party” movement encourages students to film teachers, seeking to hold accountable the teachers who approach gender and sexuality education or “ideological” topics in class. As a result, dozens of teachers have suffered retaliation, such as dismissal and persecution and public shaming in social networks⁴.
6. One of the main problems of the bills proposed before city and state councils is that, even if they are not approved, they end up having a chilling effect on teachers. Content that otherwise would be normally approached in schools stop being taught due to the self-censorship of teachers, resulting in a violation of the right of children and teenagers to receive information that contributes to their psychological development and sociability.
7. In Brazil, the movement is coordinated mainly by t, targeting both schools and universities. These ultraconservative movements believe that discussions about Brazil's deep inequalities are “ideological indoctrination”. Therefore, they call for a change in the legislation about education, seeking to take out of the school curriculum topics they believe should be approached exclusively by family, such as politics and social inequality, gender and sexuality, race, domestic violence and human rights.
8. Currently, there are 15 (fifteen) cases pending before the Federal Supreme Court that question the constitutionality of laws that aim to implement the regulations of the “School Without Party” movement or specifically ban debates about gender and sexuality in schools⁵. Several positive decisions banning those attempts of censorship have been issued, such as seen in cases ADI 5,537⁶ and ADPF 457⁷.
9. In addition to the decisions related to the “School Without Party” movement, the Federal Supreme Court had the opportunity to rule on a case about the freedom of teaching, after a series of censorship events happened in universities during the election period⁸. In October 2018, the Supreme Court ensured the principles of freedom of expression and academic freedom in universities via a ruling issued in case ADPF 548⁹. Later this

⁴ Dozens of cases were reported in the “Guide for the Defense of Schools”, which was produced by several entities of the Brazilian civil society and can be accessed at: <http://www.manualdedefesadasescolas.org/manualdedefesa.pdf>. To illustrate, the following cases are highlighted: (1) case of teacher Vanessa Gil, available at: <https://www.ufrgs.br/humanista/2019/08/01/clima-de-guerra-o-que-dizem-professores-acusados-de-doutrinação-e-o-fim-do-escola-sem-partido/>; (2) case of teacher Virgínia Ferreira, available at: <https://brasil.elpais.com/brasil/2020-02-17/professora-de-ingles-sofre-processo-disciplinar-por-falar-sobre-feminismo-em-cidade-berco-do-mbl.html>; (3) case of teacher Rosângela Rehermann, available at: <https://www.cartacapital.com.br/educacao/escola-sem-partido-intimida-e-persegue-professores/>; (4) case of teacher Pedro Mara, available at: <https://www.cartacapital.com.br/educacao/escola-sem-partido-intimida-e-persegue-professores/>.

⁵ ADI 5537, ADI 5580, ADI 6038, ADPF 578, ADPF 457, ADPF 460, ADPF 461, ADPF 462, ADPF 465, ADPF 466, ADPF 467, ADPF 522, ADPF 526, ADPF 600, ADPF 624.

⁶ Entire case available at: <http://portal.stf.jus.br/processos/detalhe.asp?incidente=5192888>

⁷ Entire case available at: <http://portal.stf.jus.br/processos/detalhe.asp?incidente=4991079>

⁸ More information available at: <http://www.stf.jus.br/portal/cms/verNoticiaDetalhe.asp?idConteudo=394447>

⁹ More information available at: <http://www.stf.jus.br/portal/cms/verNoticiaDetalhe.asp?idConteudo=394447>

understanding was extended to schools by Justice Edson Fachin in complaint number 33,137¹⁰.

10. Finally, it is necessary to highlight that the violations to academic freedom in Brazil go beyond the persecution of teachers promoted by the “School Without Party” movement, since there are several cases related to restrictions to the autonomy of university management¹¹ through the arbitrary appointment of management positions and financial and budgetary constraints¹².

RECOMMENDATIONS

Provide technical assistance to States to ensure the effective implementation of international standards and best practices relating to academic freedom at the national and local level, including in particular on the development of protocols for investigating censorship and human rights violations against teachers.

Undertake a comprehensive international review of best practices in the investigation, assessment and/or response to threats and risks and of the underlying national and international legal framework, including laws and jurisprudence, regarding academic freedom violations.

Ensure that statements by this Rapporteurship on the issue of academic freedom to reflect the specific threats and attacks against school and university teachers and ways to address them.

Examine States’ implementation of measures to respect and ensure the right to academic freedom, in particular to effectively respond to violence against teachers, and consistently make recommendations in this regard.

Strengthen collaboration and coordination between various UN bodies and between them and other regional intergovernmental organisations, also at the local level via their country offices, to increase the impact of their work to promote the safety of school and university teachers.

¹⁰ Vote of the Justice available at: <http://portal.stf.jus.br/processos/downloadPeca.asp?id=15340388010&ext=.pdf>

¹¹ (1) Case of arbitrary nomination of deans at universities: <https://g1.globo.com/rn/rio-grande-do-norte/noticia/2020/04/27/mpf-apura-legalidade-da-nomeacao-de-reitor-temporario-no-ifrn.ghtml> and (2) Case about the dismissal of the president of Brazil’s largest research institution and budgetary restrictions for research projects: <https://www1.folha.uol.com.br/ciencia/2019/08/cnpq-agencia-federal-de-fomento-a-pesquisa-devera-encolher-em-2019.shtml>.

¹² Freeze of government funds to federal universities and institutes: <https://guiadoestudante.abril.com.br/universidades/mec-anuncia-a-liberacao-de-toda-a-verba-das-universidades-federais>.