**Mandate of the Special Rapporteur on the right to education**

**ACADEMIC FREEDOM AND FREEDOM OF EXPRESSION**

**IN EDUCATIONAL INSTITUTIONS**

**Call for CONTRIBUTIONs**

For her upcoming report to the Human Rights Council to be presented in June 2024, the United Nations Special Rapporteur on the right to education, Ms. Farida Shaheed, will consider academic freedom and freedom of expression in educational institutions.

The report will build on previous work achieved by other United Nations human rights mechanisms on the topic, particularly the Special Rapporteur in the field of cultural rights, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Committee on Economic, Social and Cultural Rights. While recognizing that there is no single, exclusive international human rights framework for the subject, Ms. Shaheed will consider academic freedom through the right to education framework. More precisely, the report intends to consider academic freedom as part of the entitlement to receive and provide quality education, at all levels of education.

The Special Rapporteur intends to take stock of setbacks and progress both under international human rights law and in domestic legislation and practice with respect to defining academic freedom, ensuring its enjoyment by all relevant actors and protecting it from attacks and interferences.

The report will examine existing legal frameworks and normative content of academic freedom as a human right. It will consider subjects and duty bearers of this right. It will also analyze, from a human rights perspective, direct and indirect attacks on and interferences with respect to academic freedom of staff and students, including through commercialization, online surveillance, funding, conditions of work and studies and other pertinent issues.

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| **Name of the country/entity submitting information** | **Denmark - DM** |

**Questions**

**General framework**

1. How is academic freedom defined and protected in the constitution or laws of your country, and what are possible limitations or restrictions? Please provide the original citation and source, as well as a summary of relevant judicial practice, if any.

2. Are academic staff, teachers, students all entitled to academic freedom? Does this differ by level of education? Please explain.

3. What do you consider to be (a) the main challenges to academic freedom, and (b) gaps in the legal framework for protecting academic freedom?

**Autonomy of educational institutions**

4. Please explain the autonomy and self-governance enjoyed by educational institutions at the different tiers of education. Please explain what autonomy and self-governance entail. Are there restrictions on police or military personnel entering educational institutions? If so, please share the rules.

5. Please provide examples of institutional guidelines/codes of conduct developed to ensure respect for academic freedom, including from external public or private actors.

**Funding**

6. How is funding, including for research, regulated? Is the process transparent, and are there any guarantees put in place to ensure respect for academic freedom?

7. Which rules and regulations protect academic freedom from interferences by commercial actors and financial sponsors, at different tiers of education? Please explain how conflicts of interest that may arise are addressed.

**Surveillance**

8. Please explain whether and the extent to which academic staff and students, at all levels of education, are subject to surveillance by public authorities, for example through on-site cameras or online scrutiny. Has this led to undue restrictions to academic freedom and freedom of expression in educational institutions?

**Freedom of expression in teaching and access to books**

9. Do teachers and professors, at all levels of education, enjoy freedom of expression in their own teaching? Are there any limitations imposed, such as remaining “neutral” or forwarding a particular perspective, e.g. on religious and political matters?

10. Please explain the extent to which teachers and professors at different education levels can chose school manuals and other books/resources for teaching, and the reasons for any restriction in this regard. Have any specific books/materials been banned, including from school libraries, and alternatively is some material mandatory? If so, why?

**How to submit information**

Submissions should be sent electronically no later than **2 February 2024 to** hrc-sr-education@un.org, using the email title: “Contribution: Academic freedom”.

Please select and answer the questions most relevant for your agency. Kindly limit your responses to **3,000 words** and attach annexes where necessary. To facilitate their consideration, please send responses in a Word document, and in English, French, or Spanish. **Please clearly specify the entity making the contribution on the document itself and add paragraph numbers**.

All inputs received will be posted on the OHCHR website. Please indicate if you have any objections regarding to your reply being posted on the OHCHR website.

**Answers**

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| **Name of the country/entity submitting information** | Denmark - DM |

**General framework**

AD 1: Academic freedom is part of the freedom of thought and expression, which is protected by the Constitution, Article 77: "Everyone has the right to publish his thoughts in print, in writing and in speech, however under the responsibility of the courts.

In addition, academic freedom is recognized as a fundamental right in the EU's Charter of Fundamental Rights, Article 13: "There is freedom for art and scientific research. Possible limitations or restrictions on academic freedom can be legislation, funding, governance, ethics, employment relationships, societal norms and political pressure.

Furthermore, it is stated in Section 2, paragraph 2 of the University Act that "The university has research freedom. The university shall safeguard the university's and the individual's research freedom and scientific ethics." The University Act establishes the framework for the functioning of universities in Denmark. It ensures autonomy and independence for the universities in relation to both the state and other stakeholders. Universities have the right to define their research strategies and conduct research without interference in the content.

AD 2: Academic staff, teachers and students all have the right to academic freedom in Denmark, but there may be differences in the degree and exercise of this freedom depending on level of education, institution, field of study and employment status.

In general, universities and other research institutions have a high degree of institutional autonomy and individual academic freedom for their staff and students, while other educational institutions may be more subject to government regulation and control. For example, teachers at universities often have considerable professional and pedagogical freedom to organize their teaching, while teachers at upper secondary schools and elementary schools must follow set curricula and goals.

AD 3: Some of the biggest challenges for academic freedom in Denmark are:

* Political interference and criticism of research that may be undesirable, controversial or contrary to political interests.
* Lack of permanent employment and unsafe working conditions for many researchers, which can affect their independence, quality and productivity.
* Increasing competition for external funding and demands for relevance, innovation and collaboration, which may limit researchers' ability to pursue free and fundamental research.
* Lack of awareness, knowledge and dialogue about academic freedom among researchers, students, managers, politicians and the public.

Some of the gaps in the legal framework for the protection of academic freedom are:

* Lack of a clear and unambiguous definition of academic freedom in legislation.
* Lack of specific provisions on academic freedom in employment contracts and collective agreements.
* Lack of effective complaint and sanction mechanisms for violations of academic freedom.
* Lack of international cooperation and monitoring of academic freedom.

**Autonomy of educational institutions**

AD 4: Autonomy and self-governance are important principles in the Danish education system. That mean that educational institutions have a high degree of independence and responsibility for their own activities, such as planning, conducting, and disseminating research, as well as providing education and training. The ministries lay down the overall regulations and quality requirements for the institutions, but they do not interfere with the specific decisions or actions of the institutions.

The institutions are governed by boards, which have the primary leadership and management of the institutions. The boards consist of external members, who have experience and expertise in education, research, and the labour market, as well as internal members, who represent the staff and the students. The boards determine the guidelines, strategies, and budgets for the institutions, and appoint the heads of the institutions. The heads of the institutions are responsible for the daily administration and operation of the institutions, as well as for ensuring academic freedom and integrity.

AD 5: Academic freedom is a fundamental right and obligation for researchers, teachers, and students in Denmark. It means that they have the freedom to choose their research topics, methods, and collaborations, as well as to publish and communicate their results, without undue interference or pressure from external or internal actors. Academic freedom also implies the duty to adhere to high standards of research integrity and responsible conduct of research, as well as to contribute to the development and dissemination of knowledge for the benefit of society. To ensure respect for academic freedom, several institutional guidelines and codes of conduct have been developed in Denmark. For example, the Danish Code of Conduct for Research Integrity, which was drafted by a working group set up by the Ministry of Higher Education and Science and the organisation Danish Universities, provides a common framework and standards for responsible conduct of research, based on the principles of honesty, transparency, and accountability. Another example is the Charter for Researchers and the Code of Conduct for the Recruitment of Researchers, which was adopted by the European Commission and endorsed by the Danish Ministry of Higher Education and Science. In recent years, there have been a couple of cases in Danish research where academic freedom has been threatened, as external parties funding the research have interfered with the results and dissemination. In response to these issues, Danish Universities and the Ministry of Education and Research have developed NeW Principles and Recommendation on Research-based Collaboration and Advisory, aiming to enhance the framework for research collaboration and academic freedom.

**Funding**

AD 6: Research at universities is primarily funded by the public sector. A significant portion of the funding for university research comes through core funding, and several public foundations also contribute funds to research at universities. Public foundations are e.g. the Independent Research Fund Denmark, which supports research based on the researchers’ own ideas within all fields of science and The Innovation Fund Denmark invests in projects that have a clear focus on societal challenges, value creation and growth potential.

In recent times, there has been a notable uptick in private financing of research at universities, with a particular emphasis on funding from private foundations. This surge in support from private entities reflects a changing landscape in research funding. Private foundations play a more prominent role in advancing academic research by providing financial backing for diverse projects and initiatives. The increasing funding for research from private foundations has led to a skewing, particularly in university research in Denmark, where the focus has shifted more towards research areas with access to external funding.

The process of funding is regulated by different rules and criteria depending on the programme and the type of grant.

The process of funding is transparent in the sense that the applicants can find the relevant information and guidelines on the websites of the funding agencies. The evaluation and selection of the proposals are done by independent experts and peer reviewers, who follow the principles of quality, relevance, and impact. The results of the funding decisions are published online, in some cases along with the feedback and comments from the evaluators.

The guarantees for respecting academic freedom in the funding process are not explicitly stated, but they are implied by the general principles and values of the Danish research system.

**Surveillance**

AD 7: Academic freedom in Denmark is closely associated with freedom of thought and expression, and is recognised as a fundamental right in the EU Charter of Fundamental Rights. However, academic freedom in Denmark is not clearly defined or protected by law, and it is often limited by the narrow concept of research freedom, which only covers the freedom to choose and conduct research, but not the freedom to teach or to engage in public debate.

The rules and regulations that protect academic freedom from interferences by commercial actors and financial sponsors vary depending on the type and level of education. For example, in higher education, the University Act of 2003 grants universities a high degree of institutional autonomy, but also imposes a number of obligations and restrictions, such as the requirement to obtain external funding, the involvement of external stakeholders in the university boards, and the alignment of the study programmes with the labour market needs. These factors may create conflicts of interest and compromise the academic freedom of the researchers and teachers.

The conflicts of interest that may arise from the involvement of commercial actors and financial sponsors are addressed by different mechanisms and guidelines, such as the Danish Code of Conduct for Research Integrity, which provides principles and standards for ensuring the honesty, transparency, and accountability of research. The code also requires researchers to disclose any potential or actual conflicts of interest that may affect their research, and to avoid any undue influence or pressure from the funders or collaborators.

**Surveillance**

AD 8: It seems that academic staff and students in Denmark are subject to surveillance by public authorities, but mostly for research and public health purposes. There is no indication that this has led to undue restrictions to academic freedom and freedom of expression in educational institutions. However, this is ealy times and a complex and dynamic issue that may require further investigation and discussion.

**Freedom of expression in teaching and access to books**

AD 9: Teachers and professors in Denmark enjoy a high degree of freedom of expression in their own teaching, as well as access to books and other materials.

Teachers must avoid expressing personal opinions or preferences on religious and political matters that could influence or offend the pupils or their parents. Teachers are expected to present different perspectives and viewpoints on controversial issues and encourage critical thinking and dialogue among the students.

Therefore, it can be said that freedom of expression in teaching and access to books in Denmark is generally respected and protected, but it is not absolute or unlimited. Teachers must balance their right to express themselves with their professional obligations and the rights and interests of their students and the society.

AD 10: There is no official list of banned books or materials in Denmark. There are, of course, discussions about which books are useful in teaching for different age groups. In addition, there are recommendations for materials for use in teaching and curricula. Furthermore some books or materials may be mandatory or recommended by the Ministry of Education or the educational institution, such as textbooks, national tests, or digital platforms.