***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.***

1. The Federal Constitution of Brazil ensures the equality of all citizens before the law, guaranteeing freedom of thought expression; the inviolability of freedom of conscience and belief; the free expression of intellectual, artistic, scientific, and communication activities (Article 5, IV, VI, IX). In relation to education, Article 205 expresses the right to education aimed at the full development of the individual, for the exercise of citizenship and qualification for work; that promotes the freedom to learn, teach, research, and disseminate thought, art, and knowledge (item II); the pluralism of ideas and pedagogical concepts, and the coexistence of public and private educational institutions (III). Article 207 guarantees universities didactic-scientific, administrative, and financial and patrimonial management autonomy. Finally, the Federal Constitution also guarantees the expression of thought, creation, expression, and information, which in any form, process, or medium will not suffer any restriction (Article 220), and all forms of political, ideological, and artistic censorship are prohibited (§ 2).

2. The actions of reactionary conservative groups, including Christian fundamentalists, opposed to the secularism agenda, racial equality, gender identity, sexual orientation, sexual rights, and reproductive rights, have been a significant obstacle to the exercise of academic freedom in Brazil, particularly since 2019, during the government of Jair Bolsonaro. The coordinated actions of these groups result in measures restricting freedoms, identities, and ideological control. We understand that their actions constitute violations of the human right to education, with negative repercussions felt in the daily life of schools and universities across various locations in Brazil.

3. With the beginning of this administration at the Ministry of Education (MEC), ideological control has become a practice through employee dismissals; the deactivation of mechanisms for popular participation and social control, such as Councils and Conferences; the closure of the Secretariat of Continuing Education, Literacy, Diversity, and Inclusion (SECADI), which represented a complete departure from actions promoting and valuing diversities. Thus, the country continues to produce unequal and seriously flawed education, and destructive and prohibitive actions like those currently occurring indicate that education is not understood as a right in Brazil, and even less so as a "human right" (GRACIANO, 2005; RIZZI; GONZALEZ; XIMENES, 2009).

4. Conservative groups that had already achieved other forms of censorship on the work being carried out in Brazilian education, in conjunction with allied parliamentarians, managed to veto the words gender, gender identity, and sexual orientation in the latest National Education Plan (PNE), as well as making other modifications to the document, and similarly censoring these terms in state and municipal education plans, in violation of rights enshrined in various national and international norms of which Brazil is a signatory.

5. The final document of the PNE, approved and sanctioned in 2014, expressed the consensus of that moment regarding the priorities of Brazilian education, as well as demonstrating the coordination of conservative groups in the educational agenda. It established commitments among federative entities (federal, municipal, and state) for the development of public policies, with guidelines for overcoming educational inequalities; promoting educational quality; valuing education professionals; promoting democracy and human rights; and financing education.

6. Despite the removal of the terms "gender," "sexual orientation," and "gender identity" not representing an obstacle to classroom discussions, the vetoes limited the perspective of equality in education and its commitments to the learning of all, compromising content related to citizenship, diversity, and democracy values. Following this configuration, discussions on gender issues were also eliminated from state and municipal education plans, a situation that triggered the scrutiny of teachers and the topics covered, making them targets of intimidation, threats, anonymous complaints, and extrajudicial notifications by students, family members, parliamentarians, and representatives of fundamentalist groups.

7. We observe that since the promulgation of the PNE, there has been a more intense occurrence of threats and complaints against teachers, and in 2016, a proposed amendment to the LDB was introduced to include the "School Without Party" program. These actions led to an increase in cases of embarrassment, anonymous complaints, persecution, violence, and intimidation; death threats via digital media and social networks; legal proceedings against teachers for practicing "ideological indoctrination" and "gender ideology" in the classroom. Additionally, there were impediments to carrying out pedagogical practices and seminars focused on democracy, human rights, Afro-Brazilian and African history and culture, confronting racism, lesbophobia, and homophobia, despite actions against discrimination and racism being included in more than one goal of the PNE.

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

8. Academic freedom in Brazil is supported by the Law of Guidelines and Bases of Education (LDB), Law 9,394/1996, which establishes various provisions to ensure the right to learn and teach, as well as academic freedom and freedom of expression. The LDB emphasizes the freedom to learn, teach, and think, the pluralism of ideas, respect for freedom, connection with social practices, and respect for ethnic-racial diversity (Article 3, items II, III, IV, XI, XII). Furthermore, it promotes the dissemination of values fundamental to social interest and the development of the learner as a human being in basic education (Article 27, item I; Article 35, item III).

9. Despite the legal backing, there are no consolidated data on the number of education professionals who have been victims of defamation, persecution, threats, and legal proceedings. However, information available in the media, blogs, and websites of organizations committed to the right to education points to a coordinated and systematic action by conservative groups. These groups seek to misinform, confuse, and hinder educational practices committed to the pluralism of ideas and concepts.

10. Identified violations include threats from members of the school community, such as family members, students, teachers, coordinators, and/or administrators. These threats constitute violations of academic freedom and pluralism of ideas, involving the prohibition of addressing topics such as gender, race, sexuality, domestic violence, identity, and secularism, along with surveillance of pedagogical practices and instructional content. Threats by external agents to the school were also recorded, including acts of censorship by parliamentarians, cyber activists, public officials, and security forces, seeking to prohibit approaches or activities related to gender, race, sexuality, domestic violence, identity, democracy, and fascism.

11. Other forms of violation involve formal complaints and legal proceedings against teachers, resulting in suspensions, transfers, dismissals, and extrajudicial notifications. These actions are mostly based on anonymous complaints related to classroom discussions and reflections on topics such as gender, race, sexuality, domestic violence, identity, as well as references to authors and political issues addressing rights and democracy. Additionally, persecutions and threats on social media are documented, including recordings of classes, accusations of indoctrination, physical threats, disclosure of personal and family data, demonstrating a cruel face of the authoritarianism prevalent in education

***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?***

12. One of the challenges to academic freedom in Brazil is associated with the actions of the "School Without Party" (ESP)[[1]](#footnote-1) movement in states and municipalities. Although ESP announced the suspension of its activities in 2019, its effects persist, causing concern among different sectors advocating for the human right to education. The movement seeks changes in educational legislation, having succeeded in some states and municipalities in vetoing the right to learn and teach about gender, sexuality, and censoring teachers.

13. In this regard, various bills are currently being considered in the country's Chambers and Assemblies that institute the so-called "Gag Law" in the form of a "School Without Party" project, which, under different names, presents the same concepts as ESP and seeks to establish limits and censorship for teaching practices in the educational legislation of states and municipalities, violating principles enshrined in national legislation.

14. Simultaneously, the National Civic-Military Schools Program (Ecim), introduced by Decree No. 10,001/2019, in collaboration between the Ministries of Education and Defense, presents additional challenges. Despite emphasizing respect for the autonomy of Education Secretariats, the program assigns military tasks in didactic-pedagogical and administrative areas, interfering with the responsibilities of education professionals outlined in the LDB.

15. The justification for this proposal is to promote improvement in the quality of basic education, focusing on elementary (from the 6th grade) and high school education, encompassing a series of actions, such as educational process management, didactic-pedagogical process management, and administrative process management.

16. Despite highlighting respect for the autonomy of Education Secretariats, the Program states that military personnel are responsible for tasks in didactic-pedagogical, educational, and administrative areas, preserving the exclusivity of the duties of education professionals outlined in the LDB. We understand that such a premise will become imprecise in the daily life of schools, allowing interference in functions and duties, mainly due to the adoption of a school management model applied in military schools. It is impractical to isolate the didactic part of school management, as educators' roles are not limited to pedagogy; actions are interconnected in daily school life, and this attempt at delimitation will have consequences for the realization of the principles of democratic management and the coexistence of pluralism of ideas and arrangements in the school space.

17. The Program will involve a considerable allocation of resources, estimated at R$54 million for the year 2020, covering 54 new units, with R$1 million per school. The funds will be mainly allocated to pay the salaries of the military personnel working in the institutions, with approximately 18 military personnel per school of a thousand students, a budget that represents a high investment in a minimal number of schools. The country has 181.9 thousand units in basic education, according to the 2018 Basic Education Census, many of them facing serious infrastructure problems due to federal cuts in education, as part of the policy to reduce public spending in social areas and the Ministry of Education's budget cuts – blocking funds that affected basic education and federal higher education institutions.

18. The Ecim initiative, especially due to the announced financial support, has received voluntary adherence from states and municipalities. When opting for the model, they must conduct a public consultation for the community to express its opinion on joining the program, indicating schools that meet the criteria of social vulnerability and low IDEB (Basic Education Development Index). Militarized schools enjoy popular sympathy, mainly motivated by the touted didactic-pedagogical and administrative excellence of military schools, whose model replication for public schools aims to impact the increase in IDEB since they have superior performance evaluations – 6.99 compared to 4.94 for civilians.

19. The militarization of public schools conflicts with provisions of the Federal Constitution and the LDB, as education is primarily the responsibility of state and municipal education secretariats, not public security. It also violates regulations governing Brazilian education, guaranteeing the right to pedagogical, administrative, and financial autonomy; freedom, pluralism of pedagogical ideas and concepts; the principle of equal conditions for access and permanence in school.

20. This proposal contributes to the reproduction of discriminations and stigmas among schools, their students, and territories, as vulnerable areas are predominantly occupied by the Black population, often considered violent, and Black students are the majority among those with low performance. It can be inferred that they are the target audience to receive human and civic values to stimulate the development of good student behaviors and attitudes and their integral formation as citizens in a school environment outside the classroom (Decree 10,004/2019).

21. The Ecim also implies the weakening and disqualification of the role of teachers, as they will have the "collaboration" of military personnel for the execution of didactic-pedagogical processes for which they are already considered more efficient. Furthermore, it violates principles of the National Education Plan (PNE) and its commitment for educational systems to be spaces of learning for all, with content that encompasses citizenship values, diversity, and democracy, and free from discriminations and prejudices, democratic management, respect for human rights, diversity, and socio-environmental sustainability. These principles are threatened in the Ecim, as they align with concepts and practices of military schools, which have as principles the values, customs, and traditions of the Brazilian Army.

22. In summary, threats to academic freedom in Brazil emanate not only from the ESP movement but also from proposals such as the "Gag Law" and the National Civic-Military Schools Program. These initiatives, aligned with conservative sectors, represent significant challenges to the preservation of teacher autonomy, academic freedom, and diversity of ideas in the educational environment.

**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.***

23. Autonomy and self-governance are concepts related to the ability of an educational institution to act independently, without excessive external interference. Autonomy refers to the freedom to make its own decisions, while self-governance implies the ability to self-regulate, establishing its own rules and guidelines within the legal limits. To achieve these characteristics, one of the principles to be observed is democratic management, a principle of education in the current Law of Guidelines and Bases of National Education (Law No. 9,394, of December 20, 1996). Democratic management is consolidated within educational institutions at all levels, and its fulfillment requires autonomy, self-governance, and the participation of the school community in the decision-making process.

24. The Supreme Federal Court has an understanding[[2]](#footnote-2) that a state law ensuring, in the context of higher education, (i) the free creation and self-organization of academic centers and directories, (ii) their operation within the physical space of the college, (iii) the free circulation of ideas produced by them, (iv) access of their members to classrooms, and (v) participation in collegiate bodies, complies with constitutional mandates for freedom of association (CF/1988, art. 5, XVII), the promotion of comprehensive and empowering education for citizenship (CF/1988, art. 205), and democratic management of education (CF/1988, art. 206, VI).

25. In the Brazilian context, the entry of police or military personnel into educational centers can be restricted based on specific norms and regulations. These restrictions primarily aim to ensure a safe school environment and preserve the autonomy of educational institutions. The applicable norms vary according to the legislation of each state or municipality.

26. In many cases in Brazil, the entry of police or military personnel into schools is regulated to avoid potential negative interferences in the educational environment. These regulations may include guidelines on the role of these professionals within educational institutions, clearly defining their roles and responsibilities to ensure that their presence contributes to security without compromising the pedagogical independence of schools. Although there is no specific federal legislation for this case, it is important to mention that the autonomy and self-governance of education institutes, whether public or private, are constitutional premises that must always be respected.

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

27. The Code of Ethics of USP[[3]](#footnote-3) (University of São Paulo) aims to guide interpersonal relationships within the University, based on principles such as the right to research, pluralism, tolerance, autonomy from political powers, and respect for the academic integrity of the institution. Additionally, it reinforces the commitment to promoting values such as freedom, justice, human dignity, and solidarity while defending USP as a public university.

28. These general ethical principles are aligned with internationally recognized documents, such as the Universal Declaration of Human Rights (1948), which serves as the basis for contemporary democratic constitutions. USP also adopts the inseparable principles established by the International Association of Universities, convened by UNESCO in 1950 and in 1998. These principles include the right to seek knowledge, tolerance for diverse opinions, freedom from political interference, the obligation to promote, through teaching and research, values such as freedom, justice, human dignity, and solidarity, as well as the development of mutual assistance at the international level.

29. In the context of university ethics, inherent rights include the right to research, pluralism, tolerance, autonomy from political powers, and the commitment to promoting principles of freedom, justice, human dignity, and solidarity. The University takes on the responsibility to always advocate for and promote human rights, encompassing both individual rights and public freedoms, as well as social, economic, and cultural rights, and the rights of humanity.

1. The initiative of the National Civic-Military Schools Program (Ecim) was revoked by the Ministry of Education (MEC), under the government of President Lula and with the support of the Ministry of Defense, in July 2023, through a decree. However, due to federative autonomy, the governors of the Federal District, Paraná, and São Paulo, who support the far-right government of Jair Bolsonaro, announced that they will keep the proposal in operation through state and municipal programs of civic-military schools. Furthermore, the evangelical caucus, as a strategy to overcome the revocation by the federal government and MEC, through Senate Bill No. 3568, 2023, and House Bill No. 2154, 2023, continues to seek to promote the strengthening and establishment of the Civic-Military Schools Program cooperatively with the states, municipalities, and the Federal District [↑](#footnote-ref-1)
2. [ADI 3.757, rel. min. Dias Toffoli, j. 17-10-2018, P, DJE de 27-4-2020.] [↑](#footnote-ref-2)
3. RESOLUÇÃO Nº 4871, DE 22 DE OUTUBRO DE 2001 [↑](#footnote-ref-3)