

February, 01st, 2024

Dear Special Rapporteur Ms. Farida Shaheed,
United Nations Special Rapporteur on the Right to Education

The **Instituto de Desenvolvimento e Direitos Humanos - IDDH** is a Brazilian CSO that, since 2004, has worked to strengthen democracy in Brazil and Latin America through international action on human rights. IDDH believes that democracy is strengthened through human rights education (HRE), an essential component of the human right to education. It currently has a program aimed at: a) Civil society at the UN; and, b) Youth at the UN. IDDH has consultative status with the ECOSOC since 2016, is also a member of the NGO Working Group for Human Rights Education and Learning of the United Nations (WG on DREL), is a member of the National Commission for Human Rights Education (CNEDH) of the Ministry of Education in Brazil and develops projects in cooperation with the UNESCO Chair of Citizenship and Human Rights Education of the University of the Region of Joinville (Brazil).

The **Brazilian Campaign for the Right to Education (BCRE)** is a network that brings together 304 entities and over 340 leaders across all Brazilian states and the Federal District. Its mission is to work towards the implementation and expansion of educational policies, ensuring that everyone has their right to a public, free, inclusive, secular, and quality education guaranteed in Brazil. This involves strengthening democracy and social justice through interdisciplinary actions. Internationally, the campaign engages in advocacy within spaces for participation, definition, and monitoring of international agendas, such as the United Nations, where it holds special consultative status in the Economic and Social Council (ECOSOC). Locally, it has participated in the High-Level Political Forums of 2019, 2021, 2022, and 2023. Additionally, Andressa Pellanda, the campaign's general coordinator, currently serves a two-year term (2024-26) in the global coordination of the Collective Consultation of NGOs for Education with UNESCO.

Consequently, we are pleased to submit our contribution to the SR on the Right to Education Call: **Academic Freedom and Freedom of Expression in Educational Institutions**, as follows:

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.

The 1988 Federal Constitution¹ marks the return to democracy in Brazil after 21 years of military dictatorship and enshrines numerous human rights as premises for democracy, including education and freedom of expression.

The right to education pointed out in Article 6² as an essential social right, is also stated in Article 205³ as the right of all and a duty of the State and the family, aiming at the full human development, their preparation for the exercise of citizenship, and their qualification for work. Article 206⁴, outlines the principles that govern Brazilian education, including the freedom to learn, teach, research, and disseminate thought, art, and knowledge, as well as the pluralism of ideas and pedagogical concepts. The Article 220⁵ guarantees to all individuals the freedom of thought and expression, asserting that no law shall constitute an obstacle to this freedom essential to democracy.

¹ BRASIL. **1988 Federal Constitution**. Available em:
<https://www.planalto.gov.br/ccivil_03/constituicao/constituicaocompilado.htm>.

² Original: “Art. 6º São direitos sociais a educação, a saúde, a alimentação, o trabalho, a moradia, o transporte, o lazer, a segurança, a previdência social, a proteção à maternidade e à infância, a assistência aos desamparados, na forma desta Constituição”.

³ Original: “Art. 205. A educação, direito de todos e dever do Estado e da família, será promovida e incentivada com a colaboração da sociedade, visando ao pleno desenvolvimento da pessoa, seu preparo para o exercício da cidadania e sua qualificação para o trabalho”.

⁴ Original: “Art. 206. O ensino será ministrado com base nos seguintes princípios: I - igualdade de condições para o acesso e permanência na escola; II - liberdade de aprender, ensinar, pesquisar e divulgar o pensamento, a arte e o saber; III - pluralismo de idéias e de concepções pedagógicas, e coexistência de instituições públicas e privadas de ensino; IV - gratuidade do ensino público em estabelecimentos oficiais; V - valorização dos profissionais da educação escolar, garantidos, na forma da lei, planos de carreira, com ingresso exclusivamente por concurso público de provas e títulos, aos das redes públicas; VI - gestão democrática do ensino público, na forma da lei; VII - garantia de padrão de qualidade; VIII - piso salarial profissional nacional para os profissionais da educação escolar pública, nos termos de lei federal; IX - garantia do direito à educação e à aprendizagem ao longo da vida”.

⁵ Original: “Art. 220. A manifestação do pensamento, a criação, a expressão e a informação, sob qualquer forma, processo ou veículo não sofrerão qualquer restrição, observado o disposto nesta Constituição. § 1º Nenhuma lei conterá dispositivo que possa constituir embaraço à plena liberdade de informação jornalística em qualquer veículo de comunicação social, observado o disposto no art. 5º, IV, V, X, XIII e XIV. § 2º É vedada toda e qualquer censura de natureza política, ideológica e artística”.

It's also important to highlight that the expression "full human development" adopted by the Brazilian Constitution (Article 205, heading), UDHR (Article 26), and other international treaties, aimed to encompass Human Rights Education (HRE), as it is considered "an integral part of human dignity and contributes to expanding it with knowledge, wisdom, and discernment". Given that the right to education should aim at full human development, which is only possible through formative processes that occur about, through, and for human rights, HRE is indispensable and foundational for ensuring the very human right to education⁶.

Additionally, the [National Guidelines and Bases of Education](#) Law⁷ defines and regulates the organization of Brazilian education based on the principles outlined in the Constitution. Its third article stipulates that education must be provided based on the freedom to learn, teach, research, and disseminate culture, thought, art, and knowledge; on the pluralism of ideas and pedagogical concepts; and on respect for freedom and appreciation of tolerance.

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?

a) The main challenges to academic freedom

The Observatory of Knowledge, the Research, Science, and Freedom Observatory of the Brazilian Society for the Advancement of Science (SBPC), and the Center for Analysis of Liberty and Authoritarianism (LAUT) conducted a national survey between August and December 2021 to map the academic freedom violations⁸. The survey identified personal experiences and perceptions in the performance of activities by 1,116 academics from all regions of the country indicating that academic freedom and university autonomy are under threat, particularly concerning teaching and the production of scientific knowledge. Among the violations, the following were noted: 1) Drastic reduction of resources allocated to education, especially higher education; 2) Defamatory campaigns against research conducted in universities; 3) Constant harassment, via digital militias, against faculty working on

⁶ LAPA, Fernanda Brandão; BAIL, Suiany Zimmermann. Educação em Direitos Humanos e a BNCC: pontes possíveis. **Revista Debates Insubmissos**, Caruaru, Ano, v. 5, 2022.

⁷ Law n° 9.394/1996 <<https://www2.senado.leg.br/bdsf/bitstream/handle/id/70320/65.pdf>>

⁸ LAUT. Violações à liberdade acadêmica no Brasil. Available on: <<https://laut.org.br/violacoes-a-liberdade-academica-no-brasil/>>.

undesirable topics; and 4) Intervention in the administrations of various Higher Education Institutions (IES) by not respecting internal democratic election processes in selecting rectors.

The Brazilian Campaign for the Right to Education (BCRE) published in 2023 the [Education Under Attack Mapping in Brazil](#)⁹ to present the advance of ultraconservative political proposals that have been attempting to restrict academic freedom from Basic Education to Higher Education. The legislative mapping, conducted nationwide for the period from 1989 to 2023, identified 1.993 legislative proposals regarding the reduction of rights and surveillance related to the so-called "ideological indoctrination" in the school environment. These proposals determine the possibility of questioning and disapproving the curriculum and teaching methods, as well as encouraging the persecution of education professionals with consequences such as dismissal. Additionally, the mapping also identified, in the last 10 years, the disclosure of 201 cases that occurred nationwide and were related to the topic, gaining attention in local media or circulating on school social media channels.

b) Gaps in the legal framework for protecting academic freedom

Brazil possesses robust laws that effectively safeguard academic freedom, with minimal loopholes that could compromise this guarantee. However, the challenge lies in the incomplete implementation of these laws and the insufficient monitoring of their enforcement, creating a gap that allows for attempts to institutionalize the persecution of education professionals. A notable example is the "Escola sem Partido" (School without Party) movement, initiated by São Paulo State prosecutor Miguel Nagib in 2004.

This movement sought to coordinate institutions, families, and conservative politicians to restrict academic autonomy, alleging that teachers were promoting left-wing ideological indoctrination. In 2014, Nagib, at the behest of Flávio Bolsonaro, then a state deputy of Rio de Janeiro, drafted the initial bill advocating for the censorship of teachers, later suggested to be named the "Escola Sem Partido" Program. Although the "Escola sem Partido" movement was dissolved in 2019, its legacy persists in society and among representatives within the National Congress and State Chambers, resulting in numerous bills advocating censorship in schools and persecution of education professionals until nowadays.

⁹ Campanha Nacional pelo Direito à Educação. **Mapeamento Educação sob Ataque no Brasil** (2023). Available at: <<https://educacaosobataque.org/#page-28>>

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

(a) The autonomy and self-governance enjoyed by educational institutions at the different tiers of education

The Brazilian Federal Constitution grants autonomy in academic, administrative, and financial matters in all tiers of education. Regarding higher education, the Supreme Federal Court (STF) has established jurisprudence on this, particularly regarding administrative autonomy. Traditionally, presidents respected university autonomy by appointing top candidates from institutions' lists. However, during Jair Bolsonaro's administration (2019-2022), this tradition was disrupted. From 2019 to September 2021, at least eighteen rectorial appointments did not follow the tradition, sparking criticism for perceived attempts at illegitimate interference in political and ideological alignment between the federal government and university leadership.

The STF frequently addresses issues related to censorship, persecution, and restrictions on teachers' freedom across educational levels. The STF has consistently declared laws restricting teaching freedom in states as unconstitutional. In 2018, the STF unanimously supported an injunction affirming the importance of the free expression of thoughts and ideas in universities. In 2020, laws inspired by the "Escola Sem Partido" (School Without Party Program) were also deemed unconstitutional by the STF. Consequently, the STF emphasized that the Constitution and federal legislation guarantee the pluralism of ideas in education.

Following the dissolution of the Escola Sem Partido Movement in 2019, a new group has emerged opposing the right to education for children and adolescents in Brazil – proponents of homeschooling. This group challenges the roles of formal educational institutions, teacher training, and key legislation governing Brazilian education, including the Child and Adolescent Statute. Their actions pose a threat to academic freedom by advocating moral guidelines that question education, teacher autonomy, and national curricular guidelines.

In addition to the Supreme Court case, the legislative branch has introduced a bill to regulate homeschooling in Brazil (PL 1338/2022). Currently, the bill, which regulates the home-based provision of basic education, has been approved by the Chamber of Deputies and

is now under discussion in public hearings in the Senate's Education and Culture Committee (CE).

The Supreme Federal Court (STF) also has declared unconstitutional at least six laws that prohibited the implementation of public educational policies on gender issues, in clear opposition to the alleged "gender ideology" in education¹⁰. The Court ruled that these laws violated constitutional principles such as the freedom to teach and learn (Article 206, II - CF 1988), the pluralism of pedagogical approaches (Article 206, III - CF 1988), the democratic management of public education (Article 206, VI - CF 1988), as well as equality among minority groups (Articles 1º, III and 5º, caput - CF 1988).

(b) The restrictions on police or military personnel entering educational institutions

In 2019, following Jair Bolsonaro's victory in the presidential election, the federal government initiated the National Program for Civic-Military Schools, which was implemented in 2020. The program specified that civilian educators were responsible for the pedagogical aspects, while administrative management was entrusted to the military, who served as "monitors." Their tasks included fostering a sense of belonging, ensuring compliance with standards, and developing civic spirit among students while encouraging the practice of values and the appreciation of national symbols¹¹. With the election of Luiz Inácio Lula da Silva as president in 2022-23, the program was canceled. However, some states, including São Paulo, expressed intentions to continue implementing similar programs despite the change in national leadership. Therefore, militarized schools continue to exist and expand in states and municipalities, with resources from these federated entities. There is no clear regulation on the subject and allowing the presence of military personnel as teachers, without adequate training to do so.

¹⁰ Supremo Tribunal Federal, ADPFs nº 457, 460, 461, 465, 467, 526

¹¹ EXAME. **Fim das escolas cívico-militares? Estados vão manter modelo apesar de decisão do MEC.** Available em:

<<https://exame.com/brasil/fim-das-escolas-civico-militares-estados-vaio-manter-modelo-apesar-de-decisao-de-mec/>>.

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?

The financing of public education is mainly governed by the Education Maintenance and Development (MDE)¹² and the Fund for the Maintenance and Development of Basic Education and Valorization of Education Professionals (Fundeb)¹³. Information on the calculation of resource distribution, as well as transfers to federated entities and educational institutions, are published on the federal government's [Transparency Portal](#)¹⁴.

Concerning the research funding process, Brazil features two primary programs that offer grants to academic institutions, researchers, and students across undergraduate, master's, and doctoral studies: (1) Coordination of Superior Level Staff Improvement ([CAPES](#)) and (2) National Council for Scientific and Technological Development ([CNPq](#)).

CAPES is a Foundation of the Ministry of Education (MEC) that plays a crucial role in the expansion and consolidation of *stricto sensu* postgraduate programs (master's and doctoral) in all states of the Federation. CAPES furnishes essential information on scholarship payments both within Brazil and abroad through the [Transparency Portal](#). The data is organized by level and CAPES scholarship and aid program, sourced from computerized systems that streamline the distribution of scholarships domestically and internationally.

CNPq grants scholarships for the training of human resources in the field of scientific and technological research, encompassing universities, research institutes, technological centers, and vocational training institutions, both within Brazil and abroad. The funding information on scholarship payments both within Brazil and abroad through the [Transparency Portal](#).

It's important to mention that over the last ten years (2012-2022), the budget for the National Council for Scientific and Technological Development (CNPq) has been cut by 50%, and 90% of the body's resources are now allocated to grants. The last universal grants were valued at BRL 30,000, far below what is required to properly invest in research¹⁵.

¹² Financing via Education Maintenance and Development (MDE) is directed to Basic Education and Higher Education.

¹³ The Fund for the Maintenance and Development of Basic Education and the Valorization of Education Professionals (Fundeb) is directed only to Basic Education.

¹⁴ Portal da Transparência do Governo Federal

<<https://portaldatransparencia.gov.br/programas-e-acoaes/acao/0C33-transferencia-ao-fundo-de-manutencao-e-de-senvolvimento-da-educacao-basica-e-de-valorizacao-dos-profissionais-da-educacao---fundeb?ano=2022>>

¹⁵ JORNAL DA UNESP. **Quero o CNPq financiando projetos e não sendo apenas uma agência de bolsas.** Available em:

In 2023, the Coordination of Superior Level Staff Improvement (CAPES) faced a budget reduction of R\$116 million. The federal government will retain R\$66 million, with the possibility of release by the end of December. The remaining R\$50 million constitutes an actual cut in the foundation's budget¹⁶.

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

Surveillance of education professionals by the State has occurred at the request of movements that work to restrict rights. As previously mentioned, the Escola Sem Partido Movement was a strong disseminator of models of persecution of education professionals, encouraging students, guardians, and even education professionals to film, photograph, and initiate legal and police proceedings, through complaints. These complaints were often related to contradictions regarding the content taught in the classroom, for example about diversity, gender, and religious freedom. This also affected the use of teaching materials, as well as the curricular reform carried out in 2017, which culminated in the approval of the National Common Curricular Base and the New Secondary Education, due to the lack of dialogue with the educational field and giving in to the pressure of the agenda of customs proposes superficial debate on these subjects.

During the COVID-19 pandemic and the unrestricted use of technologies for distance learning, there was an increase in mechanisms for monitoring teachers and their activities in the classroom, contributing to restrictions on the autonomy of education professionals. This also contributed to the unrestricted use of data and information, contributing to the vulnerability of students and teachers. Therefore, it is important to adequately use information and communication technologies, guaranteeing privacy and processing of

<<https://jornal.unesp.br/2023/03/10/quero-o-cnpq-financiando-projetos-e-nao-sendo- apenas-uma-agencia-de-bol-sas/>>.

¹⁶ AGÊNCIA BRASIL. **Capex tem bloqueio de R\$ 116 milhões; organizações estão preocupadas.** Available em: <<https://agenciabrasil.ebc.com.br/educacao/noticia/2023-10/capes-tem-bloqueio-de-r-116-milhoes-organizacoes-estao-preocupadas>>.

personal data under Law No. 13,709, of August 14, 2018, and the pedagogical autonomy of schools guaranteed by arts. 12 and 14 of Law No. 9,394, of December 20, 1996.

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?

In 2014, the School Without Party movement strengthened and expanded across the country, advocating for increased control over pedagogical practices under the pretext of protecting children from alleged left-wing ideological indoctrination and "gender ideology." This led to legislative proposals popularly known as the "Gag Law," which purportedly claimed to advocate for neutrality in education, free from political content. However, in reality, these proposals aimed to promote an education system controlled and guided by conservative principles and religious morality.

Civil society organizations, IDDH and BCRE included, denounced this initiative at the UN SR on the Right to Education and SR on the Promotion and Protection of the Right to Freedom of Opinion and Expression. We argued that the "Gag Law" undermined human rights, specifically freedom of expression and education, by limiting the role of schools in shaping students' perspectives and prioritizing parental control over moral, religious, and political education. Due to advocacy efforts and public pressure, the Supreme Court ultimately rejected the "Gag Law."

10. Please explain the extent to which teachers and professors at different education levels can choose 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?

In Brazil, education professionals and public schools benefit from the National Program for Textbooks and Educational Materials (PNLD). This program assesses, acquires, and provides teaching, pedagogical, literary, and support materials for primary, secondary, and

Youth and Adult Education (EJA) in federal, municipal, and state networks at no cost. However, recent years have seen increased scrutiny of the PNLD, as illustrated below.

Regarding access to books and scholarly material, in 2016, the municipal schools in Pernambuco nearly succeeded in prohibiting the use of books addressing gender and homosexuality issues¹⁷. In 2017, in Roraima, the municipal government removed pages from books addressing sexual diversity, homosexual marriage, and condom use¹⁸.

In 2019, a workbook from the state public school system in São Paulo was recalled because it contained a text titled "Biological Sex, Gender Identity, and Sexual Orientation," which discusses sexual diversity and explains different terms such as "transgender," "homosexual," and "bisexual"¹⁹. In 2023, the government of Santa Catarina compiled a list of books to be removed from public schools, among the prohibited works are 'It' written by Stephen King, and Anthony Burgess's futuristic novel 'A Clockwork Orange'²⁰.

Although, at the Federal level, Brazil has a progressive president and ministers, the same cannot be said about the Legislative branch, states, and municipal governments. With the most conservative members in both houses (Deputies Chamber and Senate), we fear the difficulties for potential progressive advancement. Education may face threats, particularly at the state level, there are instances such as in Santa Catarina (SC), where governors work to restrict academic freedom/right to education through measures like censoring books in state libraries.

¹⁷ AGÊNCIA BRASIL. **Polêmica sobre questões de gênero pode deixar alunos do Recife sem livros.** Available: <<https://agenciabrasil.ebc.com.br/educacao/noticia/2016-03/polemica-sobre-questoes-de-genero-pode-deixar-alunos-do-recife-sem-livros>>.

¹⁸ G1. **Retirada de páginas didáticas com união gay é uma afronta, diz MEC.** Available: <<https://g1.globo.com/ro/ariquemes-e-vale-do-jamari/noticia/2017/01/retirada-de-paginas-didaticas-com-uniao-gay-e-uma-afronta-diz-mec.html>>.

¹⁹ TERRA. **Professores entrarão com ação para anular ato de Doria que recolheu apostila.** Available: <https://www.terra.com.br/noticias/educacao/professores-entrarao-com-acao-para-anular-ato-de-doria-que-recolheu-apostila,f9b0dccfdde4031cf381d088720a5cd08481yewd.html?utm_source=clipboard>.

²⁰ ESTADÃO. **Governo de SC faz lista de livros proibidos e manda tirar de circulação veja as obras.** Available: <<https://www.estadao.com.br/politica/governo-de-sc-faz-lista-de-livros-proibidos-e-manda-tirar-de-circulacao-v-eja-as-obras/?s=08>>.