**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** | **Brazil / SETA PROJECT (ActionAid)** |

**Questions**

**General framework**

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?

In terms of legislation, we have the National Education Guidelines and Bases Law (LDB), which is one of the largest and most important laws in the educational field in Brazil. The LDB defines and organizes the Brazilian educational system, on a national basis, from pre-school to higher education, ensuring in this context the social and constitutional right to quality, inclusive, equitable education that promotes learning opportunities for all, such as established in the 4th UN Sustainable Development Goal. However, if we investigate in detail the race and gender profile in the LDB we will not identify many advances, since Laws 10.639/03 and 11.645/11 (both laws amended the LDB, making mandatory the teaching of African and Afro-Brazilian history and culture and history and indigenous culture respectively) are still not effectively implemented as national education policies, even after more than 20 years of their promulgation. If we consider academic freedom in schools as the autonomy of teachers and managers in implementing pedagogical practices and curricular changes in their networks considering the laws in question, it is believed that the gaps are immense, starting with these legal frameworks (PNE and BNCC). But if we look at higher education courses, we can identify some considerable advances, especially after the Quota Law and affirmative policies, laws that bring a renewal of diversity to university student bodies, causing effective impacts in these so far exclusive and elitist environments, but this diversity renewal is minimal on numbers and represents a resistance movement that facing many challenges to be considered legitimate within these spaces. A recent example was the case of a black professor teaching at UNICAMP[[1]](#footnote-1) about 'Brazilian social thought and Racionais Mc's, bringing a contemporary and accomplished look at the construction of sociology through the work of the largest Brazilian rap group. She was shouted at and insulted by another teacher who complained about the use of that type of music.

We can also mention the High School Reform, which has had an impact on Brazilian teenagers and young people. There was a change in the curriculum, arbitrarily, without listening to the school community and social movements, creating a complex curriculum, with only a few basic subjects and the others must be defined by the education network. So, instead of History and Geography classes, for example, students can take innocuous subjects within the generic idea of a “life project”, with examples such as classes teaching how to become an Uber driver or how to make a gourmet brigadeiro[[2]](#footnote-2), which must be taught by others entities other than the department/school. This has led to a weakening of the general training of students in their final school years, depriving them of the basic knowledge necessary for their training. In addition to all this, the New High School Education (NEM) allows a process of “de-schooling, as it outsources part of the students’ training. It is important to point out that this weakening is only happening in the public education sector, in private schools students continue to be taught traditional subjects. This leads to an increase in inequality[[3]](#footnote-3) between rich/middle class and poor students or even between white and black students, where rich and white students continue to have a quality education, while poor and black students have an education focused on to commodification and the precarious labor market.

Another point is the secularity of public schools, so that the teaching-learning process is disconnected from religious dogmas and can be based on academic and scientific production, which highlights the importance of topics such as diversity, gender, race and sexuality, for example. Highlighting the importance of the school being recognized as a space that enables democratic coexistence between different ethnic-racial, cultural, religious, class groups, among other differences, and that this diversity needs to be recognized and valued so that society can live together more harmoniously and respectfully.

**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?

Brazil is, for many researchers, a young democracy. We have less than 40 years of democratic regime established after the military dictatorship, which lasted 30 years and which established various forms of censorship, political persecution and authoritarian actions with deleterious effects on the country's history. In the 2018 elections, Brazilians went to the polls to vote in the presidential elections and elected Jair Bolsonaro, a retired military man, far-right candidate, defender of the dictatorship and who was criticized numerous times for racist, homophobic and misogynistic attitudes throughout his political career. Under his leadership, the country entered one of the darkest moments of its history, with the strong presence of fake news, with data blackouts on official government platforms and with an escalation of conservatism and authoritarianism. It is important to highlight that the then minister of education in the Bolsonaro government, Abraham Weintraub, was a strong supporter of the president's ideas and was involved in various controversies, with racist speeches, attacks on the Federal Supreme Court and threats of cutting funds for federal universities. In this scenario, it was seen that in the last six years the country was hit by an avalanche of abuses, especially in the educational field, where questions about sexuality, gender and race were erased, with the resurgence of conservative and authoritarian agendas with speeches about strengthening actions such as: 1) military schools, with decree 10.004/2019 which launched the National Program for Civic-Military Schools with the aim of increasing the participation of military personnel in the public educational management of elementary schools and high schools in the country; 2) non-party school, a movement created in 2004 and which gained strength in Bolsonaro's candidacy and which tries to limit the possibility of education professionals to teach with their impressions on historical and political issues, that is a supposed aim to neutrality, preventing the exchange of opinions in the school environment; 3) reform of national high school education system , as a result of law 13.415/2017, the proposal was implemented in 2022 and changed the Law of Guidelines and Bases of National Education for High School Education, reducing the traditional subjects of the National Common Curricular Base (BNCC), with the aim to make the education system more flexible and prepare young people for the job market with the option of the students choosing for themselves, from three options of the simplified training itineraries. The proposal has been criticized by education professionals and students, since its model was created without the broad participation of society, it is excluding traditional subjects such as history, for example, and the models have simplified itineraries and present flaws in their methodology and implementation. Faced with so many changes, even in a scenario of instability and transitions, education professionals were persecuted for addressing topics that, in the opinion of the extreme right, were denounced as communist agendas, etc. The current moment, with the election of President Lula, who took office in 2023 and the reconstruction of a progressive political field, shows that there is an attempt to recover the damage from previous processes, with the expansion of dialogue with civil society, now boosting student unions to guarantee greater autonomy for students in school spaces, the revision of documents that guide national education such as the National Education Plan (PNE) and the National Common Curricular Base (BNCC) and greater regulation for military schools. In summary, it is clear that civil society movements and organizations that guide education are proposing significant changes in this field, but there is still a lot to advance. In reality, we cannot guarantee that teachers and principals are protected from some type of surveillance and will suffer complaints about the content of their classes, especially after online classes were held, which took on a greater proportion after the pandemic. This type of surveillance of teachers' actions and this model of restriction exclude the possibility of democratic management, directly impacting teaching, learning and pedagogical planning.

In the political field, it appears that parliamentarians from conservative fundamentalist groups have been elected with the argument that education that stimulates critical thinking, values diversity and enhances the protagonism and freedom of students is left-wing ideological indoctrination, when in fact this model breaks with a model of banking education based on dogmas that strengthen inequalities, authoritarianism, sexism, racism and other forms of discrimination.These parliamentarians, in the exercise of their state authority, coerce education professionals by invading schools and classrooms with threats to teachers who work from an emancipatory education perspective, especially those who deal with issues of inequalities, gender, race and religious intolerance; and they encourage students to record classes with their cell phones and without the permission of teachers to coerce and censor them when working on these topics. A notable case occurred in 2019, when two parliamentary representatives entered Colégio Pedro II[[4]](#footnote-4), in the city of Rio de Janeiro, claiming to be carrying out an inspection and taking several photos at the location without any authorization. Still in the context of political polarization in which the anti-racist education agenda is constantly attacked by fundamentalist conservatism, a sector that tries to block agendas that face the hierarchization of differences, such as valuing diversity and combating inequalities of race, gender and territory, and that does not value participatory and equal democracy by failing to encourage democratic management actions to consolidate educational policies.

**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?

In the current scenario, the persecution of teachers due to religious intolerance, racism or sexism is of great concern. There are many reports of teachers being fired for using a certain book, for carrying out projects linked to ethnic-racial issues in the classroom, for working on sexual education. So yes, there are limitations on teachers' freedom of expression.

For groups that consider themselves hegemonic, the current educational model that overvalues them would be neutral and the educational model that values Brazilian diversity, giving space to all social groups, would be ideological.

From a legal and constitutional point of view is right to say that professionals enjoy freedom of expression. From a practical point of view, teachers are persecuted by conservative fundamentalist groups who do not want to see a change in the social imaginary in Brazilian society, in which all social groups are respected and valued in their subjectivity. To achieve this, segments with more hegemonic representation, in order to guarantee the continuity of the privileges of their sociocultural groups, threaten education professionals who dare to work in a more diverse and democratic perspective, and there is no mechanism to protect education professionals. That way, the responsibility falls more on teachers than on school management or education departments, making them vulnerable and leading them to suffer threats and persecution. In the case of private schools, this is evident in dismissals demanded by family members who pay the tuition fees.

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?

The selection of textbooks and teaching and para-teaching materials depends on the education department to which the school is subject, but there are legal frameworks in the country that regulate the contents that must be taught at each level, year, teaching modality and curricular component. Recent legislation, over the last 20 years, has been causing changes in the production of these materials, valuing the contributions and knowledge of different people, diversity and their origins, breaking with stereotypes and themes of great social relevance, such as gender and race. But some families, guided by conservative fundamentalist paradigms, will file complaints with schools, education departments and even the judiciary for this content to be removed, which is why education professionals feel coerced into choosing to work with materials that bring these approaches. For example, educational materials are commonly rejected by parents and the school community, especially if they contain content that defends racial and gender equity and diversity. We recently saw the children's book by Emicida5, a black Brazilian rapper, being criticized by parents who forced the school to remove it from their reading list. Another example is the constant coordination of more conservative parents to remove materials or themes from the curriculum that involve African-based religions. It is important to remember that the teaching of African and Afro-Brazilian history and culture is mandatory throughout Brazilian territory, through law 10639/03, which amends the Law of Guidelines and Bases of National Education (LDB). However, there are numerous obstacles and obstacles to its actual implementation in Brazilian schools. According to the Perceptions on Racism in Brazil survey, conducted by the SETA project (Education System for an Anti-Racist Transformation) and the Peregum Institute (Black Reference Institute), 81% of respondents believe that Brazil is a racist country and 69 % consider that the most important topic to be studied within schools is racism.

However, considering the theme of anti-racist education, and the results of the two reports/research carried out within the scope of the SETA project, with the education departments of the State of Rio Grande do Sul (RS) and the municipality of Rio de Janeiro, in relation to teaching material one of the barriers is the lack of involvement of education professionals to intervene in this choice, whether due to lack of communication from education networks or lack of knowledge of this role. According to the Perceptions about racism in Brazil survey, 44% of people interviewed consider that the topic of African history and culture was covered very adequately; 44% consider that the topic was addressed inadequately; and 10% consider that the topic was approached in an inappropriate way, highlighting a gap in teaching and learning in the teaching of African and Afro-Brazilian history and culture in the country.

1. <https://revistaforum.com.br/brasil/2022/9/2/professor-se-irrita-com-racionais-mcs-na-unicamp-acusado-de-racismo-122673.html> [↑](#footnote-ref-1)
2. <https://exame.com/brasil/apos-reforma-do-ensino-medio-alunos-tem-aulas-de-o-que-rola-por-ai-rpg-e-brigadeiro-caseiro/> [↑](#footnote-ref-2)
3. <https://g1.globo.com/podcast/o-assunto/noticia/2023/02/16/novo-ensino-medio-nao-podemos-permitir-que-exista-uma-escola-para-jovens-ricos-e-outra-para-os-pobres-defende-pedagoga.ghtml> [↑](#footnote-ref-3)
4. <https://g1.globo.com/rj/rio-de-janeiro/blog/edimilson-avila/noticia/2019/10/11/deputados-tentam-fazer-vistoria-no-colegio-pedro-ii-e-provocam-confusao-com-reitoria.ghtml> [↑](#footnote-ref-4)