**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** | **India / IT for Change** |

**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.

**2. Response:**

**India has a large school system that is run by state governments. There is a lack of clarity on the autonomy enjoyed by teachers working in Government schools, and whether they can be critical of government policies in education, especially those related to academic issues such as curriculum, syllabi and assesment. There is a general feeling that government school teachers are ‘government servants’ and their service conditions prevent them from being critical of government policies.**

**There is need for a policy governing academic freedom for government school teachers, which would allow them to express divergent and critical views of academic issues. Such academic freedom is important because it is feedback from teachers that can be primary source of improvement in these matters and a high level of tolerance to criticism/ acceptance is necessary.**

**Of course, private school teachers are likely to have even lesser freedom as they usually do not have employment security. The policy would be useful for them too.**

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?

**3. Response:**

**We need a discourse permitting teachers to openly articulate their views, even if these be different from the official position. Institutional and systemic mechanisms (including policy) in this regard would be useful to allow autonomous articulation.**

**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.

**4. Response:**

**There are no restrictions on police entering schools/educational institutions. A policy laying down norms in this area would be useful, that supports and requires sensitive, empathetic and humane responses by such personnel entering schools. There have been cases where such sensitivity has not been displayed and students and teachers have been traumatized by their actions.**

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.

**7. Response:**

**Teachers may be compelled to adopt pedagogical models that the management has outsourced, these include ‘technology-based education’ from vendors. Teachers use of these services may also be monitored thrugh the same digital platforms.**

**We need rules that can provide teachers curricular autonomy, this is essential for academic freedom.**

**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?

**8. Response:**

**Online education became highly prevalent during the pandemic and these sessions can be recorded. The recordings of these sessions can be shared with outsiders and this can lead to the harassment of the teacher. There have been cases where police have filed complaints against teachers/institutions based on such recordings. The widespread use of CCTV (many state governments have mandated CCTVs in schools) also poses similar threat to teachers.**

**A couple of states (Delhi and Tamil Nadu) even required the online class recordings to be made available to parents. Such sharing can affect academic freedom as classroom transactions can be misunderstood and mis-interpreted by outsiders.**

**In the same manner, the use of proprietary EdTech platforms can lead to the harvesting of data (including recordings of transaction) by the vendor, which poses a threat to privacy and dignity of the teachers and students. For this reason, proprietary software should be banned in school education as we can never know in this case, what data is being collected by the vendor (**EFF 2015, see “References” section at the end)**. Free and Open Source software/platforms are indispensable to ensuring that data is not harvested/stolen by the vendor and should be mandated by curricular policy.**

**“Personalized learning” being promoted in a big way is a serious threat to teacher agency and autonomy. Over time, there is a danger that the ‘natural intelligence’ of the teacher will be made subordinate to ‘artificial intelligence’ and this will lead to serious educational and socio-economic harm (Kasinathan 2020).**

**Just like ride hailing platforms provide ‘rating’ of drivers, EdTech platforms provide (and increasingly it will become common) ratings for teachers. However, such ratings are inappropriate as they convert an important public service (where an adult interacts usually with much younger, even minor students) into a consumer good where ‘consumer satisfaction’ becomes the main aim. In education, however, the teacher must not be reduced to a chaser of ‘likes’, this will seriously affect academic autonomy. Learning can consist of uncomfortable moments as well, and this can be a necessary part of human development.**

**EdTech thus presents a huge danger to academic freedom. One parameter that must be mandated to assess the value of an EdTech program must the the extent its support (or otherwise) for teacher agency and institutional autonomy (Kasinathan 2015). Free and Open EdTech (“Public EdTech”) must be mandated in education, proprietary EdTech must be banned. One of the best examples, in the world, of the use of EdTech in a school system to support progressive education, is the state of Kerala, and an important reason for this is the mandatory use of Free and Open EdTech (Free and Open Source Software and Open Educational Resources).**

**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?

**10. Response:**

**There is usually an expectation from the education system that the teacher ‘must’ teach the textbook and must cover the entire textbook over the year. The textbook is in a way a legacy mechanism of control over the teacher** (Kumar, Krishna 1988)

 **As mentioned earlier, EdTech platforms have the danger of being able to enforce curricular ‘discipline’ amongst teachers through micro-prescriptions of the curriculum, pedagogy and assessment.**

**EdTech must be decentralized and “free and open” to permit academic freedom. Proprietary EdTech platforms will constrict this freedom. It can be used to constrain teachers’ curricular flexibility, as school managements can control the use of digital devices in schools, the content used in these devices, and can access the digital audit trail of the teaching processes (like CCTV monitoring or tracking digital ‘footprints’ in applications [apps]). Teachers can be given clear instructions on how given content should be used for subject teaching; to ensure quality through uniform (‘teacher proof’) content and pedagogy across classes and schools. Many private school franchisees already exercise this level of control over their teachers. An advanced form of such detailed prescription and ‘optimisation’ of work behaviour can be seen in the retail and logistics sectors (Hirth and Rhein 2021), and ‘digital Taylorism’ threatens to be the future of teaching.**

**Thus it is easier to use digital tech to control teachers and students by prescribing (what has to be taught), surveilling (what is taught) and recording (what has been taught). Such control affects teacher and learner agency and limits teachers’ ability to be sensitive to local contexts. It can damage the authenticity, hence the value, of the teaching–learning processes.**

**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.

**References:**

1. EFF (2015): “Google Deceptively Tracks Students’ Internet Browsing, EFF Says in FTC Complaint,” Electronic Frontier Foundation, <https://www.eff.org/press/releases/google-deceptively-tracks-students-internet-browsing-eff-says-complaint-federal-trade>.
2. Firstpost. (2020). Is installation of CCTV cameras by the Indian government a violation of right to privacy? <https://www.firstpost.com/india/is-installation-of-cctv-cameras-by-the-indian-government-a-violation-of-right-to-privacy-6678191.html>
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6. Kumar, Krishna (1988): "Origins of India’s 'Textbook Culture',” Comparative Education Review, Vol 32, No 4, pp. 452–464, <https://www.jstor.org/stable/1188251>
7. Ministry of Human Resource Development, Government of India (2020): “National Education Policy 2020,” <https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English.pdf>
8. The News Minute (2021). TN govt to invoke POCSO Act for misbehaviour during online classes <https://www.thenewsminute.com/article/tn-govt-invoke-pocso-act-misbehaviour-during-online-classes-cm-stalin-149598>
9. West, Mark (2023). An ed-tech tragedy? Educational technologies and school closures in the time of COVID-19 (UNESCO publication)