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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.

Name of the country/entity submitting information	Sweden/ The Swedish Association of University Teachers and Researchers
[REDACTED]	[REDACTED]

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.

Research is protected in the constitution: "Forskningens frihet är skyddad enligt bestämmelser som meddelas i lag. Lag (2010:1408)." https://www.riksdagen.se/sv/dokument-och-lagar/dokument/svensk-forfattningssamling/kungorelse-1974152-om-beslutad-ny-regeringsform_sfs-1974-152/#K2

The freedom of research and higher education is protected by law. From the Higher Education Act:
"Section 6

Higher education institutions must operate under the general principle that academic freedom must be promoted and protected.

The following general principles shall apply to research

research problems may be freely selected,
research methodologies may be freely developed, and
research results may be freely published."

<https://www.uhr.se/en/start/laws-and-regulations/Laws-and-regulations/The-Swedish-Higher-Education-Act/>

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The Swedish Association for University Teachers and Researchers, The Association of Swedish Higher Education Institutions and The National Union of Students has made a joint statement on constitutional protection for the freedom of higher education.

"Free academia, a free judiciary and a free press are all cornerstones of the preservation of democracy and the protection of human rights.

Neither current political opinion nor short-term commercial interests should define the research or teaching that takes place at our higher education institutions. Both people in power and the general public need to understand, accept and protect the principle that a free and just society needs higher education and research to be forums for the free exchange of thoughts and ideas. In order to reinforce democracy, the freedom of education and the freedom of research need to be protected by the constitution. A change needs to be

implemented to strengthen the general principle of academic freedom that was recently incorporated into the Higher Education Act (Chapter 1, Section 6).

To safeguard academic freedom and democracy in the long-term, the Swedish National Union of Students (SFS), the Association of Swedish Higher Education Institutions (SUHF) and the Swedish Association of University Teachers and Researchers (SULF) have agreed to work together with the aim of introducing an amendment to the constitution that will secure academic freedom in all aspects of the work of higher education institutions.

Proposed amendment to the Instrument of Government

The Instrument of Government (*Regeringsformen*) is one of Sweden's four constitutional laws that regulate the Swedish political system, along with the Freedom of the Press Act, the Fundamental Law on Freedom of Expression and the Act of Succession. Together, these laws constitute a basic framework that stands above other laws and regulation. The Instrument of Government, which currently includes provisions stipulating that the state is to ensure the existence of higher education and that freedom of research is protected (Chapter 2, Section 18), should be amended to include the freedom of Higher Education as well as Institutional Autonomy." For a link in english see: <https://sulf.se/en/news-en/sfs-suhf-and-sulf-demand-constitutional-protection-for-the-freedom-of-higher-education/>

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

The Swedish Association of University Teachers and Researchers has recently published an article on this. Please find here:

https://sulf.se/app/uploads/2023/04/Skrift_akademiskfrihet_2023_engelska_web.pdf

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?

The major challenges for academic freedom in Sweden is the funding system with a high share of external funding for research. This system leads to insecure employments and creates a system where academics are chasing for money instead of following their curiosity. SULF believes that one of the biggest obstacles to democracy and the free dissemination of knowledge is the high rate of precarious employment in the higher education sector. This applies both to the many early-career fixed-term positions and to the fact that even permanent jobs are insecure in practice. When the money runs out, so does the employment. The fact that employment is insecure to such a great extent for the people who are society's disseminators of knowledge is a major obstacle to the exercise of academic freedom.

When researchers and university teachers are afraid to challenge the status quo for fear of losing their jobs, the capacity to find new and innovative solutions to problems shrinks. This uncertainty can also impact people's willingness and ability to speak out in the workplace and can lead to a culture of self-censorship

and fear of reprisals. It can silence the free and independent academic transfer of knowledge. That would be a serious blow to social development.

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 find a thorough explanation by professor Shirin Ahlbäck Öberg here: https://sulf.se/app/uploads/2023/04/Skrift_akademiskfrihet_2023_engelska_web.pdf
6. Please provide examples of institutional guidelines/codes of conduct developed to ensure respect for academic freedom, including from external public or private actors.

See reference above.

Funding

7. 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 funding system is an obstacle to full academic freedom. SULF considers that a university's basic grants must constitute the long-term basis for its operations and not be exposed to competition.

Thirty years ago the ratio of direct to external research grants was about 60/40. Today the situation is almost the reverse. Currently, only 43% of government R & D budget goes to universities in the form of direct grants.

Fragmented, short-term research financing and the high proportion of competitive funding have had consequences. Today's higher education landscape is littered with research and teaching staff in precarious employment positions, hunting for money for their own salaries with no clear career paths for young scientists. One third of the senior teaching and research staff, a higher proportion of women than men, are employed on fixed term contracts.

In such a climate the academic freedom of individual researchers suffers because academic freedom requires that employees dare to say what they think without jeopardising their jobs.

Working environment suffers as employees with precarious job situations have more problems with poor work environment, stress and lack of confidence in management.

8. 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.

The constitution and the Higher Education Act. See above.

Surveillance

9. 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?

Not that I am aware of.

Freedom of expression in teaching and access to books

10. 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?

That’s a hard question. I don’t know.

11. 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?

Books and other resources are chosen by the collegium or by some other kind of body. It differs between HEI:s since the Swedish system is highly diversified with autonomy when it comes to internal government. No materials are banned.

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.