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Academic freedom

Report of the Special Rapporteur on the right to education, Farida Shaheed*

Summary

The present report of the Special Rapporteur on the right to education, Farida Shaheed, examines the right to academic freedom from a right to education perspective. It proposes considering academic freedom an autonomous human right grounded in several provisions of international law.

Academic freedom is the freedom to access, disseminate and produce information; to think freely; and develop, express, apply and engage with a diversity of knowledge within or related to one's expertise or field of study, regardless of whether it takes place inside the academic community ("intramural expression") or outside the academic community, including with the public ("extramural expression"). It is a human right the exercise of which carries special duties to seek truth and impart information according to ethical and professional standards, and to respond to contemporary problems and needs of all members of society.

In the sphere of education, the Special Rapporteur supports an approach of academic freedom which all researchers, educators and students are entitled to, at all levels of education, taking into consideration the developing capacities and maturity of students. Academic freedom includes four interdependent pillars: the right to teach, to engage in discussions and debates with persons and groups inside (including in classrooms) and outside the academic community, to conduct research, and to disseminate opinions and research results. Such approach requires understanding the vitality of free expression in teaching, to review the concept of "neutrality" in education, and to reconsider processes for accrediting school manuals and imposing or prohibiting specific subjects from curricula, having in mind the aims of education under international human rights law. Educators can only foster critical thinking and provide diverse perspectives if they, themselves, enjoy academic freedom, while upholding the principles of pluralism, respect for others, and the pursuit of knowledge.

The Special Rapporteur draws the attention of the Human Rights Council and all stakeholders to the set of Principles for Implementing the Right to Academic Freedom,

* The present report was submitted to the conference services for processing after the deadline so as to include the most recent information.

drafted by a working group of United Nations experts, scholars, and civil society actors, based on and reflecting the status of international law and practice. Endorsement and implementation of these Principles would allow a better state of academic freedom worldwide.

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I. Introduction

1. This report of the Special Rapporteur on the right to education, Farida Shaheed, submitted pursuant to Council resolutions 8/4 and 44/3, examines the right to academic freedom from a right to education perspective, as part of the entitlement to provide and receive quality education, at all levels of education. It builds on previous work achieved by other United Nations human rights mechanisms, particularly the Committee on Economic, Social and Cultural Rights,¹ the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,² and the Special Rapporteur in the field of cultural rights.³

2. Academic freedom is at the heart of scientific progress essential to countering local to global crises. It contributes to building knowledge as a public and a common good, ensuring that this is grounded in research and exchanges within and between countries, rather than the result of power imbalances. It protects the ability to question and test received knowledge, to think outside conventional ideas and received opinions, to propose new concepts, including controversial or unpopular opinions, for the benefit of societies. It is a condition for the realization of the right to education at all levels and including vocational education, allowing students to access new findings and develop their own research skills and critical spirit, and educational personnel to provide quality education.

3. However, academic freedom is yet to be accepted within governing spheres as well as the wider public as being as crucial as a free press or independent judiciary. In every region of the world, as described below, people exercising their academic freedom face harassment, retaliation, repression, imprisonment and sometimes even death. Furthermore, the commodification of education, together with the encroachment of a multitude of actors seeking to increase their influence and control public opinion, introduce deeply worrying biases in academic research and free thinking.

4. To prepare this report, the Special Rapporteur held an experts' consultation in October 2023 in Geneva, organized by the Office of the United Nations High Commissioner for Human Rights, followed by a series of online consultations to deepen understanding around specific dimensions of academic freedom. To collect views and experiences, a questionnaire was distributed widely, receiving more than 120 responses.⁴ The Special Rapporteur warmly thanks all contributors.

5. The Special Rapporteur draws the attention of the Human Rights Council and all stakeholders to the set of Principles for Implementing the Right to Academic Freedom, drafted by a working group of United Nations experts, scholars, and civil society actors, based on and reflecting the status of international law and practice (hereinafter the Principles). Endorsement and implementation of the Principles would allow a better state of academic freedom. The Principles are attached to this report (A/HRC/56/CRP.2) and are available in the six United Nations languages.⁵

II. Legal framework and recent developments

A. Academic freedom as a human right

6. All human rights are universal. Academic freedom is a human right, not a professional freedom limited to education personnel or traditional institutions such as universities. It should be enjoyed within research and teaching entities operating outside the formal education system and wherever teaching and scientific research occur,⁶ and not only in higher education. Teachers at the lower levels should also enjoy the right to teach and engage in the

¹ General Comments 13 and 25.

² A/75/261.

³ A/68/296; A/HRC/20/26.

⁴ All contributions are available on Special Rapporteur on the right to education | OHCHR

⁵ The principles are also available on the website of the Special Rapporteur.

⁶ Inter-American Principles on Academic Freedom and University Autonomy, Principle I.

classroom in a manner they consider appropriate to the standards and norms of the scholarly enterprise.

7. As stressed in the Inter-American Principles on Academic Freedom and University Autonomy, academic freedom is the right of every individual “to form part of academic communities”.⁷ The Special Rapporteur appreciates that, for example in Quebec, academic freedom is defined as “the right of any person to engage freely and without doctrinal, ideological or moral constraint, such as institutional censorship, in any activity by which that person contributes to the fulfilment of the mission of an educational institution.”⁸ She also notes that Guatemala does not differentiate between teachers and students, nor amongst diverse educational levels for the application of academic freedom.⁹

8. Academic freedom of students is usually well accepted in higher education, but less so at lower levels. As mentioned in the Principles, students have the right to academic freedom, while recognizing possible differences consistent with the evolving nature of their capacities. The fulfilment of these rights is strengthened by ensuring quality teacher training, pedagogy fostering critical spirit and thirst for inquiry, quality academic content, and ongoing research, all of which depend on conditions of respect for academic freedom and autonomy.¹⁰

B. Legal bases and recent development at the international level

9. Academic freedom is “the human right to acquire, develop, transmit, apply, and engage with a diversity of knowledge and ideas through research, teaching, learning, and discourse.”¹¹ In 2020, the Special Rapporteur on freedom of opinion and expression stressed that “academic freedom should be understood to include the freedom of individuals, as members of academic communities (e.g., faculty, students, staff, scholars, administrators and community participants) or in their own pursuits, to conduct activities involving the discovery and transmission of information and ideas, and to do so with the full protection of human rights law.”¹²

10. Academic freedom per se is not mentioned in international human rights treaties. However, it is legally grounded in a number of provisions, particularly those relating to the rights to education, to take part in cultural life, to enjoy the benefits of scientific progress and its applications, and to the freedom indispensable for scientific research and creative activity (art. 13 and 15 of the International Covenant on Economic, Social and Cultural Rights - ICESCR; art. 28-29 of the Convention on the Rights of the Child - CRC); as well as the right to freedom of opinion and expression, including the right to seek, receive and impart information and ideas of all kinds (art. 19 of the International Covenant on Civil and Political Rights - ICCPR). The rights to participation in public affairs, privacy, freedoms of association and assembly, the right to leave one’s country and return are also relevant, inter alia.

11. The Special Rapporteur notes an emerging call to consider academic freedom as a self-standing human right. Notably, according to the Inter-American Principles on Academic Freedom and University Autonomy, “academic freedom is an independent and interdependent human right, which enables the exercise of a series of other rights”.¹³ The Special Rapporteur on freedom of opinion and expression recommended that human rights mechanisms address academic freedom violations as autonomous violations, not a derivation of freedom of expression.¹⁴ In some States, this approach has been adopted in an acknowledgement that there is a particular social value to protecting a free and independent academia.¹⁵

⁷ Inter-American Principles on Academic Freedom and University Autonomy, Principle I.

⁸ Fédération québécoise des professeures et professeurs d’université, p. 6.

⁹ Guatemala, 2.

¹⁰ Principle 8.

¹¹ Principles, 1.

¹² A/75/261, para. 8.

¹³ Preamble.

¹⁴ A/75/261, para. 57. §

¹⁵ Germany, 1. See also Guatemala, 3.

12. States have demonstrated understanding of the vitality of academic freedom. UNESCO Recommendations have been adopted, in particular on Science and Scientific Researchers; on the Status of Higher-Education Teaching Personnel and on the Status of Teachers (together with ILO).¹⁶ UNESCO continues developing programmes on scientists, including their safety. At the 52nd session of the Human Rights Council, in March 2023, more than 70 States delivered a Joint statement on academic freedom, calling for enhanced international cooperation towards strengthening academic freedom. The crucial importance of academic and scientific freedoms was stressed during the Social Forum 2023, focused on the contribution of science, technology and innovation to the promotion of human rights as requested by the Human Rights Council.

13. Regional initiatives too have been numerous, particularly in the Americas, with the adoption of the 2021 Inter-American Principles on Academic Freedom and University Autonomy, and in Europe, with several Council of Europe resolutions¹⁷ as well as the Charter of Fundamental Rights of the European Union, with Article 13 specifically protecting academic freedom. Also of note is the launching of the Academic Freedom Monitor by the European Parliament in 2023,¹⁸ *inter alia*.

14. Monitoring bodies have demonstrated an increased interest in academic freedom issues, responding to a growing number of reports alleging violations from all parts of the world. Noteworthy are General Comments 13 (on the right to education) and 25 (on Science and Economic, Social and Cultural Rights), by the Committee on Economic, Social and Cultural Rights. Also relevant is a series of reports by Special Rapporteurs devoted to academic and/or scientific freedoms, or aspects of these freedoms, in particular the reports of the Special Rapporteur on freedom of opinion and expression on academic freedom, of the Special Rapporteur in the field of cultural rights on the right to access to and participate in science,¹⁹ and the writing and teaching of history;²⁰ and the report of the Special Rapporteur on toxics and human rights on the right to science in the context of toxic substances.²¹ The report of the Special Rapporteur on the role and rights of teachers is also pertinent.²²

C. A variety of approaches at the national level

15- One challenge for implementing academic freedom is the lack of uniform approach at the national level regarding its legal nature, concept and scope. Constitutional protection and domestic regulation of academic freedom worldwide show significant differences in approach, sometimes with many gaps in protection.

16. Notably, responses to the questionnaire indicate that many constitutions protect academic freedom as a fundamental right, including the principle of the autonomy of academic institutions. In some cases, however, the protection offered relates to scientific freedom, which overlaps with, but does not cover academic freedom entirely, as some academic disciplines may not be qualified as sciences, such as the arts and literature. Moreover, too often, national protections concern higher education, excluding the lower levels, or seem to be restricted to the research component of academic freedom, excluding the teaching dimension.

17. Many deplore the general lack of constitutional or legal recognition of academic freedom at the national level. For example, it is reported that of the 35 member states of the Organization of American States, only Ecuador expressly recognizes academic freedom in the constitution and only the Bahamas, Bolivia, Chile, the Dominican Republic, Ecuador and Mexico, expressly recognize it in law.²³

¹⁶ See UNESCO contribution.

¹⁷ A/75/261, para. 23.

¹⁸ EPRS_STU(2024)757798_EN.pdf (europa.eu)

¹⁹ A/HRC/20/26; A/HRC/55/44.

²⁰ A/68/296.

²¹ A/HRC/48/61.

²² A/78/364.

²³ Aula Abierta, 1.

18. In other cases, the constitutional and legal framework protecting academic freedom is not implemented or is contradicted by other provisions, such as requiring higher education institutions' adherence to State ideology.²⁴ Cases of absence of constitutional protection coupled with restrictive legislation, "purging" practices of the education system or overly strict licensing systems of the private sector have also been reported.²⁵

19. Amongst the obstacles to academic freedom cited in responses to the questionnaire are a lack of clear legal definition of academic freedom; of protective legislation; of policy guidelines on how to protect and promote academic freedom; of knowledge of educators, teachers and students about academic freedom; and of implementing mechanisms.

D. Efforts to clarify the content and scope of academic freedom and to provide policy guidelines

20. Civil society initiatives, including at the university level, have sought to clarify the content and scope of academic freedom for decades. Too numerous to be comprehensively mentioned, questionnaire responses referred in particular to the proposed Universal Declaration of academic rights and freedoms, submitted by the Amman Center for Human Rights Studies;²⁶ the Stockholm Charter for Academic Freedom and the 1988 Bologna Magna Charta Universitatum. The Academic Freedom Index must also be cited.²⁷

21. The above-mentioned Principles provide important clarity regarding the content, scope and status of academic freedom:

- Principle 1 a: Protection for academic freedom must include the freedom to access, disseminate and produce information; think; and develop, express, apply and engage with a diversity of knowledge within or related to one's expertise or field of study, regardless of whether it takes place inside the academic community ("intramural expression") or outside the academic community, including with the public ("extramural expression").
- Principle 1 b: Protection must also include inquiry, expression or other activity or conduct related to the conditions, actions, or policies of academic, research, or teaching institutions, regardless of whether it takes place within or outside the academic, research, or teaching sector, including with members of the public.
- Principle 2: Academic freedom is protected by existing international human rights standards and international education principles.
- Principle 3: The protection, promotion, and enjoyment of academic freedom require the autonomy of academic, research, and teaching institutions.
- Principle 4: Academic, research, and teaching staff and students have the right to engage in expression and discourse with persons and groups inside and outside the academic, research and teaching sector.
- Principle 5: Enjoyment of academic freedom requires respect for the right to information, sources of information, and the tools, materials, and methods necessary to gather, develop, interpret, and share information and ideas.
- Principle 6: Enjoyment of academic freedom requires freedoms of movement and of association.
- Principle 7: Academic freedom is essential to all levels of education, from early childhood through adult education, and all types of academic research and teaching institutions.

²⁴ Scholars at Risk, regarding China, 1.

²⁵ Respect – Protect– Fulfill, on Belarus.

²⁶ Progress Made on Proposal for a Universal Declaration of Academic Freedom - Amman Center for Human Rights Studies (achrs.org)

²⁷ Academic Freedom Index (academic-freedom-index.net)

- Principle 8: As members of education communities, students have the right of academic freedom.
- Principle 9: The State bears prime responsibility and duty to protect, promote and implement academic freedom. Everyone has a right and responsibility, individually and in association with others, to respect, promote and strive for the protection and realization of academic freedom, at the national and international levels.

22. The principles also provide useful considerations for assessing the implementation of academic freedom in Appendix I, and practical guidance to improve implementation of academic freedom in Appendix II.

23. The Special Rapporteur supports the approach adopted by the Principles that all researchers, educators and students are entitled to academic freedom at all levels of education, as explicated above. Academic freedom includes four interdependent pillars: the right to teach, to engage in discussions and debates with persons and groups inside (including in classrooms) and outside the academic community, to conduct research, and to disseminate opinions and research results in intra and extra mural expression. This is in relation to one's expertise or field of study and carries special duties to seek truth and impart information according to ethical and professional standards, and to respond to contemporary problems and needs of all members of society.

E. Possible limitations and the issue of responsibilities of teachers and researchers

24. Academic freedom is not absolute or unlimited. Limitations to academic freedom, if any, must be consistent with international obligations, however, especially those under Article 19 ICCPR (restrictions shall only be such as are provided by law and are necessary for respect of the rights or reputations of others or for the protection of national security or of public order, or of public health or morals) and Article 4 ICESCR (only such limitations as are determined by law, compatible with the nature of these rights, and solely for the purpose of promoting the general welfare in a democratic society). States and other stakeholders should apply such clauses in a complementary manner, and always choose the least restrictive measure, seeking the greatest enjoyment of human rights for all.

25. Limitations do not apply to the freedom of opinion dimension of academic freedom. Importantly, "in an academic context, certain aspects of research and pedagogy are closer to opinion than expression." This implies, notably, "that scholars should have access to the kinds of tools that protect their work product. In the digital realm, such tools include encryption or guarantees of anonymity".²⁸

26. The Special Rapporteur concurs with the Committee on Economic, Social and Cultural Rights that limitations on the research process can be necessary, particularly when the research affects human beings in order to protect their dignity, their integrity and their informed consent when involved in the research. Nevertheless, any limitation on the content of scientific research entails a strict burden of justification by States, in order to avoid infringing freedom of research.²⁹

27. Implementing these principles presents serious challenges, in particular simultaneously ensuring freedom of expression and the fulfilment of academic responsibilities; managing conflicts between institutional autonomy and government oversight; striking a balance between academic freedom and the regulatory obligations of educational institutions.³⁰ As one contribution stressed, academia is a highly regulated sphere even in the freest of societies. Scholars voluntarily subject themselves to rules designed to protect the rigour of their research, the ethics of their methods, and the integrity of their findings. They are expected to hold their work accountable to the public, and to fulfil a duty of care to their students. The principle of academic freedom does not free researchers or

²⁸ A/75/261, para. 16-17.

²⁹ General Comment 25, para. 22.

³⁰ Federação Nacional da Educação, Portugal, 3.

teachers from any of these professional responsibilities. Instead, academic freedom demands that scholars are free *from* fear of repression by the state or any other source so that they are free *to* serve their social mission.³¹

28. The exercise of the right to freedom of expression carries with it specific duties and responsibilities (article 19 (3) ICCPR). A similar approach is required for academic freedom. Responsibility, in the scientific sphere, encompasses the duty to conduct and apply science with integrity, in the interest of humanity, in a spirit of stewardship for the environment, and with respect for human rights.³² This statement can be extended, *mutatis mutandis*, to academic freedom. As noted in the Principles, social responsibility in the context of academic freedom is the duty to exercise and enjoy academic freedom, consistent with the obligation to seek truth and impart information according to ethical and professional standards, and to respond to contemporary problems and needs of all members of society.³³ General comment 13 further underlines the duty to respect the academic freedom of others, to ensure fair discussions of contrary views, and to treat all without discrimination on any of the prohibited grounds.³⁴

29. Therefore, responsibility in the exercise of academic freedom, which includes the search for truth for the benefit of all and fair discussions of contrary views, is more stringent than in the area of freedom of expression. In its teaching component, this notably translates into teachers' responsibilities to respect the right to education of students, including the aims of education in accordance with international standards; and conversely, the responsibilities of students and their families/communities to respect the freedom of expression of teachers in their teaching.

III. The meaning of academic freedom from a right to education perspective

30. Academic freedom is an integral part of the entitlement to provide and receive quality education and must be protected as such at all levels of education. As stated by the Committee on Economic, Social and Cultural Rights, the right to education can only be enjoyed if accompanied by the academic freedom of staff and students.³⁵ This must be understood bearing in mind the aims of education under articles 26 of the Universal Declaration of Human Rights, 13 ICESCR and 29 CRC: to empower people to reach their fullest potential, not only as individuals but also as members of communities and societies through meaningful social, cultural, economic and political participation.

31. Education, especially but not only at higher levels, is a forum of ideas where creative and critical thinking is developed. All educational levels are interrelated and influence each other. Hence, synergies between levels are essential to ensure quality education in terms of both content and pedagogy. A primary task of teachers is to facilitate students developing their own academic skills, including by mediating difficult conversations and diverse views, which is why the right to freedom of expression includes teaching.³⁶

32. The scope of academic freedom as an element of the right to quality education is not limited to campuses. It extends to off-campus activity in public fora. In the wider understanding of knowledge as a common good, and as mentioned in the Principles, academic, research, and teaching staff as well as students, have a right and social responsibility to engage with the public by sharing the content of research, teaching or discourses developed within the education sector, including through academic and non-

³¹ AcademiaSG. (2021). *Academic Freedom in Singapore: Survey Report*. Singapore: AcademiaSG. <https://www.academia.sg/academic-freedom-survey-2021>, p. 4.

³² AAAS Statement on scientific freedom and responsibility.

³³ Principle 4.

³⁴ General Comment 13, para. 39. See also 1997 UNESCO Recommendation on the Status of Higher Education Personnel, art. 28.

³⁵ General Comment 13, paras. 38-40.

³⁶ General Comment 34, Human Rights Committee, para 11.

academic publications, public testimonies, print and online media, radio, television, exhibits, demonstrations and other events.

33. Various instruments add precisions regarding academic freedom from the perspective of the right to education. Notably, the ILO/UNESCO Recommendation on the Status of Teachers stresses that the teaching profession should enjoy academic freedom in the discharge of professional duties. Teachers should, with the assistance of the educational authorities, be able to choose and adapt teaching material and methods, and help select textbooks and other educational materials, within the framework of approved programmes. Teachers and their organizations should contribute to the development of new courses, textbooks and teaching aids. Any systems of inspection or supervision should be designed to encourage and help teachers in the performance of their professional tasks in ways that do not diminish the freedom, initiative and responsibility of teachers.³⁷ In addition, in accordance with the 1997 UNESCO Recommendation on the Status of Higher Education Personnel, the latter should not be forced to teach against their own best knowledge and conscience or be forced to use curricula and methods contrary to human rights standards. They should play a significant role in determining the curriculum.³⁸

34. Good practices reported to the Special Rapporteur include, in Portugal, teachers and professors having a degree of autonomy in selecting school manuals, books, and other resources for teaching.³⁹ Positive examples were also reported from Italy⁴⁰ and Sweden.⁴¹ Other States have restrictive policies at odd with the right to education and academic freedom, for example when teachers must use prescribed materials even though these contain errors. Books deemed to be “subversive” and to contain “anti-government” ideologies have been banned.⁴² The scope of censorship extends beyond textbooks, when scientific websites are blocked, for example in Iran.⁴³

35. A relatively common practice is the right of teachers to choose textbooks but exclusively from amongst those approved by the Ministry of Education.⁴⁴ While this may be legitimate, respect for academic freedom and the right to education depends on how this is organized, in particular: how textbooks are written and by whom, following which criteria and guidelines; how they are accredited; the diversity and number of available textbooks for each discipline and grade; the level of participation of teachers in the process, including the selection process for their own teaching; teachers’ right to introduce other material and sources for discussion in the classroom; and the permissible space to comment on and challenge particular textbooks, without fear of reprisal. A wide range of teaching materials is especially important given the plethora of digitally available dis- and misinformation.

36. The Special Rapporteur reiterates the recommendations she had made as Special Rapporteur in the field of cultural rights regarding the writing and teaching of history, which can be applied *mutatis mutandis* to other disciplines. In particular, (a) official standards should determine the goals and outcomes of teaching without prescribing the content of materials; (b) guidelines for writing textbooks should be developed to enable authors to offer various interpretations encompassing diverse standpoints; (c) a wide array of textbooks by a range of publishers should be accredited, and teachers allowed to choose from these; and teachers should be able to introduce supplementary material without prior approval of the ministry; and (d) approval and accreditation procedures and the criteria for textbook selection should be clear and rely on expertise, not on particular ideological and political requirements.⁴⁵

37. As stressed in the proposed "Universal Declaration of academic rights and freedoms" submitted by the Amman Center for Human Rights Studies, “Researchers should have access

³⁷ Articles 61-63.

³⁸ Article 28.

³⁹ Federação Nacional da Educação, Portugal, 10.

⁴⁰ Alessandro Arienzo, 10.

⁴¹ The Association of Swedish higher education institutions, 10.

⁴² Alliance of Concerned Teachers, 9-10.

⁴³ International Community of Iranian Academics, 10.

⁴⁴ Innovative Trans-border Solutions Association Bulgaria, 10.

⁴⁵ A/68/296, para. 88.

to libraries that have modern collections reflecting the diverse aspects of the issue and whose holdings are not subject to censorship or other forms of intellectual interference. They must have access, without censorship or other restrictions, to international computer systems, digital programs and databases required for research or scholarships.”⁴⁶

38. A positive example is Article 182 of the Law on pre-school and school education in Bulgaria, which provides that “Library and information services shall be provided through school libraries, guaranteeing that pupils have free access to information from different documentary sources in the library stock and in the worldwide net with a view to develop reading habits and information search and use competences”.⁴⁷

39. The Special Rapporteur invites States and other stakeholders to review the concept of “neutrality of teaching”, often used in reference to K-12 education, against the right to academic freedom. Education must be free of propaganda and must always imply a focus on the free development and exercise of critical thinking, which is at the core of the right to learn.⁴⁸ While the concept of neutrality in teaching is often viewed as a guarantee against religious, political or other kind of indoctrination, it can also, reversely, become a medium of indoctrination. It can prevent a diversity of views to be expressed in education and impede the development of critical spirit in students.

40. Hence, various rights, principles and parameters should be taken into account: a) students’ right to education, which implies a right to access information, in accordance with their developing capacities and maturity; b) the right to freedom of expression and academic freedom of teachers who have special responsibilities that vary depending on the age and maturity of students; c) students’ right to academic freedom, including the right to express themselves on specific subjects without fear of reprisals; d) the respect due to cultural diversity and the need to ensure a multi-perspective approach, including in subjects such as history; e) international standards regarding possible limitations to human rights. Parameters must be understood within the wider framework of the prohibition of indoctrination and forced assimilation, as well as the overall aims of education under international human rights law. Educators should be encouraged to foster critical thinking and provide diverse perspectives but should do so in a manner that upholds the principles of pluralism, respect for others, and the pursuit of knowledge, and to create a supportive environment where students are encouraged to think critically, engage with varying viewpoints, and develop informed perspectives.⁴⁹

41. The Special Rapporteur appreciates that in some States, such as Canada, contract language protecting academic freedom specifically prohibits the imposition of a “proscribed doctrine” and asserts that academic freedom does not require neutrality, but should make intellectual discourse, critique, and commitment possible. Moreover, the exercise of academic freedom in the classroom is subject only to the limits of the law, professional academic standards, and official policies and procedures set by academic governance bodies. Academic freedom in teaching does not confer legal immunity against libel, hate speech, or harassment and discrimination.⁵⁰ In Sweden, all teachers and professors, at all levels of education, enjoy freedom of expression in their own teaching; however, persons who express themselves within the framework of their profession as academics must follow good academic practice and base their statements on research-based evidence.⁵¹

IV. Threats to academic freedom

42. In 2020, the Special Rapporteur on freedom of opinion and expression highlighted some of the most serious threats to academic freedom worldwide, particularly overly strict legal restrictions; targeted violence against students and academics; arrest, detention, ill-

⁴⁶ Palestine Polytechnic University, 5, art. 4.

⁴⁷ Innovative Trans-border Solutions Association Bulgaria, 10.

⁴⁸ A/HRC/53/27, para. 26.

⁴⁹ Federação Nacional da Educação, Portugal, 9.

⁵⁰ Canadian Association of University Teachers, 20-21.

⁵¹ The association of Swedish higher education institutions, 9.

treatment, extrajudicial killing and trial in military courts of those exercising academic freedom; attacks against institutional autonomy; the physical presence and/or interventions of security forces on university campuses; the engagement of students as a source of threat to academics; disruptions of Internet and telecommunications services; travel restrictions; and the exclusion of students from scholarships. One fallout is self-censorship which is difficult to assess.

43. The many responses to the questionnaire confirm the multi-faceted violations of academic freedom across the globe, also adding information on those resulting from, inter alia, the weight of social and cultural norms, the use of civil servant status of education personnel as a tool for control and censorship, intellectual property issues, the impact of military occupation and war; restrictions on international cooperation; security measures and political tensions affecting the content and conduct of teaching and research; disturbance of student elections by paramilitary groups; practices of indoctrination in university campuses and censorship of material critical of the Government; introduction of pro-governmental narratives in schools particularly for history; assessment of pupils' attitude towards state and public institutions as part of the criteria for admission to higher education; and restrictions on women's participation in certain fields of study and discriminatory practices limiting women's academic freedom and opportunities for scholarly engagement.⁵² In some countries, the situation is described in most serious terms, civil society groups denouncing a "systematic persecution of educators", or "an unfavorable and threatening school atmosphere for educators", teachers being victims of a "hate campaign",⁵³ including on social media.

44. Many contributors reported on actions to curtail speech on issues relating to Israel/Palestine.⁵⁴ On 23 November 2023, four Special Rapporteurs raised concerns about suspensions and expulsions of students from universities, dismissal of academics, calls for their deportation, threats to dissolve student unions and associations, and restrictions on campus meetings to express solidarity with the suffering civilians in Gaza and denounce the ongoing Israeli military response. In some universities, students have been blacklisted as supporters of terrorism, with accompanying threats to their prospects for future employment.⁵⁵ It is reported, for example, that about 120 universities in the United Kingdom of Great Britain and Northern Ireland have adopted the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism, which conflates criticisms of Israel with antisemitism, to silence lawful speech supportive of Palestinian human rights and the right to self-determination. University staff and students have been subjected to unreasonable investigations and disciplinary proceedings based on this re-definition, and harmed by false allegations of antisemitism. Academic freedom has also been curtailed as a result of measures to prevent terrorism, particularly in relation to expressions of solidarity with the Palestinian people since 7 October 2023.⁵⁶ The Special Rapporteur is equally concerned at the reported increase of antisemitism in universities following the 7 October massacre, but regrets that the resort to the IHRA definition brings confusion on such an important issue.⁵⁷ Academic freedom does not protect advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

45. Worldwide, States authorities, including local authorities, are far from being the only actors impeding academic freedom. Attacks are also carried out by religious or political groups or figures, paramilitary and armed groups, terrorist groups, narco-traffickers, corporate entities, philanthropists, influencers, but also sometimes the educational institutions themselves as well as school boards, staff and students, and parents' associations. The role of the military, sometimes operating as a state within a state, needs more scrutiny.

⁵² For example, AcademiaSG. (2021). *Academic Freedom in Singapore: Survey Report*. Singapore: AcademiaSG, p. 7.

⁵³ Civil society contribution on teachers' and professors' freedom of expression in Brazil, 1.

⁵⁴ British Society for Middle Eastern Studies. See also Canada - Independent Jewish Voices, 3.

⁵⁵ Speaking out on Gaza / Israel must be allowed: UN experts | OHCHR.

⁵⁶ British Society for Middle Eastern Studies.

⁵⁷ World Jewish Congress, The rise of antisemitism in European universities as a result of the 7 October massacre.

46. Violations of academic freedom follow patterns similar to attacks against independent media, free civil society and artistic expressions: there is both direct and violent repression, as well as more subtle methods, which deserve the same level of attention. The aim is to control public opinion and free thinking and restrict academic and scientific debate. Such methods of control are developed, inter alia, through public or private funding; the privatization, commodification, digitalization, platformization and assetization of education; or support to certain students' organizations rather than others. As one contribution mentioned, this occurs when universities seeking State resources and/or patronage enter into compromising relationships with people in power, resulting in curious situations where academic freedom is suppressed with the apparent support of the academic establishment. The net result is a system operating mostly through hidden self-censorship. In jurisdictions where high-performing universities co-exist with tight restrictions on academic freedom, these universities may do well on measures that matter to the global higher education industry such as citations and internationalisation, while under-serving their own societies' need for independent, critical teaching and scholarship.⁵⁸

47. This report does not reiterate the findings and recommendations of the Special Rapporteur on freedom of opinion and expression, with which the Special Rapporteur agrees. Instead, it emphasizes the most worrying issues and/or those requiring increased attention, particularly from a right to education perspective.

A. Institutional autonomy issues

48. Many contributions stressed the importance of institutional autonomy for ensuring academic freedom. In the Principles, Principle 3 details the many aspects of institutional autonomy. In particular, the appointment, tenure and removal of institutional education leaders, oversight boards, and governing councils must respect the principle of self-governance, which is an essential component of autonomy. Rules and practices for appointment, hiring, conditions of work, admissions, promotion, tenure and retention, and expulsion or dismissal of institutional leadership, administrative and academic, research and teaching staff, and students; rules and practices for determining academic, research, and teaching content, curricula, and materials; and forming and operating staff and student unions and associations must be free from discrimination and outside interference.

49. This is usually well accepted for higher education institutions. However, in many countries, the different tiers of educational institutions also enjoy varying degrees of autonomy and self-governance, as for example in Bulgaria⁵⁹ or Colombia.⁶⁰ As Principle 3 highlights, academic, research, and teaching institutions should all enjoy institutional autonomy. Many violations have been reported, nonetheless, such as in situations where heads of higher education institutions are directly appointed by the head of State,⁶¹ but also through a wide array of methods as described in the following paragraphs.

50. Institutional autonomy should be considered as instrumental to academic freedom, however, and not the reverse, as there are many examples of violations of academic freedom of staff and students by their own institutions, whether public or private. Private universities can indeed also exercise strict ideological control that violates academic freedom. This includes universities owned by churches, corporations, and sometimes by political figures. The implications are particularly notable where public sector funding for higher education has been seriously cut, obliging students to opt for private institutions. The Special Rapporteur notes that the Abidjan Principles on the right to education stress that the respect for academic and pedagogical freedoms must be part of the minimum standards applicable to private instructional educational institutions that States must define and enforce (para. 55 b).

⁵⁸ Submission from Academia SG (Singapore).

⁵⁹ Innovative Trans-border Solutions Association Bulgaria, 3.

⁶⁰ Colombia, 14-15.

⁶¹ Respect – Protect– Fulfill, 13, on Belarus.

B. Militarization of education

51. Some contributions expressed concerns about an increased militarization of education systems, when the administration of ordinary schools has been partially or totally transferred to armed forces, with the consequent adoption of military discipline and the curtailment of human rights in education. This undermines both academic freedom and institutional autonomy.⁶² Also, establishing military offices within universities as a regular feature would be an unacceptable intrusion of militarized forces into academic spaces.⁶³

52. Military occupations also negatively impact academic freedom. Reports indicate that occupying authorities retaliate against teachers refusing to work under the imposed education system and that children undergo indoctrination.⁶⁴

C. Restrictions of academic freedom through funding

53. Funding for research and education may be used in many ways to restrict academic freedom. This includes an increase in output-related funding; targeted funding of certain subjects to the detriment of others; permanent threat of budget cuts; and undue influence by public or private funders, whether philanthropists or commercial entities.

54. Cases of universities being suffocated through cutting public funds have been reported;⁶⁵ as well as of the reliance of universities on public funds enabling state control over all university affairs;⁶⁶ or of universities and research institutions being progressively less autonomous in devising their own investment and planning strategies, due to funding increasingly tied to parameters identified by the government.⁶⁷ It is also reported that in some countries, funding is regularly allocated to institutions and individuals who advance the government's ideological agenda.⁶⁸

55. Issues of undue influence through funding by corporate actors have been reported in some developed countries.⁶⁹ Of note, the Canadian Association of University Teachers has proposed specific guidelines for institutions to ensure that academic freedom and institutional autonomy are the predominant and prevailing considerations in developing, deciding upon, and assessing private research collaborations.⁷⁰

56. More attention should be directed at the undue influence by philanthropists too, as exemplified by a case at the University of Toronto's law school. In 2020, the school's dean stopped the hiring of a professional unanimously selected by a hiring Committee to direct the International Human Rights Program, following lobby by a group whose former board member was a major donor to the university, and had warned the university of possible consequences in terms of fundraising.⁷¹ Other examples include the pressure exercised by major donors or alumni on Harvard, Penn and MIT universities in the United States of America, calling for the firing of their President or withholding of donations, as retaliation for failing to adequately condemn Hamas' 7 October attack on Israel.⁷²

57. Over the past decade, due to poor or decreased state funding to higher education in countries such as Australia, Canada, the United Kingdom, and the United States of America,

⁶² Civil society contribution on teachers' and professors' freedom of expression in Brazil, 9-17.

⁶³ International Community of Iranian Academics, 3.

⁶⁴ Human Rights Watch, 34-37, regarding the Ukrainian occupied territories.

⁶⁵ ODHULA, 16-17, on the situation in Venezuela.

⁶⁶ Association for Freedom of Thought and Expression, p. 7.

⁶⁷ For example in Italy, Alessandro Arienzo, 4.

⁶⁸ Scholars at Risk, 6.

⁶⁹ For example in the United States of America, Misinformation researcher Joan Donovan accuses Harvard of bowing to Facebook - The Washington Post; How big tech companies like Google, Meta influence academic research - The Washington Post; and in Canada, Canadian Association of University Teachers, 11

⁷⁰ Canadian Association of University Teachers, 17.

⁷¹ Human Rights Watch, 1-4.

⁷² Academic freedom is the loser when big donors hound US university presidents | Robert Reich | The Guardian.

universities have increasingly become financially dependent on overseas fee-paying students. This has led to situations where university managers show undue deference to the sensitivity of some of these students,⁷³ and has made universities more susceptible to foreign government influence.⁷⁴ Of note, Guidelines to counter foreign interference in the Australian university sector have been elaborated, describing foreign interference as activities “carried out by, or on behalf of a foreign actor, which are coercive, clandestine, deceptive or corrupting and are contrary to Australia’s sovereignty, values and national interests.” The Guidelines stress that protest activity on university campuses can be a healthy sign of a democratic society; however, if this activity is secretly directed by a foreign state, or community members have been coerced to participate or prevented from protesting by a foreign state, then it would cross the threshold into foreign interference.⁷⁵

58. Moreover, in many countries, funding tends to be channelized for scientific research aimed at specific programmes or objectives, severely curtailing the possibilities of carrying out basic and curiosity-driven research activities.⁷⁶ State research councils increasingly dedicate funds to designated purposes and research areas.⁷⁷ Some governments are adopting instruments such as mandate agreements and funding mechanisms aimed at aligning university activities with government goals of meeting specific labour market needs and contributing to economic growth and innovation in identified sectors; or may earmark research funding for universities and colleges to align with political priorities, shifting research away from investigator-driven inquiries.⁷⁸ While it may be legitimate to ensure that research publicly funded responds to local priority issues, guarantees must also be adopted to ensure that academic freedom is respected. Full consideration should be given to impacts on researchers’ ability to define research areas themselves, and the reduced ability of higher education institutions’ management to make their own strategic investments.

59. Commercialization of the education sector at all levels remains an important concern. Academic freedom requires an environment conducive to disinterested research. However, States continue pushing the commercialization agenda in higher education, through cutting public funds and increasing student fees, at odds with articles 2 and 13 of ICESCR. In addition, some States specify that research be undertaken in collaboration with the private sector. Consequences on academic freedom are tentacular: redirecting research from curiosity-driven to commercial driven research; considering students as paying customers, leading to diploma inflation; perceiving universities as corporations and their personnel as “stakeholders”; increasing improper importance of rankings, free-market principles and entrepreneurship; ensuring the dominant position of predatory journals based on intellectual property regimes that are detrimental to scientific and academic research;⁷⁹ and creating situations of conflicts of interests. An approach that reduces education to a tradable commodity is not compatible with academic freedom, enjoyed by researchers to conduct research framed only by their own ethics and good judgement, and evaluation of their peers.

D. Surveillance of educational institutions, staff and students

60. Surveillance deployed in educational institutions is usually implemented through a combination of various modalities, both physical and online, leading to a pervasive atmosphere of intimidation within educational institutions.

61. Physical surveillance may involve police officers stationed in schools or visiting university campuses and academics critical of the Government, or drones flying over campuses. The Special Rapporteur was informed of police photographing staff and students,

⁷³ The telegraph, UCL bans lecturer from China course to protect its ‘commercial interests’, 8 March 2024.

⁷⁴ Human Rights Watch, 15.

⁷⁵ Guidelines to counter foreign interference in the Australian university sector - Department of Education, Australian Government,

⁷⁶ Alessandro Arienzo, 3 and 6.

⁷⁷ The association of Swedish higher education institutions, 6.

⁷⁸ Canadian Association of University Teachers, 12 and 16.

⁷⁹ A/HRC/28/57

checking staff mobile phones, obliging them to unlock their screens to ensure implementation of the prohibition of online subscriptions to “extremist resources”,⁸⁰ or answering questionnaires upon returning from abroad,⁸¹ with a lack of transparency and uncertainty as to the legal basis for such practices.

62. The inviolability of educational institutions premises, especially in higher education, is an element of institutional autonomy and a strong guarantee for academic freedom, impeding on-site surveillance and harassment. Many countries prohibit the entry of police or military personnel into educational institutions without prior authorization, except in exceptional circumstances, for example to prevent or investigate crimes or misdemeanours or in the case of natural disasters. These general rules are not applied everywhere, however. For example, reports indicate that in some countries institutional safeguards are repeatedly breached;⁸² and that in others, there is no restriction on the access of police or military personnel to educational institutions.⁸³ It is also reported that the police or military can freely enter school premises, unless they are private or higher education institutions; and that States have unilaterally banned agreements to prohibit such entry.⁸⁴ In other countries, rules do not differentiate the police’s or military’s ability to act within a campus from elsewhere.⁸⁵ Reportedly, in some places, cases of interventions not authorized by the academic authorities on university premises for reasons of public order have increased.⁸⁶ The Special Rapporteur is also worried by reports that police interventions, including in schools for younger children, have led to children and youth being strip-searched or submitted to humiliating and intimidating “public arrests” and “public trials” on campus; and announcements that more walk through schools by the police will be organized in some countries to prevent terrorism and turmoil, particularly in the context of the war in Gaza. Concerns are raised regarding possible racial profiling of staff and students in this respect.

63. The institutionalization of students playing the role of government informants in classrooms is reported in several countries, with some of these informants remaining ‘students’ long after they should have graduated. These informants may report students’ opinions on the school’s teaching plans, teaching content, methods and infrastructure, as well as teachers’ attitude and quality, especially to censor critics of the Government.⁸⁷ It is also reported that students belonging to pro-Israel campus groups surveil professors and report what they deem to be anti-Semitic speech or materials to university authorities.⁸⁸ According to other reports, students from China, particularly Hong Kong, Xinjiang and Tibet have also faced surveillance, intimidation, and harassment while studying abroad, and their families have been harassed.⁸⁹

64. Educational staff may also act as informants, as for example when “vice-rectors for security” in higher education institutions are tasked with monitoring the behaviour of students and staff, conduct ideological work, and “purge” employees with dissident viewpoints.⁹⁰

65. Agreements of cooperation between governmental and foreign universities have also been subject to control by security services, which have the final say on whether agreements go forward.

66. The Special Rapporteur has also been informed of blacklists of scholars and students, with the aim to block career development or participation in events. A 2023 investigation by the newspaper *The Observer* found that 15 United Kingdom government departments have monitored the social media activity of academic experts critical of government policies and

⁸⁰ For example in Thailand, Human Rights Watch, 27.

⁸¹ Respect – Protect– Fulfill, on Belarus, 20-21.

⁸² For example, International Community of Iranian Academics, 4.

⁸³ Armenia, question 4.

⁸⁴ For example in the Philippines, Alliance of Concerned Teachers, 4.

⁸⁵ The Association of Swedish higher education institutions, 4

⁸⁶ Alessandro Arienzo, 4.

⁸⁷ Scholars at Risk, 8

⁸⁸ Canada - Independent Jewish Voices, 10.

⁸⁹ Human Rights Watch, 20-25.

⁹⁰ For example in Belarus, Respect – Protect– Fulfill, 14-15.

compiling “secret files” in order to block them from speaking at public events.⁹¹ Elsewhere, illegal profiling of members of the teachers’ associations have also been reported.⁹²

67. Digital surveillance in educational institutions also seems to be a common practice that has been sharply increasing since the COVID-19 pandemic, as explained by the former Special Rapporteur on the right to education.⁹³ The Special Rapporteur is concerned that contributions mentioned schools deploying extensive digital surveillance systems that rely on monitoring social media, tip reporting apps, or scanning the private digital content of millions of students using state-issued computers and accounts. This not only impacts students, but potentially extends to educational staff too. Moreover, there is evidence that social media monitoring companies track the posts of everyone in areas surrounding schools. These tools have a direct impact on academic freedom and are employed to enforce restrictive social norms, aligning with increasingly stringent laws.⁹⁴ Reports further indicate that on-site cameras have been installed in schools in many countries, sometimes but rarely with parents’ consent,⁹⁵ with increasing trends to install these inside classrooms and resort to facial recognition. Often, the stated intention is to prevent abuses in classrooms, ensure security, or assess students and staff’s performance. However, education must be built on trust and educational institutions must remain safe spaces for free expression. Images can be decontextualized to harass teachers and students for various reasons.

E. Digitalization of education and academic freedom

68. The digitalization and platformization of education, including resort to artificial intelligence (AI), present threats to academic freedom of teachers and students. Teachers may be compelled to ensure quality through uniform content and pedagogical models across classes and schools, and digital technologies used to control and monitor teachers and students by prescribing what has to be taught and then surveilling the teaching. EdTech platforms increasingly provide micro-prescriptions of the curriculum, pedagogy and assessment, leading to curricular ‘discipline’ amongst teachers, including through rating. Rating teachers in this manner convert an important public service into a consumer good where the main aim becomes ‘consumer satisfaction’. Many private school franchises already exercise this level of control over teachers.⁹⁶

69. The Special Rapporteur warns that such control, restraint in teachers’ curricular flexibility and uniformization in content and pedagogy affect teacher and learner agency and limits teachers’ ability to be sensitive to local contexts. It damages the quality of the teaching-learning processes.

70. For example, in the United Kingdom, key findings of a study indicate that freedom for teaching and research is declining due to universities making use of the surveillance affordances of digital technologies to monitor all key aspects of how and what academic staff teach and undertake research on. These tools are also used for performance management and data-gathering on students’ satisfaction, without lecturer involvement or consent.⁹⁷ Fears are expressed that the trajectory of digital monitoring and performance management will lead to lower academic freedom, greater institutional oversight of academic activities and greater power for student (consumer) voice.⁹⁸

71. Artificial intelligence tools and specifically generative AI (GenAI) change the way people learn, teach, read and write. On the one hand, AI may facilitate global collaboration among researchers and educators, and enhance access to information by providing tools for data analysis, literature review and knowledge discovery, thus empowering researchers and educators to explore diverse perspectives and sources. On the other hand, the current

⁹¹ British Society for Middle Eastern Studies (BRISMES, 23).

⁹² Alliance of Concerned Teachers, Philippines, 8.

⁹³ A/HRC/50/32, paras. 62-74.

⁹⁴ Privacy International, p. 4.

⁹⁵ Russian Federation, p. 9.

⁹⁶ IT for Change, 7-10.

⁹⁷ Terence Karran, Chavan Kissoon, University of Lincoln U.K., 8.

⁹⁸ Terence Karran, Chavan Kissoon, University of Lincoln U.K., 8.

technical capacity of AI and its ethical implications raise important questions about pluralism in academia and academic integrity. For example, the use of GenAI such as ChatGPT erases any authorship of ideas and makes the detection of plagiarism much more difficult. Algorithms used for GenAI may encourage word associations, which reflect societal biases thus perpetuating stereotypes and hampering creativity and critical thinking.⁹⁹ Also, unless further prompted, the algorithms tend to pick up the quotes of the most quoted and amplify them, making minority points of view hardly heard.¹⁰⁰

F. Prohibited subjects in curricula and book bans in school libraries

72. In too many countries, academic freedom is also impeded by the banning of particular subjects or introduction of compulsory subjects, for example, to promote nationalism, justify wars, and more generally interfere in how history is taught, in an effort to impede access to information, discourage legitimate debate, and ensure indoctrination or assimilation processes. Such censorship is also carried out by banning books in school libraries or public/private libraries, eradicating books in particular languages, and the purging of schoolbooks, and can result from parents' associations, religious groups, and other actors apart from the State. Educators also face threat and violence from students or students' groups for addressing issues, particularly those relating to religion.¹⁰¹

73. In Brazil, reportedly, the topics most commonly targeted for censorship relate to gender and sexuality issues, often used to stir up moral panic based on fake news; other topics include racism and Afro-Brazilian, indigenous history and culture, the State's secularism and the human right to religious freedom, colonial exploitation, military dictatorship, the theory of evolution, vaccination, the use of pesticides, climate change and environmental destruction.¹⁰² In China, seven topics allegedly banned in universities include the promotion of Western constitutional democracy, universal values, civil society, neoliberalism, a free press, "historical nihilism," and questioning China's reforms and approach to socialism. In addition, the autonomy of Tibet, Taiwan's status, and the Tiananmen Square protests are reportedly off-limits.¹⁰³ In Egypt, discussions on sex and religion, as well as the role of universities in engaging with current socio-political and economic issues facing society are restricted.¹⁰⁴ In Hungary, the Government is reportedly exerting control over academia and sciences in an effort to root out teaching or scientific research that counters the government's agenda. Examples include shutting down the Central European University, banning gender studies, and stripping the Academy of Sciences of its autonomy.¹⁰⁵ In Kenya, LGBTI issues in the classroom have reportedly been criminalized.¹⁰⁶

74. Another example comes from the United States of America, where reportedly, at least 7 States have enacted laws prohibiting classroom instruction on sexual orientation or gender identity, and in several instances officials have removed books that address gender and sexuality from schools and public libraries.¹⁰⁷ In addition, over 20 States have enacted restrictions against Critical Race Theory, the teaching of structural racism and gender inequity. Restrictions have grown to encompass Black feminism, queer theory, intersectionality, and other frameworks that address structural inequality.¹⁰⁸

⁹⁹ <https://www.timeshighereducation.com/campus/biased-ai-poses-threat-academic-freedom-must-be-confronted>

¹⁰⁰ <https://www.leru.org/news/academic-freedom-must-always-be-on-the-agenda>

¹⁰¹ For example, Senegal, pp. 2-3.

¹⁰² Civil society contribution on teachers' and professors' freedom of expression in Brazil, 6-7.

¹⁰³ Scholars at Risk, 9.

¹⁰⁴ Association for Freedom of Thought and Expression, 1.

¹⁰⁵ Human Rights Watch, 7. See also A/75/261, para. 3 and OL HUN 1/2017.

¹⁰⁶ Kwadwo Appiagyei-Atua, 9-10.

¹⁰⁷ Human Rights Watch, 32-33.

¹⁰⁸ Human Rights Watch, 32-33.

G. Conditions of work impeding a conducive environment for academic freedom

75. Academic freedom can be curtailed by the working conditions of teachers and researchers. Of concern is the erosion of tenure and increasing number of education and research personnel employed on a part-time and fixed-term contracts without financial security, whose fear of job loss restrains their academic freedom. Today, in Canada, for example, it is estimated that between one-third to one-half of academic staff are on short-term and precarious contracts.¹⁰⁹

76. Increasing administrative workloads are also reducing academics' time for research and publishing results, even as the pressure to publish increases. Research is impeded by having to secure funds in what have been described as inefficient competition processes. In Sweden for example, higher education institutions have become increasingly dependent on external and time-limited funds, with more than half of university research funds coming from external financiers.¹¹⁰

77. Academics are also concerned by the widespread use of new public management techniques undermining the original "truth seeking" and dissemination of research as a public good that should be the rationale for universities. This entails excesses of managerial impositions with quantification and micro-regulation; bureaucratic accreditations with their disproportionate performance agreements and questionable quality indicators; growing weight of evaluation procedures. Greater managerialism in universities is seen as linked to the increasing 'marketisation' of higher education.¹¹¹

78. Finally, reports have been received of attacks against teacher trade unions, particularly when they raise their voice to defend their working conditions or to participate in the reform of education systems.

H. Lack of implementation of ethical guides protecting academic freedom

79. Many universities have adopted their own regulations / codes of ethics and developed institutional policies concerning academic freedom and institutional autonomy. For instance, in its guidelines on the acceptance of donations, the University of Toronto states it "values and will protect its integrity, autonomy, and academic freedom, and does not accept gifts when a condition of such acceptance would compromise these fundamental principles."¹¹²

80. In some cases, laws require the adoption of such codes. For example, in the United Kingdom, The Higher Education (Free Speech) Act of 2023 requires universities to publish a code of practice for freedom of speech on campus and establishes a new Director for Freedom of Speech and Academic Freedom to oversee the Office for Students free speech functions, to implement a new regulatory and complaints scheme, and to investigate when universities are accused of breaching their duties under the Act.¹¹³

81. Still, reports indicate that in some cases, university codes of ethics do not include references to academic freedom.¹¹⁴ It is important that universities articulate robust protections for academic freedom based on international standards. Moreover, a remaining challenge is that policies and guidelines are not legally binding and have not always been followed.

¹⁰⁹ Canadian Association of University Teachers, 8.

¹¹⁰ The association of Swedish higher education institutions, 6.

¹¹¹ Terence Karran, Chavan Kissoon, University of Lincoln U.K., 3.

¹¹² Canadian Association of University Teachers, 14.

¹¹³ The Council for the Defence of British Universities (CDBU), 1.

¹¹⁴ Association for Freedom of Thought and Expression, p. 6.

V. Recommendations: Principles for implementing the right to academic freedom

82. The Special Rapporteur calls upon the Human Rights Council to fully consider the Principles for Implementing the Right to Academic Freedom, which articulate nine essential aspects to substantially guarantee protection, promotion, and enjoyment of the right to academic freedom, and that it encourages its implementation.

83. The Special Rapporteur also calls upon Member States and other relevant stakeholders, including public and private educational institutions, to fully implement the Principles for Implementing the Right to Academic Freedom.

84. The Special Rapporteur also recommends that States, and where relevant other stakeholders:

(a) Ensure constitutional and legal recognition of academic freedom as an autonomous right at the national level, clarifying that it is applicable at all levels of education, for researchers, educators and students.

(b) Promote knowledge of the importance and meaning of academic freedom amongst academic, research and teaching institutions as well as the wider public.

(c) Respect, protect and promote academic freedom and resort only to limitations that are in accordance with international human rights law, in particular article 4 ICESCR and 19 ICCPR.

(d) Refrain from both direct repression of people exercising their academic freedom, as well as more subtle methods that aim to or result in restricting academic and scientific debate, particularly those that are carried out through funding; privatization, commodification, digitalization, platformization and assetization of education; as well as conflicts of interests.

(e) Ensure that the teaching profession enjoys academic freedom in the discharge of professional duties.

(f) Ensure that:

(i) official standards determine the goals and outcomes of teaching without prescribing the content of materials;

(ii) develop guidelines for writing textbooks to enable authors to offer various interpretations and include various standpoints;

(iii) accredit a wide array of textbooks by a range of publishers, with the participation of teachers or teachers' unions, and allow teachers to choose from these; and enable teachers to introduce supplementary material without prior approval of the ministry; and

(iv) clarify approval and accreditation procedures and the criteria for textbook selection relying on expertise, not on particular ideological and political requirements.

(g) Review the concept of "neutrality of teaching" against the right to academic freedom, taking into account:

(i) students' right to education, which implies a right to access information, in accordance with their developing capacities and their age and maturity;

(ii) the right to freedom of expression and academic freedom of teachers who have special responsibilities that vary depending on the age and maturity of students;

(iii) students' right to academic freedom, including the right to express themselves on specific subjects without fear of reprisals;

(iv) the respect due to cultural diversity and the need to ensure a multi-perspective approach, including in subjects such as history;

- (v) international standards regarding possible limitations to human rights.
- (h) Respect, protect and promote institutional autonomy as instrumental to academic freedom, and ensure that private academic, research and teaching institutions respect academic freedom.
- (i) Ensure adequate public funding of academic, research and teaching institutions, as a way to foster academic freedom, especially through in particular untied non-performance based funding. Simultaneously ensure that systems of financing, whether public or private, not-for-profit or for-profit, safeguard academic freedom and institutional autonomy from undue influence, pressure, restrictions, or retaliations by sources of financial support. In particular, “no influence” clauses should be systematically introduced in agreements between academic, research and teaching institutions and private funders or partners, as well as philanthropists, especially on research agendas and hiring practices. Corporate research contracts should be approved by the academic body of the institution and funding procedures be fair and fully transparent.
- (j) Refrain from surveillance, whether physical or online, of educational institutions, staff and students, and ban facial recognition technologies from such institutions.
- (k) Fully consider and address the threats that the digitalization and platformization of education, including resort to AI, present to academic freedom of teachers and students; implement regulations governing the use of EdTech in academic settings (including private institutions), ensuring alignment with robust data protection standards; and guarantee educational institutions create an environment which enables rather than supresses academic freedom.
- (l) Ensure that the use of AI does not undermine the human rights of educators and students or disempower them, and that they be taught about the ethical use of AI.
- (m) Address the impact of working conditions of research and education personnel on academic freedom, in particular safeguard against the erosion of tenure, short-term or part-time contracts, lack of financial security, new public management techniques and increasing administrative workloads.
-