Pre-Sessional Working Group
UN Committee on Economic, Social and Cultural Rights
Office of the United Nations High Commissioner for Human Rights (OHCHR)
Palais Wilson
52 rue des Pâquis
CH-1201 Geneva
Switzerland

January 29, 2021

Dear PSWG members:

The following is Scholars at Risk’s submission to the United Nations Committee on Economic, Social and Cultural Rights (the “Committee”), 69th session, on conditions in Brazil relating to academic freedom, which is protected under, inter alia, ICESCR Articles 13 and 15.

Scholars at Risk is an independent, nonprofit civil society organization and network of over 500 higher education institutions in over 40 countries dedicated to protecting threatened scholars and promoting academic freedom. Scholars at Risk holds Special Consultative Status with ECOSOC (2013), and welcomes the opportunity to comment on the situation in Brazil with the Committee.

Academic freedom is fully cognizable under existing human rights standards within the mandate of the Committee, including the rights to education, and the benefits of science. Academic freedom is likewise cognizable under freedom of opinion and expression, and has elements of freedom of association, freedom of movement, and other rights.

The Right to Education (ICESCR Art. 13)

Academic freedom is fully grounded in ICESCR Article 13’s protection of the right to education. Indeed, the Committee has specifically found that the right to education “can only be enjoyed if accompanied by the academic freedom of staff and students.”¹

As the Committee explained:

Members of the academic community, individually or collectively, are free to pursue, develop and transmit knowledge and ideas, through research, teaching, study, discussion, documentation, production, creation or writing. Academic freedom includes the liberty of individuals to express freely opinions about the institution or system in which they work, to fulfill their functions without discrimination or fear of repression by the State or any other actor, to participate in professional or

¹ Committee on Economic, Social and Cultural Rights, General Comment No. 13: The Right to Education (Article 13), 8 December 1999 (General comment No. 13), para. 38.
representative academic bodies, and to enjoy all the internationally recognized human rights applicable to other individuals in the same jurisdiction.  

**Benefits of Scientific Progress (ICESCR Art. 15)**

ICESCR Article 15(3) likewise requires State parties to “respect the freedom indispensable for scientific research and creative activity.” As the Committee has stated, States have an obligation not only to refrain from preventing participation in scientific progress, but also “a positive duty to actively promote the advancement of science through, *inter alia*, education and investment in science and technology.” The Committee continued:

This includes approving policies and regulations which foster scientific research, allocating appropriate resources in the budgets and, in general, creating an enabling and participatory environment for the conservation, development and diffusion of science and technology. This implies *inter alia* protection and promotion of academic and scientific freedom, including freedoms of expression and to seek, receive and impart scientific information, freedom of association and movement; guarantees for equal access and participation of all public and private actors; and capacity-building and education.

**Non-Retrogression**

Beyond States’ obligations toward progressive realization of the above rights, there is a strong presumption against retrogression. As the Committee stated, within the context of the right to education:

There is a strong presumption of impermissibility of any retrogressive measures taken in relation to the right to education, as well as other rights enunciated in the Covenant. If any deliberately retrogressive measures are taken, the State party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the State party’s maximum available resources.

In its recent general comment No. 25 on the right to the benefits of scientific progress, the Committee further elucidated the applicable standards:

Examples of retrogressive measures include the removal of programmes or policies necessary for the conservation, the development and the diffusion of science; the imposition of barriers to education and information on science; the imposition of barriers to citizen participation in scientific activities, including misinformation.

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3 Committee on Social, Economic and Cultural Rights, General comment No. 25 on Science and economic, social and cultural rights Art. 15.1.b, 15.2, 15.3 and 15.4. 20 April 2020 (General comment No. 25), para. 46.
5 General comment No. 13, para. 45; *see also* General comment No. 25, para. 24.
intended to erode citizen understanding and respect for science and scientific research; and the adoption of legal and policy changes that reduce the extent of international collaboration on science. In the exceptional circumstances under which retrogressive measures may be inevitable, States must ensure that such measures are necessary and proportionate. The measures should remain in place only insofar as they are necessary; mitigate inequalities that can grow in times of crisis and ensure that the rights of disadvantaged and marginalized individuals and groups are not disproportionately affected; and guarantee the minimum core obligations.  

Academic Freedom in Brazil

Over the past three years, the Brazilian higher education space has faced significant pressures, often originating from political actors and energized by populist sentiment. During the country’s most recent presidential election, heated, anti-university rhetoric gave way to politically-motivated threats to students, and police raids of campuses which included questioning of professors, confiscation of academic materials, and orders to take down signs that were (wrongly) identified as partisan. Following the election of President Jair Bolsonaro in 2018, national officials continued to employ anti-university rhetoric, accusing scholars of indoctrinating students, advocating that students record their classes to “monitor” such ideological indoctrination, and even announcing the establishment of an official channel for such reporting. National political actors have advocated policies that would target certain universities directly, including reductions of funding for particular universities that were allegedly causing “turmoil” (later amended to an across-the-board reduction in funding for federal universities). Presidential decrees have likewise threatened university autonomy, by proposing to give the president significantly increased control over the appointment of authorities such as vice-rectors, deans, and other staff.

While many of the most significant pressures have been walked back after legislative or judicial intervention, the threat to higher education, through both policy and private action, remains. Policies aimed at reducing university funding, combined with broader, top-down hostility toward the higher education space, present ongoing challenges, with real impacts on the lives of members of the higher education community: one independent survey documented widespread self-censorship, with about 20% of respondents stating that they had limited the content taught in their classes out of fear of retaliation, including from students, the judiciary, and online attacks.

Collectively, the above pressures erode a number of rights and duties recognized by the Committee to be at the heart of Articles 13 and 15. These include the right of members of the higher education community “to fulfill their functions without discrimination or fear of repression by the State or any other actor”; a State’s duty to allocate appropriate budget resources to foster scientific research; freedom of association; and equitable access. Likewise, limiting resources allocated to higher education likely constitutes a retrogression of the State’s obligations under Articles 13 and 15, and where such limitation is driven by animus toward specific institutions, disciplines, or higher education generally, could not be found to be necessary and proportionate.

The combination of these pressures demands serious attention from the international community, to ensure that the potentially harmful policy changes that have been attempted repeatedly are not made

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6 General comment No. 25, para. 24.
7 General comment No. 13, para. 39.
permanent, and to address the growing pattern of political attacks on the higher education space nationwide.

Additional information on these concerns is included in the following appendices:

- **Appendix 1: SAR Free to Think 2019 report (excerpt):** Assault on Brazil’s Higher Education Space (discussing: attacks and violent threats on campuses throughout Brazil, and growing, politically-motivated hostility toward higher education in the period immediately prior to the October 2018 presidential election; a series of campus raids, also surrounding the run-off election, in which state authorities reportedly entered several universities throughout the country, questioned professors, confiscated materials, and ordered signs deemed political to be taken down from public spaces; and a series of executive-branch led policy efforts targeting university funding and potentially eroding university autonomy).

- **Appendix 2: SAR Free to Think 2020 report (excerpt):** Legislative and Administrative Threats to Institutional Autonomy and Academic Freedom, Brazil (discussing two provisional measures issued by President Bolsonaro, in December 2019 and June 2020 respectively, intended to provide the executive branch enhanced control over the appointment of leadership at the country’s federal universities. Neither measure ultimately became law).

- **Appendix 3: Global Public Policy Institute (GPPI) Academic Freedom Index data on Brazil** (showing declines in academic freedom-related metrics beginning in 2014, and especially since 2017).

- **Appendix 4: GPPI report: Academic Freedom in Brazil: A Case Study on Recent Developments** (September 2020) (compiling detailed data on current threats to academic freedom in Brazil, including top-down measures by government officials giving rise to an increasingly hostile environment for academics; budget cuts and freezes; judicial orders limiting on-campus debate; establishment of official channels for reporting complaints against professors for in-class expression; and political attacks on higher education by public officials).

**Conclusion**

Based on the information above and in the appendices, SAR respectfully asks the Committee to:

- Raise concerns about academic freedom issues in Brazil with State party representatives, including in particular concerns about:
  - Budget cuts which may threaten to punish or harm individual universities, or the university space more broadly;
  - Executive actions which threaten to erode university autonomy while providing outside, political actors, including the President, with disproportionate control over university governance;
Efforts by public officials to demonize higher education officials; and

Attempts by public officials to develop systems to monitor the content of classroom conduct and research.

- Make appropriate recommendations to the State party representative to increase protection and respect for academic freedom, including in particular by:
  
  - Ensuring that policy changes impacting institutional autonomy are not implemented by emergency executive decree, and instead are implemented in a transparent and democratic manner in consultation with universities;
  
  - Ensuring that government decisions concerning university budgets are taken up in a transparent and equitable manner, which does not punish (or favor) particular universities, groups of universities, or the university space as a whole based on perceived political opinion or association.

We appreciate your consideration of our submission. Please let us know if you have any questions or would like additional information on any of the items outlined above. You may reach us at scholarsatrisk@nyu.edu.

Sincerely,

Jesse Levine
Senior Advocacy Officer
Appendix 1: SAR *Free to Think* 2019 report (excerpt):

Assault on Brazil’s Higher Education Space

Appendix 2: SAR *Free to Think* 2020 report (excerpt):

Legislative and Administrative Threats to Institutional Autonomy and Academic Freedom, Brazil

Appendix 3: Global Public Policy Institute (GPPi) Academic Freedom Index data on Brazil

Appendix 4: GPPi country report: *Academic Freedom in Brazil: A Case Study on Recent Developments*
Free to Think

Report of the Scholars at Risk
Academic Freedom Monitoring Project
Assault on Brazil’s Higher Education Space

Significant pressures on Brazilian higher education increased in the period leading up to and following the 2018 presidential election. These included politically motivated, coercive actions on campus by police and others, as well as policy proposals that may significantly threaten university autonomy. In addition, public officials have suggested limiting funding for apparently disfavored academic disciplines, or for higher education in general, raising significant concern among scholars, students, and advocates.

Attacks on Brazilian Campuses

Beginning shortly before the October 28, 2018 runoff election between Jair Bolsonaro and Fernando Haddad, campuses in Brazil appear to have been targeted by heightened levels of political and ideological pressure, including physical attacks.

For example, on October 10, 2018, a black female student from the University of Fortaleza (UNIFOR) reportedly began to suffer a pattern of harassment, including being told by an unidentified individual on campus that the university was no place for black people and that he and others would “cleanse the university” of “her people” once president-elect Jair Bolsonaro took office. She also received threats via WhatsApp from various phone numbers. On October 25, she was raped near the UNIFOR campus. The Brazilian Bar Association’s Human Rights Commission commented that the attack appeared to be politically motivated.

On October 19, six unidentified individuals attacked a group of roughly fifteen students from the Federal University of the State of Rio de Janeiro (UNIRIO), apparently for distributing political flyers in support of Fernando Haddad at a public square just outside the campus. The attackers, who have not been publicly identified, shouted death threats, punched one of the students, attacked another student with an iron bar, and demanded that the students vacate the premises. Police, who arrived later, reportedly advised the students targeted in the attack not to press charges, indicating that doing so would make the students targets of future attacks.

Beginning later that month, a series of violent and apparently politically motivated threats at several Brazilian campuses was reported. On October 31, at Federal University of Pará, student representatives received anonymous, written threats of plans to “exterminate” LGBTQ+ students, students of color, and student activists. The letter identified by name and directly threatened at least two elected student representatives.

On November 7, an anonymous letter posted at the Federal University of Pernambuco identified by name over twenty students and faculty that the author claimed would be banned from the university once then president-elect Jair Bolsonaro came to power; these included faculty known for their research in the areas of LGBTQ+ and gender studies as well as public policy related to policing and drug legalization.

And the following day, a letter was found at the State University of Pernambuco, charging certain academic disciplines with “indoctrination” and threatening that the university would be “purged of all communists.”

SAR gratefully acknowledges Catalina Arango, Emily Diomat, and Danna El-Arab, members of the Human Rights Clinic at the University of Ottawa’s Human Rights Research and Education Centre (HRREC), for drafting and research contributions to this chapter. To learn more about the HRREC, visit https://cdp-hrc.uottawa.ca/en. To learn more about SAR’s Academic Freedom Legal Clinics, visit https://www.scholarsatrisk.org/actions/academic-freedom-legal-clinics/.

Campus Raids

Also surrounding the run-off election, state authorities reportedly raided several universities throughout the country, questioned professors, confiscated materials, and ordered signs deemed political to be taken down from public spaces. The raids arose out of court orders issued under a Brazilian law prohibiting political advertising in public spaces. However, several of the materials in question did not endorse a particular candidate or party. In other cases, the actions by authorities appear to have been conducted without warrants, or based on unclear evidence. These cases (all described in AFMI 766) include the following.

At the Federal University of Rio de Janeiro (UFF), a court order reportedly mandated that a student banner reading “Law UFF-Antifascist” be taken down, and flyers reading “Manifest in Defense of Democracy and Public Universities” be confiscated.

In Paraiba, police raided the office of a professors’ union at Campina Grande Federal University, confiscating “Manifest in Defense of Democracy and Public Universities” flyers, and seizing a hard drive from the union’s press office.

At the State University of Rio de Janeiro, a warrant ordered that banners honoring Marielle Franco, a city councilwoman who was murdered in early 2018, be taken down.

At Greater Dourados University, a court ordered the cancellation of a public lecture titled “Crushing Fascism” on the day it was scheduled to take place.
At the State University of Paraiba, men wearing Regional Election Authority uniforms—but who reportedly did not produce identification—entered a professor’s classroom claiming they had been informed she had been campaigning for a political candidate. They left after learning the professor was not engaged in partisan activities in the classroom.

At Pará State University, authorities reportedly conducted a similar classroom raid, based on allegations that a professor was campaigning in class.

In Minas Gerais State, a court ordered São João Del Rei Federal University to pull from its website a statement, signed by the dean’s office, promoting democratic principles and rejecting violence in the elections.

On October 28, Brazil’s Supreme Federal Court granted an injunction canceling police orders to raid university campuses and confiscate materials. Supreme Court Minister Cármen Lúcia stated that “the Federal Supreme Court, as guardian of the Federal Constitution, has always defended the autonomy and independence of Brazilian universities, as well as the free exercise of thinking, expression and peaceful demonstration.”

Nevertheless, actions with the potential to negatively impact higher education have continued in Brazil following President Bolsonaro’s election. These include, for example, an initiative led by Ana Caroline Campagnolo, an elected state representative, inviting students via Facebook to film their classes to catch “political-partisan or ideological” behavior from teachers, and the establishment of an anonymous phone line for students and members of the public to denounce “ideological professors and indoctrinators” at universities. Despite the Federal Supreme Court’s defense of university autonomy and academic freedom, officials, including President Bolsonaro, have continued encouraging students to film teachers during class if they suspect them of pushing leftist ideas. “Teachers need to teach and not indoctrinate,” Bolsonaro tweeted in May 2019. Bolsonaro’s son Carlos also retweeted: “Filming/recording in schools is an act of legitimate defense against ideological predators who are disguised as teachers.”

**Threats to Institutional Autonomy**

A number of statements by federal government officials raise additional concerns. In an April 2019 newspaper interview, for example, Minister of Education Abraham Weintraub accused three universities—Federal University Fluminense, Federal University of Bahia, and the University of Brasilia—of “promoting disruptions” and “staging ridiculous events” instead of focusing on academic excellence, and suggested that their federal funding would be reduced. Also in April 2019, Weintraub suggested that the government would withdraw resources from particular departments—namely philosophy and sociology—which he alleged were “courses for people already very rich, from the elite,” in favor of investment “in colleges that generate revenues: nursing, veterinary, engineering, and medicine.” Bolsonaro later indicated support for this position, writing on Twitter: “The role of the Government is to respect

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80 @jairbolsonaro (Twitter), April 28, 2019, https://twitter.com/jairbolsonaro/status/1122466597644505089?lang=en.


the taxpayer money, teaching young people to read, write, and do math and then a trade that generates income for the person and his family well-being in order to improve society."85

Targeted reductions in funding have not been reported to date (although measures to cut or temporarily reduce university funding were imposed across-the-board).86 Nevertheless, the suggestion that certain ideas, subject areas, or universities are disfavored and risk losing funding can impact university autonomy and chill academic expression.

An additional source of concern is a May 15, 2019, decree by the Bolsonaro administration that allows the executive branch to veto nominations for university authorities,87 and vests the executive branch of government with the authority to appoint rectors, vice-rectors, deans, and other staff within federal universities. These officials were previously elected by public consultation within their academic communities.88 Critics of the decree charge that it not only harms university autonomy, but allows for politicization of university appointments, insofar as it establishes a broad framework for investigating, with the assistance of the Brazilian Intelligence Agency, the background of candidates for office including federal university deans and directors.89

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The above incidents raise significant concerns about a growing climate of antipathy toward higher education arising both within the recently-elected government, and among institutional actors supportive of the government.

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On June 16, 2020, Romania’s Parliament passed an amendment to the nation’s education law, without public debate, that would prohibit all educational institutions from “propagating theories and opinion on gender identity according to which gender is a separate concept from biological sex.”

Photo: LCV / Shutterstock.com

Legislative and Administrative Threats to Institutional Autonomy and Academic Freedom

Over the past year, governments around the world took legislative and administrative actions that undermined academic freedom and institutional autonomy of particular higher education institutions and entire national higher education sectors.

These included the introduction of legislation in Ghana and executive orders in Brazil that would erode the independence of university governance, including the ability of universities to appoint their own leadership; legislation and administrative actions by Turkey’s government that closed down Istanbul Şehir University; continuing impacts of the effective closure of the Central European University and the conversion of the University of Theatre and Film Arts into a foundation-run institution, in Hungary; legislation banning gender studies in Romania; and increasing regulatory encroachments on university autonomy and academic freedom in Poland and Russia.

In brief, the bill would give the country’s president the power to appoint university chancellors, the chairs of university councils, and the majority of seats on university councils; give those councils the power to appoint vice-chancellors; give the president the power to dissolve a university council if he or she considers there to be an “emergency” and appoint an interim council; and replace university-established admissions processes with a new centralized system. These provisions would effectively vest the executive branch with broad influence over all major academic, financial, and administrative aspects of university life at public institutions throughout the country.

According to a memorandum contained in the draft legislation known as the “Public University Bill, 2020.” The bill contains a number of provisions that threaten the institutional autonomy and academic freedom of Ghana’s state universities.

Ghana

In February 2020, Ghana’s Education Minister, Dr. Matthew Opoku Prempeh, submitted to Parliament draft legislation known as the “Public University Bill, 2020.” The bill contains a number of provisions that threaten the institutional autonomy and academic freedom of Ghana’s state universities.

Critics claim the bill is unnecessary: that policies and government actors are already in place to guide adjustments to teaching and research according to changing needs within the sector, as well as to address issues relating to university finances.
Regarding the streamlining of financial management, University of Ghana scholars Nana Akua Anyidoho and Akosua Adomako wrote that "the idea that public universities would fare better under the direct control of ministries and politicians who are regularly embroiled in corruption scandals is almost farcical." Relately, Kwadwo Appiagyei-Atua, a law professor at the same university, wrote that "The bill will create more problems than it seeks to solve. For example, it will mean that the Minister of Education will have to approve applications for grants and even the purchase of equipment to furnish a lecture theatre." 6

Moreover, Ghanaian scholars worry that passage of the bill would severely erode university autonomy, politicize university management, and constrict the exercise of academic freedom. According to Professor Appiagyei-Atua, the bill could result in a negative impact on the "congenial atmosphere required to promote creativity, innovation, and competition on university campuses." Without the freedom to carry out institutional affairs free of political influence, higher education quality in Ghana could suffer tremendously.

International human rights and higher education groups have publicly raised similar concerns ahead of an anticipated vote on the bill. In a joint letter to Ghanaian officials, Scholars at Risk, AfricanDefenders, and the African Studies Association highlighted the consequences of politicizing higher education: "Where elected authorities control or exercise undue influence over curricula, the allocation of resources, and other administrative matters, the freedom of scholars and university staff to exercise appropriate professional judgment, based on their expertise, inevitably diminishes." 8 The UN Special Rapporteur on the Right to Education, Dr. Irene Khan, issued a joint letter that underscored Ghana’s obligations under international human rights law, in particular those that relate to the right to education and freedom of opinion and expression, and commented that the bill, as written, would have a negative impact on the enjoyment of those rights.9

On October 22, 2020, it was reported that Ghana’s Parliament had suspended consideration of the Public University Bill.10 Peter Nortsu Kotoe, a ranking member for Parliament’s Education Committee, said that he and his colleagues on the Committee "looked at the Public Universities Bill and [...] recommended that in view of the criticism and the number of petitions that we have received, it will be better for government to hold on with the passing of the bill because there is a need for greater consultation." 11

The suspension of the bill is a promising development for public universities throughout Ghana. Should the bill be taken up again in any form, SAR urges Ghanaian authorities to remove from the bill those provisions which negatively impact academic freedom and institutional autonomy.

Brazil1

In Brazil, President Jair Bolsonaro issued two provisional measures1 intended to provide the executive branch enhanced control over the appointment of leadership at the country’s 16 federal universities.

Through Provisional Measure 914/2019 (PM 914), issued on December 24, 2019, President Bolsonaro officially rejected a tradition, dating back to 2003, of choosing rector nominees that won the most votes by faculty, staff, and students. Under PM 914, the president would be able to pick freely among the top three candidates, referred to as the “triple list.”

President Bolsonaro has previously ignored the tradition of appointing candidates with the most votes and choosing instead candidates of his liking. According to reporting by Juliana Sayuri, out of 12 rector elections, President Bolsonaro appointed only 6 first-place candidates.12 The remaining picks included one candidate who only received 4.61% of the vote (appointed to the Federal University of Ceará) and two who had not made it on the triple lists; they were appointed in temporary capacities.13

* In Free to Think 2019, SAR described concerns over growing pressures on academic freedom and institutional autonomy in Brazil. Just prior to and following the October 2018 presidential elections, police carried out raids on Brazilian campuses, questioning faculty, and confiscating or ordering the removal of “political” materials posted on campus. Individual scholars and students—particularly those from vulnerable communities—were threatened for philosophy and harassed, while some suffered violent attacks, including one black, female student who was raped. Since the election, President Bolsonaro and members of his administration have openly mocked particular higher education institutions, threatened to cut funding for philosophy and sociology departments, and issued a decree that allows the executive branch to veto nominations for university leadership positions and vests the same branch the authority to appoint candidates for leadership positions within federal universities. See Scholars at Risk, Free to Think 2019 (New York: November 2019), https://www.scholarsatrisk.org/resources/free-to-think-2019/.

† Provisional measures can be issued by the president under urgent or exceptional circumstances. Provisional measures go into effect immediately upon being issued; however, Congress has the ability to approve, amend, or reject the provisional measure within 120 days. If not approved within 120 days, a provisional measure lapses and loses its validity.
PM 914 also imposed on federal universities a weighted system for the voting of rector nominees. Under the PM, faculty votes would have a fixed weight of 70%, while students and staff votes would each carry weights of 15%. Universities previously had the autonomy to determine their own nomination process. As it relates to the weighting of votes, faculty, students, and staff generally had parity in their voting for rector nominees at federal universities.

PM 914 further vests the executive branch with the power to appoint a temporary rector (rector pro tempore) of its choosing until a new rector could be approved. According to precedent, the outgoing rector would have remained in office until the approval of their successor.

Public consultation revealed a general sense of disapproval of PM 914, with 413,617 (58%) voting against the PM and 297,983 (42%) voting in favor of it.14 A Congressional committee reviewing PM 914 had compiled 204 amendments that they submitted to the president; however, by June 1, the PM lapsed and lost the force of law. For Antonio Gonçalves, president of the National Lecturers Union for Higher Education (ANDES-SN), PM 914’s expiration was far from a win: “The damage PM 914 has already caused will not be repaired, since the nominations will not be revised. We are worried about the elections scheduled to take place during the pandemic.”15

Within days of PM 914 losing its validity, President Bolsonaro again took aim at federal university leadership. On June 10, amidst rapid escalation of the COVID-19 pandemic in Brazil, President Bolsonaro signed PM 979/2020 (PM 979) that would give the Minister of Education the authority to designate rectors and vice-rectors pro tempore at federal universities, without consulting those same institutions.16

Under PM 979, federal universities would be removed from the process of appointing rectors whose four-year terms would expire during the COVID-19 pandemic. Instead, then–Minister of Education Abraham Weintraub would appoint temporary rectors who would remain in power until electoral processes resume, after the public health emergency is lifted.

On June 12, the president of Brazil’s Congress rejected the PM, claiming that it violated the autonomy of federal universities, which is enshrined in the country’s constitution.17 While the PM was technically in force at the time it was issued, it still required approval by Congress. Returning the PM to the president invalidated the same. On June 16, President Bolsonaro revoked PM 979.18

While the above two PMs ultimately were not written into Brazilian law, they nevertheless represent a concerted effort by the current administration to curtail the independence of the country’s federal universities. State authorities in Brazil, as in any country, should refrain from interfering in university management, ensure the autonomy of those same communities to determine and oversee procedures for appointing leadership, and consult with higher education leaders on the most effective means of supporting quality higher education.

**OTHER ATTACKS**

During this reporting period, SAR issued reports for 32 “other” incidents. These include incidents that do not fit squarely within one or more of the five defined types of conduct, yet are of such importance, scale, scope, and/or duration that they already have, or have the potential to, significantly impair higher education functions, academic freedom, or the exercise of human rights by members of higher education communities. Such incidents may include occupation or closing of higher education campuses; destruction of higher education facilities, materials, or infrastructures; systematic or prolonged harassment, or threats against members of higher education communities; systematic limits on access to higher education; and/or systematic discrimination based on gender, race, or other grounds in access to, employment within, or other elements relating to higher education.

**Turkey**

On June 30, 2020, Turkish President Recep Tayyip Erdoğan issued a decree effectively closing Istanbul Şehir University (IŞU), an institution established by former Turkish Prime Minister Ahmet Davutoğlu (AFMI 1206). The decision to close the university followed the apparent deterioration of the relationship between Davutoğlu and Erdogan.

IŞU was established by Turkey’s Foundation for Science and Arts (BISA) in 2008, and opened its doors to students during the 2010-2011 academic
Academic Freedom Index data on Brazil

About this data source:

The Academic Freedom Index (AFi) is the result of a collaborative effort between researchers at the Friedrich Alexander University Erlangen-Nürnberg, the V-Dem Institute at Gothenburg University, and the Global Public Policy Institute. The new dataset is part of V-Dem's award-winning global time-series database, which relies on assessments of several thousand vetted experts across the world. For each indicator, V-Dem gathers data from multiple, independent coders and uses an innovative statistical methodology to combine them into reliable estimates (for detailed insight into the methodology of the expert-coded data and the statistical modeling behind the various estimates, see Pemstein and al. 2019 and Coppedge et al. 2020). More than 1,800 experts – typically academics, both in- and outside the respective country – have so far contributed assessments to the academic freedom indicators. The dataset is updated annually.

What the academic freedom data on Brazil shows:

Displayed above are five indicators relating to academic freedom, each of which is coded by multiple country experts on a predefined scale from 0 (completely restricted) to 4 (fully free) on an annual basis. The chart shows that academic freedom levels in Brazil were very high in the first decade of this century. However, the integrity of places of learning, and the freedom of academic and cultural expression deteriorated in 2014 and 2016 respectively. Experts further perceived a sharp decline in academic freedom levels since 2018, concerning not only these two indicators, but also the freedom to research and teach, the freedom of academic exchange and dissemination, as well as the institutional autonomy of universities.
Freedom of expression, freedom of thought, the freedom to teach and to learn, and university autonomy are all protected by the Brazilian Constitution. Yet a closer look at the state of academic freedom in the country reveals that these constitutional rights have come under attack. In recent years, the difficult political climate in Brazil has strained the country’s academic landscape, and its deeply polarized politics have aggravated pre-existing problems in the regulation and governance of higher education. Based on an analysis of media reporting, assessments by various research organizations as well as preliminary survey data, this case study investigates to what extent different dimensions of academic freedom have come under threat in Brazil. It also sheds light on recent efforts to promote academic freedom before concluding with several recommendations for Brazilian and international policymakers.
We are grateful to the anonymous reviewers who offered invaluable comments to the first version of this study. We also thank Janika Spannagel, Katrin Kinzelbach, Ilyas Saliba, and Alissa Jones Nelson for the substantial feedback along the way, and Leonardo Rosa for important conversations on federal universities regulation and ways to improve academic freedom in Brazil. Finally, we would like to thank the Global Public Policy Institute (GPPi) for the opportunity to draft and publish this case study as part of GPPi’s ongoing project on academic freedom. For more information, see https://gppi.net/academicfreedom.

The authors of this study are members of the Center for the Analysis of Liberty and Authoritarianism (LAUT), an independent and non-partisan institute for interdisciplinary research in Brazil that is committed to producing and disseminating knowledge about the quality of the rule of law and democracy. For more information, please visit https://laut.org.br/en or contact laut@laut.org.br.
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Summary

Freedom of expression, freedom of thought, freedom to teach and to learn, and university autonomy are all rights protected by the Brazilian Constitution. Yet a closer look at the state of academic freedom in the country reveals that these constitutional rights are under threat. In recent years, the political climate has strained ideas and ideologies, and Brazil’s deeply polarized politics have aggravated pre-existing problems in the regulation and governance of higher education.

Top-down measures from the Brazilian government, administered through legal and institutional channels and combined with constant discursive attacks, have created an increasingly hostile environment for academics, who constitute a significant opposition group to the federal government. Threats to academic freedom include: significant budget cuts and freezes; judicial orders censoring political debates on campuses; reporting channels for political and ideological complaints; new laws and interpretations affecting institutional governance; and false statements about the academic community and scholarship as a whole. Resonating with and amplifying some of these threats, certain groups made up of both academics and non-academics have accused universities of promoting leftist “indoctrination” and are pushing for restrictions on certain content in curricula and classes.

Thus far, scholars have successfully resisted certain key measures through publications, networking and advocacy. Yet graver threats to academia seem to be underway in recently inaugurated government measures to increase institutional control over universities. Today, the efficacy of constitutional protections of academic freedom depends in large part on judicial decisions – and consequently suffers from the weariness of the courts – as well as on constant civil society mobilization.

This study was written on the basis of new research guidelines for country case studies on academic freedom developed as part of GPPi’s project on academic freedom assessments around the world. The guidelines serve to inspire qualitative studies describing the current state of academic freedom and recent developments in individual countries and will soon be available for anyone to use as a template. The case studies are complemented by a global time-series dataset with five indicators of academic freedom and an Academic Freedom Index, developed by GPPi in partnership with the V-Dem Institute and Scholars at Risk.

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2 For more information on the dataset, visit https://gppi.net/academicfreedom.
Methods, Sources, and Scope of the Study

One of the most significant difficulties in safeguarding academic freedom in Brazil is the number of higher education institutions in the country. Only longer-term, more detailed studies could fully depict the state of academic freedom in Brazil in all of its complexity. As a first step toward that endeavor, this study intends to present a broad picture of the dynamics involving academics, non-academics, and state bodies in Brazil. In focusing on academic freedom in Brazil today, we chose to refer to four periods in recent history whenever necessary for a better understanding of current events: the period of the military regime, 1964–1985; the period from re-democratization until Dilma Rousseff’s impeachment, 1988–2016; the period of anti-leftist uproar, 2016–2018; and the period after the election of Jair Bolsonaro, from 2019 until the present.

Due to the lack of centralized, combined data on recent events, this study aggregates information reported by the press and various research initiatives. The main limitation of these sources is their lack of detailed examination of the day-to-day effects of structural pressures on academic freedom. To address this problem, we undertook a preliminary survey with academics at different public and private universities throughout the country.

This preliminary survey was made available online on the SurveyMonkey platform and sent privately via e-mail to 58 academics from January 16 to 30, 2020. These 58 academics are well-known university professors in law, the humanities, and the social sciences who were chosen by the research team on the basis of their areas of research and their availability to help us test and improve our questionnaire. Through a combination of multiple-choice and open-ended questions, we were able to access some of their personal experiences while asking for important feedback on the phrasing of most of the survey questions (e.g., identifying biases or missing information) as well as for suggestions on additional topics that could potentially be covered in a future survey. The survey data presented in this report is not statistically representative of Brazilian academia, yet it points to important areas for a broader understanding of the conditions of academic freedom in Brazil.

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4 This study reflects events up to June 30, 2020.
Characteristics of the Higher Education Sector

The higher education sector in Brazil is made up of both public and private institutions. Public institutions are funded by federal, state and municipal governments. Except for municipally funded courses, public courses are generally free of charge. Private higher education includes both for-profit and not-for-profit institutions, and some of the latter are philanthropic institutions linked to religious organizations.

The majority of undergraduate students are enrolled in courses offered by private institutions, while most graduate students attend public universities. In contrast, all of the 17 most prominent universities in Brazil – in terms of research, teaching innovation, perception in the job market, and internationalization – are public institutions. Out of the 50 best higher education institutions in the country, only seven are private schools. Public universities are responsible for the vast majority of academic research in Brazil, according to both national and international studies.

In addition to considerable discrepancy in their regional distribution, higher education admissions reflect historical patterns of discrimination. Affirmative actions have been implemented since 2000. Since then, quotas and programs for financial support have improved diversity in higher education, but a significant discrepancy remains between access to higher education and the composition of Brazilian society.

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9 The majority of higher education programs offered in Brazil – 46% of all graduate programs and more than 44% of undergraduate courses – are located in the southeast region. See INEP, Sinopse Estatística da Educação Superior 2018; Capes, “Dados abertos,” Cursos 2018, https://dadosabertos.capes.gov.br/dataset?groups=cursos-da-pos-graduacao.


Data on the profiles of higher education professors is scarce, but the available figures point to a majority of white, male professors. The precarity of academic labor is usually more severe in private universities, where scholars are often more vulnerable to institutional restrictions and self-censorship. Professors at public institutions usually have more stable jobs due to civil service regulations. Research usually depends on external funding. Federal government agencies are responsible for most of the research funding opportunities in Brazil, alongside state-level agencies.

Brazil has a very recent history of attacks on academic freedom – the period of the military regime, from 1964 to 1985, saw the persecution of scholars and students at public universities. At that time, a veneer of formal legality justified even the most arbitrary actions taken against academics. This was blatantly the case for scholars who were arrested, dismissed from their positions, or forced to retire; in some cases, they were victims of torture, arbitrary execution, or disappeared. The National Union of Students and other student movements were targeted by the general policy against the freedom of expression and the freedom of assembly and association.

Almost 20 years later, universities created commissions to investigate human rights violations. They documented and reported abuses. In the final report of the University of São Paulo's Truth Commission in 2018, Professor Boris Fausto – a widely respected historian at the University of São Paulo – described the reality of the persecution of scholars: “With regard to scholars, the central concern revolved around their ideas [...] around the possibility that they were contributing to ‘perverting’ the minds of students with leftist preaching.”

While Brazil is currently governed by democratically elected leaders and under a constitution which provides for democratic institutions and guarantees, recent events still resonate with some of these authoritarian ideas from the era of the military dictatorship. As we will explore in the next sections, measures taken under the veneer of legality put academic freedom at risk. In many cases, they are informed by an anti-leftist or anti-scientific ideology, which targets scholars as enemies of a certain right-wing project aimed at the realization of an anti-pluralist meaning of the common good.

13 Among public university professors teaching undergraduate courses, 86% had full-time contracts, 11% part-time, and 7% were paid per hour. Inversely, the majority of professionals teaching at private institutions had been hired on part-time (42%) or per-hour contracts (30%), and less than one-third of them had a full-time contract (27%). See INEP, Sinopse Estatística da Educação Superior 2018.
14 A recent study – based on the acknowledgments section of Brazilian research publications – indicates that the federal agencies National Council for Scientific and Technological Development (CNPq) and Coordination for the Improvement of Higher Education Personnel (CAPES), together with the state-level São Paulo Research Foundation (FAPESP), Minas Gerais State Research Support Foundation (FAPEMIG), and Carlos Chagas Filho Foundation for Supporting Research in the State of Rio de Janeiro (FAPERJ), are the most mentioned sources of funding. See USP, “Quem financia a pesquisa brasileira?” Um estudo IntCites sobre o Brasil e a USP,” https://www.sibi.usp.br/noticias/quem-financia-a-pesquisa-brasileira-um-estudo-incites-sobre-o-brasil-e-a-usp/.
16 Ibid.
Current State of Academic Freedom

Legal Protection of Academic Freedom

In addition to freedom of thought and expression (Article 5 [IV] IX), two provisions in the Brazilian Constitution directly relate to academic freedom. Article 206 establishes the protection of freedom of research and teaching: “teaching shall be provided on the basis of [...] II. the freedom to learn, teach, research, and express thoughts, art, and knowledge.” The same article establishes the principle of “the pluralism of ideas and pedagogical concepts” (III). Addressing the specific characteristics of higher education, Article 207 proclaims that universities in Brazil “shall enjoy autonomy with respect to didactic, scientific, and administrative matters, as well as autonomy in financial and patrimonial management [...]”

The constitutional provision that safeguards autonomy for universities is usually interpreted as comprising various aspects of administrative and bureaucratic activities. Case law has established that: (1) universities shall decide on personnel matters; (2) autonomy does not equal freedom from general supervision by federal and state-level agencies; (3) higher education institutions may enact supplementary norms to elaborate on primary legislation; and (4) autonomy hinders judicial interference in university matters, except in cases of illegality or abuse. 17

A central case in the ongoing disputes over the legitimacy of rectors appointed by the federal government (see section “Institutional Autonomy and Governance”) is a 1999 decision by the Brazilian Supreme Court. The Court concluded that direct elections and appointments of heads of faculty and rectors by federal universities violated the president’s constitutional prerogative to nominate (Article 84 [III] XXV, Article 37 [II]). 18

There are also other significant cases related to academic freedom currently pending at the Brazilian Supreme Court. Some refer to the constitutionality of the 2019 cuts to the federal universities budget. 19

Another case relates to dozens of official measures taken between 2015 and 2019 to censor teachers based on general prohibitions of so-called “indoctrination,” “gender ideology” (see section “Subnational and Disciplinary Variation”), and “education

17 We considered all the case law of the Brazilian Supreme Court (STF), the Brazilian Superior Court of Justice (STJ), and all cases decided in 2019 at the Federal Court of Appeal – 3rd Region (TRF-3) and the State Court of Appeal in Sao Paulo (TJ-SP), after a search for uses of the expression “university autonomy.”

18 Brazilian Supreme Court, ADI nº 578.

19 See Brazilian Supreme Court, ADI nº 6127 and ADPF’s nº 582 e 583 (currently pending), on the constitutionality of Decree 9.741/2019, which froze 30% of the public budget destined for federal universities and institutes, on the grounds that this decree violated university autonomy.
with religion”\(^2\) – similar to other suits currently pending before the Supreme Court.\(^3\)

Although most of these references relate to primary education, they could directly impact the interpretation of the legal protection of academic freedom at universities. Recently, three decisions\(^4\) indicated that the Supreme Court tends to see official measures against the so-called “gender ideology” as unconstitutional.

Under the freedom of expression, freedom to teach and to learn, and university autonomy provisions, a Supreme Court decision in 2018 deemed unconstitutional any act such as the search and seizure of leaflets or other materials; any interruption of classes, lectures or debates; and any investigations of teachers, students and other citizens at public or private universities. The case arose as a result of a series of campus raids conducted under judicial orders (see section “Campus Integrity”) in 2018.\(^5\)

**Freedom to Research and Teach**

A Scholars at Risk report published in November 2019 collected cases of targeted attacks on scholars and students, which indicated the increasing fragility of the academic environment in Brazil. The report points to cases such as that of a student from the University of Fortaleza (UNIFOR) who received racist threats and was raped in the context of attacks against the LGBTQ+ community by Bolsonaro supporters around the time of the elections. In another case, fifteen students from the Federal University of the State of Rio de Janeiro were attacked for their support of the Workers’ Party (PT) candidate Fernando Haddad. Student representatives at the Federal University of Pará received anonymous threats for belonging to the LGBTQ+ community or for being activists or people of color. Anonymous letters were also sent to students and faculty members at the University of Pernambuco who worked with LGBTQ+ communities, on gender issues, or on drug legalization, with the message that they would be banned after Bolsonaro was elected, and that the university would be “purged of all communists.”\(^6\)

These cases happened around the time of the Brazilian presidential elections in 2018. At least 18 higher education institutions received threats of attacks that would take place in 2019 – some expressing hatred of women, blacks, or the LGBTQ+ community.\(^7\)

Other instances of threats to individual scholars have become widely known among academics. The most recent case covered by the press involved threats to a Brazilian professor at the University of Virginia who has conducted research on Bolsonaro followers’ WhatsApp groups.

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\(^2\) Brazilian Supreme Court, ADPF nº 624.

\(^3\) Brazilian Supreme Court, ADI nº 5.537; 5.580; 6.038; also ADPF nº; 460; 461; 462; 465; 466; 479; 522.

\(^4\) Brazilian Supreme Court, ADPF nº 457, 467 and 526.


While he was in Brazil for a conference, previously vague threats escalated to messages with photographs, proving that he was being watched in São Paulo.26

Before 2017, the organization Scholars at Risk had only received one request for academic assistance in Brazil. From 2018 to the beginning of 2019, the organization registered a total of 18 requests for academic assistance, most of them for indefinite exile. Madochée Bozier, an assistant in the protection program for university professors, attributes the growth of requests “to the significant change that occurred in the socio-political atmosphere in Brazil that led to the election of Bolsonaro.”27

In the cases reported by Scholars at Risk, acts of violence against women, discrimination against people of color or against the LGBTQ+ community, and vocal opposition to drug legalization became acts of support for Jair Bolsonaro. One important aspect of the political discourse at that time was a general uproar against the left, which intensified with Dilma Rousseff’s impeachment in 2016. During his campaign, Bolsonaro used incendiary language about minorities – usually linked to a loathing for the “leftist agenda” – which added to a complex cocktail of stimuli for violence.28

After Jair Bolsonaro’s election, the ideological conditions of academic freedom became even more complex. The president has attacked freedom of expression and thought in general – sometimes by institutional means, but mostly by amplifying depreciative discourse. In addition to his praise of the dictatorial regime of 1964–1985,29 Bolsonaro’s government often undermines the press and academics.30

To quote an example, in an interview about student protests in Brazil, Bolsonaro stated that most of the protesters were “activists” who did not even know the “[chemical] formula for water”; that they were “useful idiots [...] being used as a maneuver by a smart minority that makes up the core of federal universities in Brazil.”31 Delegitimizing teachers and academic work goes hand in hand with anti-intellectualism and a general hostility toward science.32 The minister of education, without any hint of evidence

to justify his view, stated that “[u]niversities are expensive and create a lot of waste with things that have nothing to do with scientific production and education,” such as “politicization, ideologization, and upheaval (balbúrdia),” and that their campuses are “crackoland (cracolândia)” – referring to a widely known drug use area in the city of São Paulo. He concluded: “We are in a difficult fiscal situation, and wherever turmoil (balbúrdia) arises, we will face it.”

Another instance was the announcement that the former minister of education would order cuts in funds earmarked for universities that were causing “turmoil”: “Universities that, instead of seeking to improve academic performance, make a mess, will have their funding reduced.” The minister also complained that universities were using public money to “make a mess and ridiculous events” instead of fulfilling their role: “The homework needs to be done: scientific publications, evaluations [must be]up to date, [they must do] well in the rankings.” These unfounded accusations were directed against three public universities: the University of Brasília (UnB), Fluminense Federal University (UFF) and the University of Bahia (UFBA), where students and scholars had been promoting events related to political debates and protests. These universities had also recently received a better evaluation in the Times Higher Education World University Rankings than in previous years.

In addition to deprecating scholars and their work with false statements, Bolsonaro and his ministers accuse teachers of exposing students to “leftist indoctrination.” They commonly rely on a broader theory, shared by other right-wing opinion makers, that “Marxist ideology” has a central part in an alleged “leftist cultural monopoly.” This theory is sharply critical of the work of Paulo Freire – the Brazilian educator and philosopher who wrote the celebrated book Pedagogy of the Oppressed and influenced national and international education through his critical approach to pedagogy.

In line with the broad effort against the “leftist indoctrination”, the movement “Schools without Party,” founded in 2004, focuses on primary education and raised concerns about political influence by professors over their students. Jair Bolsonaro has endorsed the movement’s agenda by encouraging students to record and denounce
teachers who are “ideological predators.”

Other politicians have also campaigned for this idea and opened channels for complaints. In November 2019, the Minister of Human Rights Damares Alves announced that an official reporting channel was in development.

Before Bolsonaro’s election, this political conflict gained ground in academia with the creation of an optional module at the University of Brasilia (UnB) on the topic of former President Dilma Rousseff’s impeachment, called “The 2016 Coup and the Future of Democracy in Brazil.” The then-minister of education in the Temer government in office after Rousseff’s impeachment declared that the course constituted proselytism in favor of the Workers’ Party (PT) and mentioned that he had requested an administrative misconduct investigation into those responsible for the course. In solidarity, a few dozen similar courses were later created at other federal universities all over the country. Some scholars demonstrated their support for these courses; others disagreed with what they understood as a misappropriation of university autonomy.

A similar case was broadly discussed more recently, when a rally in opposition to Minister of Justice Sergio Moro, organized by the law faculty at Fluminense Federal University, was prohibited by the rector of the institution on the grounds of a complaint made to the Ministry of Education.

A couple of days later, a judicial injunction suspended the prohibition.

Currently, anti-leftist movements are promoting events, publications, complaint reporting channels, advocacy, and also legal suits against universities and scholars. For instance, the group called Teachers for Freedom acts both inside and outside of academia, aiming to “recover the quality of education in Brazil, break with the hegemony of the left, and fight ideological persecution.”

These bottom-up movements that led to individual-level instances of repression must be understood in combination with both the top-down image of academia created through governmental discourse we mentioned previously and also


with other manifestations of repression (see sections “Exchange and Dissemination”, “Institutional Autonomy”, and “Subnational and Disciplinary Variation”). Together, they point to a scenario in which authoritarian legalism acts under the veil of moralizing and of economic crisis management.

In the preliminary survey we conducted among academics from ten different Brazilian states, we asked whether they have ever suffered some form of threat or retaliation based on the content of their research or classes (see Figure 1). More than 30% of the respondents list some form of restriction. As we mentioned above (see Chapter 1, “Methods, Sources, and Scope”), the results are not statistically representative of scholars in Brazil. With that in mind, we present here some of their narratives as a way to illustrate the effects of the changes in the Brazilian academic atmosphere. We have omitted any details that could be used to identify these scholars.

Self-censorship appears to be an important form of the restriction of academic freedom among respondents: 17% of the respondents said they had restricted the content of their research for fear of retaliation, especially on the part of funding agencies and actors or organs of the public administration. One of the respondents affirmed that they suffered “no retaliation or intimidation,” but that “diffuse pressures from both academic and external (institutional and social media) sources are frequent, frustrating the independence of research.” In addition to research, 20% of the respondents mentioned restricting the content of their classes for fear of retaliation, in this case particularly from

Figure 1: Results of an Exploratory Survey Among Academics in Brazil

Experience of Retaliations/Threats

“In your experience, have you ever suffered some form of retaliation or threat caused by the content of your research or classes?”

<table>
<thead>
<tr>
<th>Research</th>
<th>Yes</th>
<th>No</th>
<th>No answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Posts on social media (7 mentions)</td>
<td>29</td>
<td>6</td>
<td>15</td>
</tr>
<tr>
<td>Actors of student body (5 mentions)</td>
<td>27</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>External research funding bodies, Media, Political parties, Public administration (1 mention each)</td>
<td>#1  Actors of student body (6 mentions)</td>
<td>#2 Social media (5 mentions)</td>
<td></td>
</tr>
<tr>
<td>#3  Public administration (2 mentions)</td>
<td>#4 Judicial system, Media (1 mention each)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>#5  My higher ed institution, Actors of student body, Judicial system (1 mention each)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Self-Censorship for Fear of Retaliations/Threats

“In your experience, have you ever limited the content of your research or classes out of fear of retaliation of any sort?”

<table>
<thead>
<tr>
<th>Research</th>
<th>Yes</th>
<th>No</th>
<th>No answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>External funding bodies, Public administration (5 mentions each)</td>
<td>29</td>
<td>6</td>
<td>15</td>
</tr>
<tr>
<td>#2  My higher ed institution, Actors of student body, Judicial system (1 mention each)</td>
<td>#1  Actors of student body (4 mentions)</td>
<td>#2 Judicial system, Public administration (2 mentions each)</td>
<td></td>
</tr>
<tr>
<td>#3  External funding bodies, My university department, Political parties, Social media (1 mention each)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Conducted by LAUT in January 2020 among well-known university professors in law, the humanities, and the social sciences (n = 35). The survey also included several open-ended questions in addition to the ones displayed.
the student body, members of the judicial system, and social media posts. One respondent said that they change the vocabulary of their classes so as not to trigger any connections between the content and any party or political view.

When asked whether they had suffered some form of retaliation or threat based on the content of their research or classes, the respondents also mentioned some significant events. One respondent described how they were filmed during class and broadcasted live to an extreme right-wing group on Facebook. Another scholar indicated having received threats from students linked to a right-wing political party. Yet another mentioned complaints from student evaluations for “political positions in class,” and added: “[s]ince I teach political science classes, it would be impossible not to address political issues.” One respondent said they had “currently [been placed] on unpaid leave by the university […] due to an intimidating wave of emails and social media messages containing threats of death, defamation, and injury directed at me on the basis of my work.” For teaching a particular course, one scholar and their colleagues were “exposed on social media, on websites, [and] suffered racist, homophobic comments linked to extreme right [-wing] ideology.”

Exchange and Dissemination of Academic Content

A measure instituted by the Ministry of Education had the potential to severely impact academic freedom at the individual level. The regulation, issued on the last day of 2019, applied to all federal institutions and limited participation in national scientific events to two scholars from the same institution, or to one scholar per institution at international events.46 A letter opposing the regulation, signed by representatives of the Brazilian Science Academy and the Brazilian Society for the Progress of Science, has been endorsed by 60 other scientific associations. This letter pointed to the clear ways in which such restrictions would impair both the quality of research on the national level and its international dissemination: it would harm inter-institutional partnerships, both in ongoing studies and in establishing new initiatives; it would impair the exchange of intra- or inter-disciplinary ideas; it would limit, to a greater degree than before, the opportunities for young scientists to learn from the experience of attending academic gatherings; it would hinder scientific societies in their interaction and assembly; and finally, it would jeopardize the impact of knowledge production and information on society, since this dissemination is essential to teaching, research, extramural activities, technological development, and innovation.47 Following sustained

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Institutional Autonomy and Governance

The concept of “university autonomy” – established in Article 207 of the Brazilian Constitution – has been shaped into different regulatory experiences over the decades since its implementation.50 The administration of private universities enabled legal and financial self-governance. Public institutions in general have some autonomy, within the limits of severe administrative regulation and accountability. In particular, federal institutions – which account for 32% of Brazilian universities51 – are more vulnerable to federal governmental control due to their greater dependence on state bureaucracy and funding.52

Under the Brazilian Constitution, the leader of the executive has the power to appoint rectors for federal universities. The system of appointment is significant because rectors aligned with certain political views might enact long-term changes in internal university governance. The customary practice since 2003 has been to appoint the first name on the list of names chosen by the respective university committees. However, Bolsonaro decided to innovate: out of the 14 rectors nominated

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48 Ministério da Educação, Portaria nº 204, de 6 de fevereiro de 2020.
in 2019, only eight had been presented by the respective universities as the first name on the list. In an emergency decree, Bolsonaro also created the option to appoint a pro tempore rector, who would have the power to choose deans without holding any elections or consultations in certain cases. Scholars saw these measures as threats to their institutions’ autonomy. After actually nominating pro tempore rectors under his previous decree, Bolsonaro has recently enacted a new emergency decree amid the COVID-19 pandemic, excluding the academic community from the nomination process and allowing for pro tempore rectors to be chosen by the federal government. This emergency decree received such strong opposition from academics, civil society organizations, and political parties that the head of Congress resorted to a rarely invoked rule and refused the emergency decree for deliberation in Congress. Bolsonaro revoked the emergency decree on the third day after its enactment.

Despite the legal limitations barring Bolsonaro’s policy from expanding beyond federal universities, initiatives on the part of municipal or state executives and legislatures could reproduce these changes in higher education institutions under their jurisdiction. A significant move in that direction occurred last year, when the governor of the state of Rio de Janeiro, Wilson Witzel, presented a bill to change the state’s procedure for appointing rectors to reflect the federal one. Scholars perceived the bill as a threatening, illegal attempt to expand the governor’s powers to interfere in state-level higher education.

In addition to the appointment of rectors, other actions taken by the federal government have been perceived as illegitimate interferences. Striking at the heart of the institutional vulnerability of federal universities – their dependence on the

National Treasury and supplementary federal funding – at the beginning of 2019, the then-minister of education announced budget cuts. At first, these budget cuts targeted specific universities for promoting “turmoil,” but then they were expanded to all federal universities. The legality of these cuts was questioned in a lawsuit filed with the Supreme Court, which is currently awaiting judgment.

Recently, academics have perceived another measure as an abuse of the federal government’s authority and a threat to university autonomy. It was an order by the Ministry of Education that universities should freeze hiring costs, which some universities have decided to ignore. Additionally, to address the crucial issue of federal universities’ dependence on government funding, the Ministry of Education launched the “Future-se” (“Join the Future”) program in July 2019. This program aims to implement a system of incentives for federal universities to raise private funds. The program was heavily criticized from the start. After a period of consultations, scholars still perceive it as a risky attempt to institute a market rationale in place of public support. Despite being presented as a viable alternative, the rules of the program may leave federal universities with no other choice in practice. Another point mentioned by the rector of the University of Campinas (Unicamp) might also play a role: the federal government’s rhetoric against universities might jeopardize their ability to attract private investments.

Another event that affected the state universities of São Paulo happened in 2019. The São Paulo Legislative Assembly voted to create a Parliamentary Investigative Committee to investigate the University of São Paulo, the State University of Campinas, and the State University Paulista Júlio de Mesquita Filho. Proposed by right-wing members of the state parliament, the formal task of this committee was to investigate overspending and the transfer of state resources to these universities. Notwithstanding, members of the committee stressed that issues such as the “ideological bias” of the faculty could also be analyzed. Left-wing parliamentarians as well as university students, teachers, and staff mobilized against this investigative committee, pointing out that it demonstrated a clear persecutory bias, which is contrary to the principles of

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62 See section “Legal Protection of Academic Freedom”.
university autonomy and freedom of thought. An article written by the rectors of the three universities under investigation commented on the process of the investigations amidst a hostile context of budget cuts for federal universities and fake news about universities disseminated by (among others) the then-minister of education. They mentioned that the universities had to create taskforces to address “the exorbitant amount of data” requested by the parliamentarians. In the end, the rectors evaluated the result of the investigations as a victory for transparency and dialogue between the political class and society, and a defeat for obscurantism.

Campus Integrity

University campuses were at the center of a significant wave of interference in 2018, amid strong anti-leftist uproar during Jair Bolsonaro’s election campaign against the left-wing candidate Fernando Haddad. A series of campus raids occurred on the basis of judicial orders allowing the government to take measures against events organized and materials produced by students and scholars expressing political views. The Electoral Court issued search-and-seizure-warrants and ordered inspections at 17 universities across nine states, based on the electoral law prohibiting electoral propaganda in public spaces. Police officers entered university campuses and seized materials allegedly containing illegal political content, removed banners with political statements, interrupted events and classes, interrogated teachers and students, and demanded the removal of public political statements from websites, among other actions.

These events triggered different social actors to manifest their opposition in various ways. The federal prosecutor for citizens’ rights released a statement on the constitutional protection of freedom of thought and the circulation of ideas on university campuses, indicating that, even if supported by certain interpretations of misuse of public space for political campaigning, acts obstructing free debate and expression on the part of students and teachers were unreasonable and unconstitutional.

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affirmed that demonstrations should respect the constitutional pillars of democracy, freedom, justice, solidarity, diversity, and other fundamental rights.\textsuperscript{72} The Brazilian Bar Association condemned “all forms of censorship and political violence” and argued that “universities should be respected as autonomous spaces for promoting debates and discussions, and that the right of all members of the academic community – both from the right and the left – should be guaranteed, allowing them to express their positions, always within the limits of the law.”\textsuperscript{73} The Brazilian Lawyers Institute (IAB) also issued a statement affirming that professors and students at public universities were “victims of unjustified and illegal arbitrariness,” and the institute repudiated the “repressive acts by police officers who, without formal warrants, verbally claim to comply with orders from certain electoral courts.”\textsuperscript{74}

Students organized demonstrations in the cities of Rio de Janeiro, São Paulo, and Brasília.\textsuperscript{75} Scholars used the press and their social networks to protest the decisions of the Electoral Court and the censorship practiced by state agents on university campuses.

The last chapter in this series of reactions began when the general prosecutor filed a suit challenging the prior judicial orders and applied for a preliminary injunction before the Supreme Court. In a decision in November 2018, Justice Carmen Lucia granted the preliminary injunction to suspend the acts emanating from public authorities under the constitutional protection of freedom of thought, teaching, learning, and university autonomy, in addition to the limits which the constitution places on electoral law. In the same month, the injunction was fully endorsed by the Supreme Court.\textsuperscript{76} Several months later, in February 2020, certain media outlets reported that an undercover Brazilian intelligence agent was stationed at the University of Brasilia as a security guard.\textsuperscript{77}

\textbf{Subnational and Disciplinary Variation}

As we have seen above, the different vulnerabilities experienced by public and private universities may condition the freedom scholars enjoy in research and teaching. Federal universities are more dependent on federal policies and have therefore been most affected by budget cuts and bureaucratic constraints (see section “Institutional

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\textsuperscript{76} STF, “Arguição de Descumprimento de Preceito Fundamental nº 548,” medida cautelar, October 27, 2018, 1–15, esp. 15.

Autonomy and Governance”). Federal universities are spread throughout the country, and there is no evidence of a difference in impact among them, apart from a potentially greater capacity for mobilization against top-down measures in the more consolidated, older institutions. Municipal and state universities are distributed throughout the entire country as well, but their governance is very particular to each institution. As we have seen in the example of the investigative committee in the state of São Paulo (see section “Institutional Autonomy and Governance”), these universities may have to resist local political changes. At the same time, private universities are both the most autonomous in their governance and the most threatening environment for scholars: weaker labor protections make room for self-censorship and institutional control (see Chapter 2, “Characteristics of the Higher Education Sector”). Additionally, conditions at private universities tend not to be highlighted in the press. Due to the significance of public agencies in research funding in Brazil, the substantial federal budget cuts affect all universities. Yet, depending of the context in which different institutions operate, these cuts might have a greater or lesser impact – for example, the 2019 graduate scholarship cuts were reported to be more significant for the northeast region.

Identifying specific disciplines which are commonly the targets of threats to academic freedom is particularly difficult. Based on our sources (see chapter 1, “Methods, Sources, and Scope”), we were able to identify the most vulnerable fields due to their links to certain targeted ideas which cross disciplinary boundaries.

Some of these include women and LGBTQ+ rights, sex and gender, or even reproductive rights – the so-called “gender ideology.” The claim that “gender ideology” should be excluded from curricula has been a topic of dispute, especially regarding primary education. Nevertheless, cases of self-censorship and self-exile may be connected to the overall level of public attention on this topic – including particular attention on the part of conservatives willing to take undemocratic, illegal action. This hypothesis is supported by some of the answers to our survey questions (see section, “Freedom to Research and Teach”) as well as by the reported attacks on and threats to students from the LGBTQ+ community and scholars in gender studies, or scholars whose work is more generally dedicated to research questions that might be perceived as “gender ideology.”

Another idea that might help identify vulnerable disciplines is the perception – shared by the president and his ministers (see section “Freedom to Research and Teach”) – that there is a kind of “leftist preaching” going on in academia. For this reason, any disciplines addressing political events and political analysis – such as the social sciences, anthropology, history, and geography – might be exposed to interpretations

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82 See section “Legal Protection of Academic Freedom” for the principle cases brought before the Supreme Court regarding local regulations excluding these topics from primary education curricula.
that could ignite threats to academic freedom. In addition, another related conception expressed by the federal government is that education should be profession-oriented. This perception legitimizes measures such as “decentralizing” the funding earmarked for philosophy and sociology courses so as to “better spend public resources,” as announced by the president and the then-minister of education. In line with this announcement, the federal government has recently extinguished undergraduate research grants for most of the humanities and social sciences, by restricting grants to a list of “priority technological areas.”

One episode that reinforced the threat to the humanities was the appointment of a new head for Casa Rui Barbosa, a research institution in Rio de Janeiro focused on history, law, philology and literature. Breaking with the tradition of well-established academics leading this federal public institution, Bolsonaro selected Letícia Dornelles – a journalist, actress, and soap opera screenwriter. Academics heavily criticized this appointment. At the beginning of January 2020, researchers on the board of the foundation were dismissed, which, again, led to protests from scholars. On January 13, protesters found the gates of Casa Rui Barbosa closed. The political scientist Christian Lynch, who had been selected to coordinate one of its research departments, had his appointment reversed by then-Special Secretary of Culture Roberto Alvim, for critical comments Lynch had made about the government.

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84 Ibid.
newspaper revealed a confidential proceeding to turn the research institution into a museum.93

Scholars also perceived another event as a threat to academic freedom, in the context of other signs of a rejection of scientific knowledge94: the appointment of the new head of the Coordination for the Improvement of Higher Education Personnel (CAPES). This agency is linked to the Ministry of Education and is in charge of evaluating graduate programs at higher education institutions, funding research, and establishing cooperation agreements with foreign universities. The appointee, Aguiar Neto, is the former rector of Mackenzie Presbyterian University and argues in favor of teaching and studying intelligent design, a line of research that is influenced by creationism and denies Darwinian evolution as a suitable hypothesis for the origins of life. His appointment left scientists concerned “about the encroachment of religion on science and education policy.”95 At the beginning of March 2020, the Ministry of Education and CAPES signed a letter of intent to expand their cooperation with Florida Christian University, which offers courses on coaching and Christian counseling. The Brazilian Prosecutor’s Office has sued this university for previous irregularities in courses it offered in cooperation with a Brazilian private university.96

**Efforts to Promote Academic Freedom**

These recent attacks on academic freedom have galvanized a series of initiatives on the part of unions, associations, collectives, academic-scientific entities, politicians, congressional representatives, lawyers, teachers, and students. These groups have mobilized in at least six different ways.

First, they have created communication channels and defense platforms around the common objectives of protecting liberties as well as the quality of education, science, and research, university autonomy, and freedom of teaching and of expression. Significant examples include the Knowledge Observatory97 and the National Commission to Combat the Criminalization and Political Persecution of Teachers.98

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97 “Observatório do Conhecimento” is a network of university teachers’ associations and labor unions which “aims at increasing social control over policies that might undermine academic freedom through two connected strategies of communication and advocacy”; *Observatório do Conhecimento*, “Quem somos” (2019), https://observatoriodoconhecimento.org.br/sobre/.
98 Created in 2018 by the National Union of Teachers at Higher Education Institutions, this commission aims at “documenting, monitoring, and reporting cases of murders, persecutions, investigations, judicializations,
Second, they have published public statements and manifestos, either repudiating governmental actions and policies, or supporting the affected academic community. Events such as the president’s announcement that his staff was looking into the possibility of “decentralizing” federal investments in philosophy and sociology faculties, enacting provisional measures to change the appointment procedures for university rector, or even initiating budget cuts and suspending research scholarships led to reactions in the form of public statements and manifestos, alongside pronouncements reaffirming the importance of research, public universities, science, and education.

Third, both academic and non-academic actors have produced guides and informational materials to raise awareness about the various means – including legal ones – by which to defend university autonomy and academic freedom. This is the case for initiatives such as the Digital Marathon in Defense of Education, the “Guidelines for Teachers: Freedom of Professorship, Teaching, and Thought,” and the booklet The Brazilian Policy of STI and the Manifestations of the Scientific Community.

Fourth, they have promoted public debate and engaged in strategic litigation and advocacy against measures such as the dismantling of the public funding system for research as well as political-ideological attempts to control teachers and curricula.
To establish an open dialogue with congressional representatives and policymakers, they have made efforts such as instituting the Initiative for Science and Technology in Parliament (ICTP.br),\(^{106}\) relaunching the Parliamentary Front for the Valorization of Federal Universities,\(^ {107}\) and organizing a seminar entitled “The Role of the Public University in the Development of Science and Technology, Education, and Knowledge,” which took place at the Education and Science and Technology Commissions of the House of Representatives, with members of the scientific community attending.\(^ {108}\)

Fifth, scholars have also mobilized regular means of communication – such as the press and social media – to individually express their opinions and to make the difficulties faced in academia more visible to a broader public.\(^ {109}\) Some of these initiatives have culminated in or been derived from networks of support and safety nets composed of academics from Brazil and abroad.\(^ {110}\)

Finally, in line with the historical role academic mobilization has played in Brazil, there have been student and scholars’ protests in support of education, science and public higher education. Thousands of people expressed their disagreement with cuts in education funding, with CAPES and CNPq suspending scholarships, and with statements such as those made by the then-minister of education (threatening budget cuts for universities with “poor academic performance” and a record of promoting “turmoil”) and the president (who referred to student protesters as “useful idiots”).\(^ {111}\)

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Increasing federal universities’ administrative independence from the federal government might be the first significant improvement to academic freedom in Brazil. Currently, federal universities receive legal advice and legal representation from lawyers headed by the attorney-general, a cabinet member. Other sectors of the public administration, such as the legislature and some state universities, retain their own independent legal counsel. Creating an independent office of legal counsel for federal universities, acting exclusively on the interests of the academic community, could help protect these universities against abuses by the federal government. Federal universities would also benefit from a constitutional provision establishing fixed fund transfers – similarly to the administration of the state universities in São Paulo. This would level off public funding and provide financial stability.

To avoid arbitrary measures, changes to institutional autonomy and governance should not be made by emergency executive decrees. Rather, such changes should be democratically and openly discussed, and passed as laws in standard congressional proceedings.

Further regulation of teachers’ rights could expand the chances for effective, immediate protection of freedom of thought and expression related to scholarly activities. Formalizing these regulations in federal law would lead to a greater level of interpretive standardization across all levels of the judiciary. Academic freedom should also be expressly protected in universities’ internal regulations.

Collecting and disseminating information about academic freedom at all Brazilian universities would enable concerted action at both the regional and national levels. A non-partisan, independent institution should be responsible for producing an academic freedom ranking in Brazil. For an even broader understanding of the challenges involved in protecting academic freedom, scholars could contribute by researching the historical background and comparative experiences of academic freedom, and by producing relevant information for academics and non-academics alike.

Foreign actors and institutions have a central role to play in monitoring academic freedom in Brazil and offering a safety net for Brazilian scholars. Currently, foreign institutions’ support for research initiatives and events is significant in producing and sharing information on threats to academic freedom, both within the country and abroad. Opportunities for the exchange of information on and strategies for the protection of academic freedom may be particularly helpful for scholars from countries dealing with crises in democracy and the rule of law.