

INTRODUCTION

1. Scholars at Risk (SAR) is an international network of higher education institutions and individuals dedicated to protecting threatened scholars, preventing attacks on higher education communities and promoting academic freedom worldwide. SAR has Special Consultative Status with ECOSOC (2013), and welcomes the opportunity provided by the Office of the High Commissioner on Human Rights to comment on conditions relating to academic freedom and attacks on higher education communities in Brazil.
2. SAR monitors and analyzes attacks on academic freedom around the world. During this UPR period (May 2017-March 2021), SAR received reports from colleagues within and outside Brazil, and from media, describing overall pressures, as well as discreet attacks on higher education throughout the country.¹
3. This submission focuses on Brazil's compliance with its obligations under international law to protect and promote academic freedom and related rights within its territory. This review period has seen a severe decline in academic freedom overall, with major areas of concern including violent attacks on professors and students; arrest, prosecution, and other targeting of individual scholars; interference with university autonomy; and inappropriate encroachment by state authorities onto campuses.

LEGAL STANDARDS

4. Brazil is a party to several applicable international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Social, Economic and Cultural Rights (ICESCR), and the American Convention on Human Rights. Brazil is a member of the Organization of American States² and an executive board member of UNESCO.³
5. Academic freedom is independently and interdependently grounded in the rights to freedom of opinion and expression, the right to education, and the right to the benefits of science, as articulated, respectively, in ICCPR Article 19 and ICESCR Article 13, and Article 15(3) of the ICESCR, as well as other international instruments including the American Convention on Human Rights. Violations of academic freedom also frequently manifest as violations of other rights, including liberty and security of person, freedom of movement, freedom of assembly, and freedom of association.⁴
6. Institutional autonomy is an integral part of academic freedom and a precondition to the proper functioning of institutions.⁵ Institutional autonomy includes self-governance concerning academic work, curricula, standards, and management.⁶ It thus encompasses “decisions regarding administration and determination of policies of education, research, extension work, allocation of resources, and other related activities,” allowing for the active participation of the academic community.⁷ Consequently, “[e]xternal interference in the selection, appointment and dismissal of leadership and professors,” and the deprivation of an autonomous organizational structure constitute limitations on academic freedom.⁸ “States are under an obligation to protect higher education institutions from threats to their autonomy coming from any source.”⁹
7. Indeed, the Inter-American Commission on Human Rights recently recognized, in its 2022 Inter-American Principles of Academic Freedom and University Autonomy, that the appointment of university leadership should be based on “academic merit. . . free

from undue partisan influences and take[] into account transparent processes that allow the participation of the academic community concerned.”

8. Further, as the Committee on Economic, Social, and Cultural Rights 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.¹⁰

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

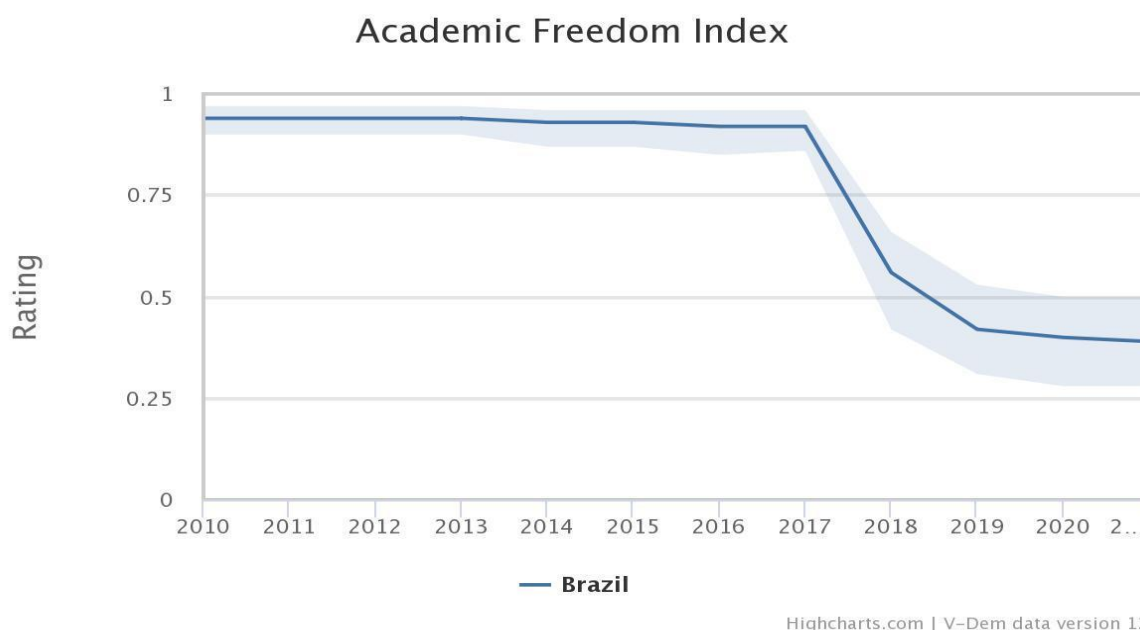
Examples of retrogressive measures include the removal of programmes or policies necessary for the conservation, the development and the diffusion of science; the imposition of barriers to education and information on science; the imposition of barriers to citizen participation in scientific activities, including misinformation 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.¹¹

10. Brazil’s constitution provides explicit protections for academic freedom, noting that “[t]eaching shall be provided on the basis of...” the “freedom to learn, teach, research and express thoughts, art and knowledge” (Article 206.2) and institutional autonomy (Articles 206 and 207), noting that “[u]niversities enjoy autonomy with respect to didactic, scientific and administrative matters, as well as autonomy in financial and patrimonial management, and shall comply with the principle of the inseparability of teaching, research and extension” (Article 207).¹²

DISCUSSION

11. Beginning with the 2018 presidential campaign and election of President Jair Bolsonaro, threats to academic freedom and institutional autonomy in Brazil have increased dramatically. Bolsonaro and his political allies have engaged in frequent populist attacks on higher education, and have sought to exert increased control over the university space. Individual scholars have faced direct pressures, including arrest and prosecution, in retaliation for academic expression; student protesters have faced violence and imprisonment at the hands of government authorities; and acts of political violence on campuses were a concern, especially during the 2018 election.
12. Overall, this pattern was connected to a precipitous decline in academic freedom in Brazil during this review period. Indeed, according to the most recent update of the Academic Freedom Index (AFi), which assesses the level of respect for academic freedom in 175 countries and territories based on surveys of more than 2000 country experts around the globe, Brazil is one of four countries (alongside Hong Kong, India, and Turkey) worldwide that “saw the greatest declines in academic freedom between

2011 and 2021.”¹³ The following chart shows Brazil’s stark, rapid decline: from having one of the highest levels of protection for academic freedom, to a country near the bottom of the rankings.



Violence, Threats, and Related Pressures on Campus

13. This review period has seen a concerning trend of violence and threats against students and professors, including several instances of targeted political violence and ideological pressure in the run up to the October 28, 2018 runoff election between Jair Bolsonaro and Fernando Haddad.¹⁴
14. In September 2018, it was reported that Debora Diniz, a law professor from the **University of Brasilia** and a researcher in bioethics, human rights, feminism, and health, had been forced into exile after suffering retaliation for her academic research and advocacy. In March 2017, Dr. Diniz became nationally prominent after submitting an amicus brief and expert testimony on abortion rights to Brazil’s Supreme Federal Court. Beginning in May 2018, she reported an increase in online harassment, threatening phone calls, and death threats directed at her, her family, and her students and colleagues. Eventually these threats gave way to physical intimidation at public events, leading Dr. Diniz to cancel public appearances. After registering for a government program meant to help human rights defenders, on the advice of officials, she left Brazil for her own safety.¹⁵
15. In the period leading up to the 2018 election, authorities undertook a series of on-campus actions which, while ostensibly meant to police partisan activity, appear in fact to have targeted legitimate student expression. Often, these actions were taken without warrants or based on questionable evidence.¹⁶ The incidents included:
 - **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.

- **Campina Grande Federal University:** police raided the office of a professors’ union, confiscating “Manifest in Defense of Democracy and Public Universities” flyers and seizing a hard drive from the union’s press office.
 - **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.
 - **Greater Dourados University:** a court ordered a public lecture titled “Crushing Fascism” cancelled on the day it was scheduled to take place.
 - **State University of Paraiba:** men apparently 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 candidate. They left after learning she was not doing so.
 - **Pará State University:** authorities reportedly conducted a warrantless classroom raid based apparently on allegations that a professor was campaigning in class.
 - **São João Del Rei Federal University:** a court ordered the university to pull from its website a statement, signed by the dean’s office, promoting democratic principles and rejecting violence in the elections.
16. Beginning on October 10, 2018, a Black female student from the **University of Fortaleza (UNIFOR)** reportedly suffered 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 Bolsonaro took office. She received anonymous threats via WhatsApp, and 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.¹⁷
17. On October 19, 2018 six unidentified individuals attacked a group of roughly 15 **Federal University of the State of Rio de Janeiro** students, apparently for distributing political flyers in support of Fernando Haddad at a public square just outside the campus. The attackers, who were not publicly identified, shouted death threats, punched a student, 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.¹⁸
18. A series of anonymous, threatening letters were found on campuses in Brazil during the same time period, including: a letter slipped under the door of the office of student representatives at the **Federal University of Pará** on October 31, 2018, threatening to “exterminate” LGBTQ+ students, students of color, and student activists, and explicitly naming two elected student representatives; a letter found posted at the office of student representatives of the history department at the **Federal University of Pernambuco** on November 7, 2018, identifying by name over 20 students and faculty who would supposedly be banned from campus once Bolsonaro took power; and a letter found on November 8, 2018 at the **State University of Pernambuco**, threatening that the university would be “purged of all communists.”¹⁹

19. On May 12, 2021, members of a local state security force known as Municipal Guards forcibly arrested three **Federal University of Rio Grande do Sul (UFRGS)** students during a nonviolent protest over cuts to higher education spending by Education Minister Milton Ribeiro. A small group of UFRGS students had gathered outside the entrance of a radio station where Ribeiro was scheduled to give an interview, and engaged in a nonviolent demonstration protesting the spending cuts. As Ribeiro approached the entrance, members of his entourage, including staff and personal guards, physically engaged the protesters. In the street, Municipal Guards attempted to disperse protesters by pushing them, firing non-lethal ammunition toward the ground, and using pepper spray.²⁰

Government Encroachments on University Autonomy

20. Bolsonaro has employed executive power to punish and seize increasing control over several higher education institutions.
21. In early 2019, Brazil’s Minister of Education, Abraham Weintraub, declared budget cuts targeting three federal universities that he accused of promoting “disorder” and holding partisan gatherings on their campuses, prompting outrage that the ministry was selectively punishing universities on ideological grounds. Budget cuts were then extended to all federally funded universities.²¹
22. Bolsonaro issued two provisional measures (PMs) intended to provide the executive branch enhanced control over the appointment of leadership at the country’s 16 federal universities. (PMs are emergency decrees that a president can issue under urgent or exceptional circumstances, which go into effect upon being issued. Congress then has 120 days to approve, amend, or reject a PM. If no action is taken, the PM lapses and loses its force.) On December 24, 2019, Bolsonaro issued PM 914/2019, which ended a long-standing practice under which the president nominates as rector those candidates who win the most votes in elections by their respective institution’s faculty, staff, and students. Under PM 914, Bolsonaro vested himself with the power to pick freely among the top three candidates (the “triple list”), and imposed a new, weighted system for voting for rector nominees. PM 914 lapsed on June 1, 2020. On June 10, as COVID-19 escalated, Bolsonaro issued PM 979/2020, which would give the Minister of Education the authority to designate rectors and vice rectors pro tempore at federal universities, without consulting those same institutions. Within two days, however, Brazil’s Congress rejected PM 979, arguing that it violated university autonomy.
23. Although the above decrees were ultimately unsuccessful, Bolsonaro has aggressively used his authority in the university rector appointment process, often ignoring top candidates nominated by university faculty, staff, and students, and instead appointing individuals from the “triple list” with whom he is politically aligned. This practice has been disputed in Brazil’s federal courts; while the action was pending in federal court, Bolsonaro appointed at least 20 rectors who faculty, staff, and students did not recognize as their first choice.²²

Arrest, Prosecution, and Related Actions Against Scholars

24. On March 2, 2021, former rector of **Federal University of Pelotas (UFPel)** and epidemiologist Pedro Rodrigues Curi Hallal, and his colleague Eraldo dos Santos Pinheiro, were subjected to criminal investigation and public sanction after publicly

criticizing Bolsonaro’s decision to appoint Isabela Fernandes Andrade as Hallal’s successor as UFPel’s rector, despite the academic community voting overwhelmingly for Pinheiro. At an official, online UFPel event on January 7, 2021, Hallal and Pinheiro called Bolsonaro’s appointment of Andrade “a blow to the academic community,” stated that Bolsonaro was a defender of torture, and alleged he was responsible for creating instability at universities. Hallal further stated that the university would do everything in its power to appeal President Bolsonaro’s decision. In response, federal deputy Bibó Nunes opened an investigation into the comments with the Comptroller General of the Union (CGU) of Brazil, stating that he intended to have Hallal dismissed from his position. On March 2, the CGU ruled out any serious infractions; however, both Hallal and Pinheiro signed so-called Conduct Adjustment Agreements (“TACs”). (TACs are an extrajudicial forms of dispute resolution under which so-called “aggressors” commit to some change in behavior, and are subject to legal sanction if they do not meet those conditions.) According to their TACs, which were signed under unclear circumstances, Hallal and Pinheiro had made “a disrespectful statement directed at the President of the Republic,” in their “workplace.” Under the terms of the TACs, neither professor could breach Article 117, V, of Law 8112, which prohibits public officials from “promoting expressions of appreciation or disapproval in the workplace,” for a two-year period. During this timeframe, neither professor is permitted to criticize President Bolsonaro at a university event.²³

25. On May 3, 2021, Brazil’s attorney general, Antônio Augusto Brandão de Aras, filed a complaint with the **University of São Paulo’s (USP)** ethics committee demanding an investigation of USP law professor Conrado Hübner Mendes, over comments Mendes made about Aras in a newspaper column titled “Aras is Bolsonaro’s anteroom at the International Criminal Court,” and in a series of tweets alleging that Aras had made a number of legal decisions with the intention of benefiting Bolsonaro.²⁴ Aras later filed a criminal complaint against Mendes for the comments, accusing him of slander, libel, and defamation.²⁵ In addition, Federal Supreme Court Justice Kássio Nunes Marques submitted a complaint to AG Aras, demanding a criminal investigation into Mendes for a separate op-ed he had written, criticizing Marques for allowing large religious gatherings during the COVID-19 pandemic. Justice Marques claimed that the article could be considered slander, libel, and defamation, and requested that the AG investigate and hold Mendes criminally liable.²⁶

CONCLUSIONS AND RECOMMENDATIONS

26. SAR respectfully urges UN member states to call on Brazil to take immediate action to reverse the recent, serious declines in respect for academic freedom by:
 - a. Establishing clear, transparent, and uniform standards for the appointment of university leadership that ensure the power to appoint and oversee university leadership lies with the relevant academic communities;
 - b. Refraining from direct or indirect attacks on academic expression or other nonviolent expressive activity by scholars and students;
 - c. Ensuring the safety and security of higher education communities; and
 - d. Drafting implementing legislation to ensure that protections for academic freedom under the Brazilian Constitution—particularly Articles 206 and 207—are consistent with relevant international standards, including ICCPR Article

19, ICESCR Articles 13 and 15(3), as explicated in the Inter-American Principles on Academic Freedom and University Autonomy.

¹ This submission may not reflect the views of individual Scholars at Risk Network members, institutions, or participating individuals. Scholars at Risk invites comments on this submission or inquiries about our work at scholarsatrisk@nyu.edu.

² OAS website, https://www.oas.org/en/member_states/member_state.asp?sCode=BRA

³ See UNESCO website, <https://en.unesco.org/executiveboard/member>.

⁴ R. Quinn and J. Levine, Intellectual-HRDs & Claims for Academic Freedom Under Human Rights Law, *Int'l J. of Hum. Rts.*, Dec. 2014, Vol. 18, Issue 7-8, ISBN: 1364-2987.

⁵ CESCR, General Comment No. 13: The Right to Education (Article 13), 8 December 1999, para. 38-40.

⁶ UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel (1997) (RSHETP) at paras. 17-20.

⁷ Lima Declaration on Academic Freedom and Autonomy of Institutions of Higher Education (1988) at para. 19.

⁸ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Academic Freedom, 28 July 2020, (A/75/261) at para. 39; *Commission v Hungary*, ECJ Case C-66/18, Judgment of the Court (Grand Chamber), 6 October 2020, ECLI:EU:C:2020:792 at para. 146.

⁹ See RSHETP at para. 19.

¹⁰ General comment No. 13, para. 45; see also General comment No. 25, para. 24.

¹¹ General comment No. 25, para. 24.

¹² Constitution of Brazil (2017), available at https://www.constituteproject.org/constitution/Brazil_2017.pdf

¹³ *Academic Freedom on the Decline, Researchers at the University of Gothenburg and FAU Erlangen-Nürnberg publish the Academic Freedom Index 2022*, available at <https://www.fau.eu/2022/03/03/news/research/academic-freedom-on-the-decline/>

¹⁴ See “We deplore this attack on freedom of expression in Brazil’s universities,” *The Guardian*, November 1, 2018, <https://www.theguardian.com/world/2018/nov/01/we-deplore-this-attack-on-freedom-of-expression-in-brazils-universities>; and “Universities All Over Brazil Suffer Police Raids and Electoral Justice Operations” *Folha De S. Paulo*, October 26, 2018, <https://www1.folha.uol.com.br/internacional/en/brazil/2018/10/universities-all-over-brazil-suffer-police-raids-and-electoral-justice-operations.shtml>

¹⁵ SAR Academic Freedom Monitoring Project (AFMP), September 1, 2018, <https://www.scholarsatrisk.org/report/2018-09-01-universidade-de-brasilia/>

¹⁶ SAR AFMP, October 27, 2018, <https://www.scholarsatrisk.org/report/various-institutions-2018-10-27/>

¹⁷ SAR AFMP, October 25, 2018, <https://www.scholarsatrisk.org/report/2018-10-25-university-of-fortaleza/>

¹⁸ SAR AFMP, October 19, 2018, <https://www.scholarsatrisk.org/report/2018-10-19-federal-university-of-the-state-of-rio-de-janeiro/>

¹⁹ SAR AFMP, October 30, 2018, <https://www.scholarsatrisk.org/report/2018-10-30-federal-university-of-pernambuco-state-university-of-pernambuco-federal-university-of-para/>

²⁰ SAR AFMP, May 12, 2021, <https://www.scholarsatrisk.org/report/05-12-2021-federal-university-of-rio-grande-do-sul/>

²¹ See “MEC cortará verba de universidade e já mira UnB, UFF e UFBA,” *R7*, April 30, 2019, <https://noticias.r7.com/educacao/mec-cortara-verba-de-universidade-e-jamira-unb-uff-e-ufba-30042019>; Diane Jeantet, “Brazil plans to slash funding of universities by 30 percent,” *Associated Press*, May 1, 2019, <https://apnews.com/article/45c37c7b100048f0819571ca60e866ef>; Elizabeth Redden, “In Brazil, a Hostility to Academe,” *Inside Higher Ed*, May 6, 2019, <https://www.insidehighered.com/news/2019/05/06/far-right-government-brazil-slashes-university-funding-threatens-cuts-philosophy-and>

²² See “About 20 federal educational institutions are under intervention in the country”, January 21, 2021, *Andes Sindicato Nacional*, available at <https://www.andes.org.br/conteudos/noticia/cerca-de-20-instituicoes-federais-de-ensino-estao-sob-intervencao-no-pais1>

²³ See *Scholars at Risk, Free to Think 2021*, at 54, available at <https://www.scholarsatrisk.org/wp-content/uploads/2021/12/Scholars-at-Risk-Free-to-Think-2021.pdf>

²⁴ SAR AFMP, May 3, 2021, <https://www.scholarsatrisk.org/report/2021-05-03-university-of-sao-paulo/>

²⁵ SAR AFMP, May 20, 2021, <https://www.scholarsatrisk.org/report/2021-05-20-university-of-sao-paulo/>

²⁶ SAR AFMP, July 14, 2021, <https://www.scholarsatrisk.org/report/2021-07-14-university-of-sao-paulo/>, *see also* Conrado Hübner Mendes, “O STF come o pão que o STF amassou,” Folha de São Paulo, April 6, 2021, <https://www1.folha.uol.com.br/colunas/conrado-hubner-mendes/2021/04/o-stfcome-o-pao-que-o-stf-amassou.shtml>