

Universal Periodic Review (41st session)

Contribution of UNESCO

Brazil

I. Background and framework

<i>Title</i>	<i>Date of ratification, accession, acceptance, or succession</i>	<i>Declarations /Reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
Convention against Discrimination in Education 1960	Ratified on 19/04/1968	Reservation to this Convention shall not be permitted		Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	Acceptance on 1 September 1977 Committee Member (1980-1987; 1987-1993; 1993-1999; 2007-2011; 2017-2021)			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage (2003)	Ratification on 1 March 2006 Committee Member (2006-2008; 2012-2016; 2020-2024)			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)	Ratification on 16 January 2007 Committee Member (2007-2012; 2015-2019; 2019-2023)			Right to take part in cultural life

II. Promotion and protection of human rights on the ground

A. Education

1. The Federal Constitution of Brazil of 1998¹ provides that education is the “right of all and duty of the State and of the family” in its article 205. Article 5 states that “all persons are equal before the law, without any distinction whatsoever” and that “men and women have equal rights and duties” under the Constitution.
2. The National Education Guidelines and Framework Law (N. 9394) of 1996, as modified by Law N. 12796 of 2013,² explicitly guarantees compulsory primary and secondary education from age five to seventeen, for a duration of twelve years, free of charges, in its article 4. Article 30 provides free and compulsory pre-primary education for a duration of one year between the ages of four and five.

B. Freedom of opinion and expression

Constitutional and Legislative Framework:

3. The 1988 Constitution guarantees the status of press freedom under article 139, Point III³, freedom of expression under Article 5⁴, privacy of journalistic sources under article 5, point XIV and access to information.⁵ Law N. 12527 on Access to Information of 2011 determines that public bodies must provide information in a proactive fashion and establishes terms or deadlines to be met when data is requested by the citizens.
4. Bill 2378/20⁶, under legislative discussion in the Brazilian House of Representatives at the time of writing this report, proposes to criminalize as an abuse of authority any action that halts the free exercise of journalism. Further, it codifies journalists' right to source confidentiality. Moreover, Bill 2390/20⁷, also under discussion, increases the penalty for assault against journalists. The Brazilian Civil Code establishes indemnity for injury, defamation, or calumny.⁸ Defamation is punishable under article 139 of the

¹ <http://www.unesco.org/education/edurights/media/docs/102214568054ab6abe510fb72574257257bad1ee.pdf>

² <http://www.unesco.org/education/edurights/media/docs/4847cefeb44201d5704240581814a1755a98a1ee.pdf>

³ https://www.constituteproject.org/constitution/Brazil_2015?lang=en

⁴ https://www.constituteproject.org/constitution/Brazil_2015?lang=en

⁵ https://www.constituteproject.org/constitution/Brazil_2015?lang=en

⁶ <https://www.camara.leg.br/propostas-legislativas/2251472>

⁷ https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=2036493&filename=PL+2390/2021

⁸ http://www.wipo.int/wipolex/en/text.jsp?file_id=226198

Penal Code⁹, which establishes the possibility of imprisonment from three months and up to one year, plus a fine. Defamation is also mentioned in other laws including the Military Penal Code, National Security Law, and the Brazilian Code of Telecommunications.

5. The Access to Information Act was adopted in 2011, and the Brazilian General Data Protection Law (LGPD), i.e. Federal Law N. 13709/2018, has been in force since 18 September 2020. It is largely aligned with the EU General Data Protection Act (GDPR).

Implementation of the law:

6. Even though there is no Press Council in the country, there is a code of ethics for journalists¹⁰ established by the National Federation of Brazilian Journalists. On 28 January 2021, the Brazilian data protection authority was established. Its board of directors is chosen by the President upon approval by the Federal Senate (Article 55-d).¹¹
7. As a multi-stakeholder body composed of representatives of the Federal Government, the private sector, the scientific and technological community and one internet expert, the Internet Steering Committee in Brazil oversees domain allocation, but has no responsibility in content regulation and media regulation in general. In 2014, the Civil Rights Framework for the Internet was created, which reinforces freedom of expression and privacy online, while also establishing parameters for net neutrality.¹²

Safety of journalists:

8. As of 17 February 2022, UNESCO has recorded 47 killings of journalists in Brazil since systematic reporting began in 2006, of which nine have been solved judicially according to the Government.¹³ The Government has replied to the inquiries of UNESCO's Director-General on judicial follow-up of killings of journalists.
9. In 2019, the National Council of Public Prosecutors Office in Brazil created a database and published a report¹⁴ on the status of these investigations. The Brazilian government has a Program for the Protection of Human Rights Defenders,

⁹ http://www.planalto.gov.br/ccivil_03/decreto-lei/del2848compilado.htm

¹⁰ <https://accountablejournalism.org/ethics-codes/Brazil-Journalist>

¹¹ https://iapp.org/media/pdf/resource_center/Brazilian_General_Data_Protection_Law.pdf

¹² http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2014/lei/112965.htm

¹³ <https://en.unesco.org/themes/safety-journalists/observatory/country/223670>

¹⁴ <https://www.cnmp.mp.br/portal/images/Publicacoes/documentos/2019/Violencia-contra-comunicadores-no-Brasil-VERSAO-FINAL-.pdf>

Communicators, and Environmentalists. In May 2020, the Brazilian Bar Association (OAB) came to an agreement with the Brazilian Association of Investigative Journalism (ABRAJI) to assist journalists who are victims of harassment or threats in the digital environment.

III. Review and specific recommendations

A. Education

Legislative, regulatory and policy framework:

- The Law N. 13415 amended the Law on National Education Guidelines and Bases (LDB, Portuguese acronym) to reform Brazilian Secondary Education. The amended law has increased annual school hours and established more flexible learning paths for students based on the new National Common Core Curriculum.
- Law N. 13716 amended the LDB to ensure educational assistance to both primary and secondary education students receiving long-term health treatment in a hospital or at home.
- Law N. 13632 also amended the LDB to “guarantee the right to lifelong education and learning” by providing that “the education of young people and adults must be aimed at those who did not have access to or could not continue their studies in elementary and secondary education at the proper age, and it will constitute an instrument for lifelong education learning”. (unofficial translation).
- Law N. 13845 amended the Child and Adolescent Statute to secure places in the same educational establishment for siblings who attend the same stage or cycle of primary and secondary education.
- Decree N. 9765 established the National Literacy Policy (PNA, Portuguese acronym), implemented by the Ministry of Education through the Literacy Secretariat (Sealf).
- The National Textbook Programme of 18 July 2017, implemented by the Brazilian Ministry of Education, aims at evaluating and making available for Brazilian public schools didactic, pedagogic and literary books, among other materials to support educational practice, on a systematic, regular and free of charge basis.
- The Inclusive Education and National Special Education Policy implementation may lead to setbacks in the inclusion of children and young people with disabilities, as it encourages their segregation in special schools.

Human rights education

- In line with recommendations N. 136.34 and N. 136.67 of the last UPR cycle, Brazil continued to strengthen human rights education and integrate it into school curricula. The Common National Curricular Basis adopted in December 2018 aims to fight against discrimination by integrating human rights and fundamental freedoms education in all parts of the early childhood, primary and secondary education curricula. Among the 10 general competencies envisaged, some are closely related to respect for human rights and fundamental freedoms, such as “exercise empathy, dialogue, conflict resolution and cooperation, respecting oneself and promoting the respect for others and for the human rights, welcoming and valuing the diversity of individuals and social groups, their knowledge, identities, cultures and potentialities, without prejudice of any kind”.

Low-income students access to education

- In line with recommendation N. 136.165 of the last UPR cycle, Brazil put efforts to reduce inequalities in education caused by income level and social status. In 2018, 6.1% of total registrations in higher education institutions were done by students benefiting from the Law N. 13409 of 2016 that requires all federal institutions of higher education and federal institutions of technical education to reserve 50% of their admissions to students that have attended their entire secondary education in public school, considering specific proportions, under the provisions of the law, for low-income family students, self-declared black, "pardos", and indigenous individuals, as well as persons with disabilities.¹⁵

Refugees and migrants right to education

- The Law N. 13445 of 2017¹⁶ guarantees “equal and free access of migrants to services, programmes and social benefits, public goods, education, comprehensive public legal assistance, work, housing, banking service and social security”, without discrimination by reason of nationality and migratory condition.

¹⁵ National report submitted for the 10th consultation on the Convention and Recommendation against Discrimination in Education

¹⁶https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=107187&p_country=BRA&p_count=1145&p_classification=01&p_classcount=197

Youth and adolescents' rights in the field of education

- In line with recommendation N. 136.200 of the last UPR cycle, Brazil put efforts to adopt policies and programmes to strengthen the rights of children and adolescent in the field of education. In 2017, new editions were launched for the National Programme for Youth Inclusion (Programa Nacional de Inclusão de Jovens - PROJOVEM): supplementary action responsible for raising the level of schooling in basic education, which integrates professional qualification and the development of citizenship. It is aimed at the educational and social inclusion of young people between 18 and 29, who can read and write but have not completed primary school. 38 federated entities joined the 2017 edition of “*Projovem Urbano*” and 56 federated entities “*Projovem Campo*”. Approximately 53,000 vacancies were offered under the Programme.

Violence within educational institutions

- The 1990 Statute on Children and Adolescents amended by Law N. 13010 of 2014¹⁷ protects from corporal punishment and cruel or degrading treatment in educational institutions but does not protect against all forms of violence, particularly, gender-based, psychological and sexual violence.

Minimum age of marriage

- The Law N. 13811 of 2019 sets the minimum age of marriage for girls at 18 years, but marriage is permissible from the age of sixteen with authorization from both parents or the legal representatives of the child.

Compulsory education and minimum age of employment

- The Labour laws of 1943 as modified by Law N. 10097 of 2000 sets the minimum age of employment at sixteen years. It is therefore not aligned with the end of compulsory education, which is seventeen years old.

Pregnant and parenting women's right to education

¹⁷ http://www.planalto.gov.br/ccivil_03/_Ato2011-2014/2014/Lei/L13010.htm#art1

- No legal provision has been identified relating to the right to education of pregnant and parenting girls.

Financing education

- The Direct Money in School Programme (Programa Dinheiro Direto na Escola - PDDE) is a management tool that can assist schools in their planning and monitoring actions in relation to the programmes implemented by the departments of Ministry of Education, which opt for direct financial transfer to school through PDDE's interactive platform. In 2017, 127,400 schools were covered, benefiting 34,9 million students.¹⁸ In 2018, resources were transferred to 126,200 basic education schools, benefiting 35,3 million students.¹⁹ In 2019 the PDDE reached more than 114,000 schools and 32,8 million students.²⁰
- In 2018, Brazil has spent 6.1% of its GDP and 16.1%²¹ of its total government expenditure on education, which is aligned with the 2030 Education Framework for Action.

Digitization of education

- UNESCO's Initiative on the [Evolving Right to Education](#) raises the needs of digital skills for teachers and learners. Brazil has developed the Virtual Learning Environment of the Ministry of Education (AVAMEC in the Portuguese acronym) a collaborative virtual learning environment that allows the design, administration and development of various types of training actions (such as distance learning courses, complements to presential courses, research projects, collaborative projects, and other various forms of distance educational support to the teaching-learning process).²²
- The Connected Education Innovation Program (Educação Conectada), developed by the Ministry of Education and partners, supports the universalization of high-speed internet access and encourage the pedagogical use of digital technologies in Basic Education.

Specific recommendations:

¹⁸ National report submitted for the 10th consultation on the Convention and Recommendation against Discrimination in Education.

¹⁹ Ibid.

²⁰ Ibid.

²¹ <http://uis.unesco.org/en/country/br>

²² National report submitted for the 10th consultation on the Convention and Recommendation against Discrimination in Education.

10. Brazil should be encouraged to:

- Consider harmonizing national legislation to ensure that children complete their compulsory education by aligning the minimum age of employment and related exceptions, with the full compliance with compulsory school attendance.
- Continue to enhance the digital inclusion of learners while ensuring their protection and privacy online.
- Introduce a legal protection for the right to education of pregnant and parenting woman.
- Set the absolute minimum age of marriage for both girls and boys at the age of 18, to ensure the protection of girls' right to education.
- Consider introducing legal protection against all forms of violence, particularly, gender-based, psychological and sexual violence in education settings.
- Continue to submit regularly comprehensive national reports for the periodic consultations on UNESCO's education-related standard-setting instruments, and notably on the Convention against Discrimination in Education.
- Share with UNESCO any relevant information to update its country profile on UNESCO's [Observatory on the Right to Education](#) and [HerAtlas : Monitoring the right to education for girls and women](#).

B. Freedom of opinion and expression

11. It is recommended that Brazil strengthen investigations of cases of killed journalists, and to voluntarily report on the status of judicial follow-up to UNESCO. The Government may wish to consider taking advantage of the UN Plan of Action on the Safety of Journalists and the Issue of Impunity, as well as of capacity building activities with the judiciary, to strengthen the protection of journalists and freedom of expression, with particular consideration given to the upcoming election year (2022).
12. Brazil is advised to decriminalize defamation and place it within a civil code that is in accordance with international standards. It is also recommended that Brazil establishes independent oversight institutions aimed to implement access to information law, in accordance with international standards.

C. Cultural Rights

13. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972), the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), Brazil is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions which are conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, Brazil is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and civil society organizations as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

D. Freedom of scientific research and the right to benefit from scientific progress and its applications

14. Brazil submitted its National Report on the implementation of the Recommendation on Science and Scientific Researchers (2017) for the consultation the period from 2018 to 2021. The aim of this monitoring is to record implementation actions, especially noting legislative or other measures adopted by it with the aim to ensure application of these norms and standards in national law, policy and practice paying a particular attention to the legal provisions and regulatory frameworks which ensure the implementation of human rights of scientific researchers themselves (rights of association, freedom of research, expression and publication, etc.) as well as human rights obligations related to the practice of science generally; the human rights related to access to and uses of scientific knowledge through education; the principle of non-discrimination, requiring in this case active promotion of women and girls entering scientific careers, as well as protections for human rights of human subjects of research.
15. The national report of Brazil indicates that significant action has been taken in relation to: establishing guidelines, goals and targets for the Federal Government in the support of science-focused programmes including the Action Plan in STI for

Converging and Enabling Technologies, among others; the promotion of gender equality in scientific domains; and the democratisation of knowledge and popularisation of science. In particular:

- The National Internet of Things Plan - Decree N. 9854 (Brazil; 2019) provides for the Management and Monitoring Chamber for the Development of Communication Systems Machine to Machine and Internet of Things.
- The National Policy on Open Data (2019) aims to increase transparency, improve public governance, promote access to public information, prevent and fight corruption, improve the quality of public services, maximize administrative efficiency, and strengthen public integrity. The policy is subject to the oversight of an intergovernmental committee on open government.
- The Policy for Governance, Integrity Management And Risks Internal Control Management (Brazil; 2018). Following guidelines expressed in Presidential Decrees (N. 9203/2017 and 9.901/2019), the MCTIC organizes its governance through a Ministerial Ordinance (Portaria N. 3394/2018) and created a “Committee of Governance, Integrity Management, Risks and Internal Control Management - COGIR”. The COGIR will endorse policies, guidelines, methodologies and mechanisms of monitoring and communication for integrity, risks and internal controls management; as well as oversee the mapping and evaluation of key-risks that could compromise the achievement of strategic goals, beyond other competences, according to its internal regulation (Ministerial Ordinance: Portaria N. 5228/2019).

16. Against this background, Brazil is encouraged to include input on issues covered by the 2017 Recommendation in its national report to the UPR to allow dedicated discussions at the Human Rights Council and the formulation of specific recommendations. Additionally, Brazil is urged to consider expanding the scope of application of freedom of expression to include scientists and scientific researchers.