



***Permanent Mission of Brazil to the United Nations Office
and other International Organizations in Geneva***

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The Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (Special Procedures Branch) and has the honor to submit the following reply to the joint communication OL BRA 4/2017.

Geneva, 12 June 2017

To the Special Procedures Branch

This statement answers the joint allegation letter signed by the Special Rapporteur on the right to education, Ms. Koumbou Boly Barry; by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. David Kaye; and by the Special Rapporteur on freedom of religion or belief, Mr. Ahmed Shaheed, regarding the "School without Party" programme and its possible implications for the enjoyment of the aforementioned rights in Brazil.

1 – THE "SCHOOL WITHOUT PARTY" PROGRAMME

The Bills of Law (hereinafter referred to as "BL") 7.180/2014, 867/2015 and 193/2016 are currently under analysis at the National Congress and intend to include the "School without Party" programme in the scope of the so-called Law of Directives and Bases for the National Education (Law 9.394/96).

A decision by the Chamber of Deputies on both BLs 7.180/2014 and 867/2015 is currently pending – the latter was appended to the former, so that they are under joint analysis. In turn, BL 193/2016 was introduced at the Federal Senate and is also under analysis.

Brazil would like to stress that the debates on the aforementioned BLs have taken place according to the rules and the spirit of democracy and at the proper institutional "locus", that is, the National Congress. In order to be adopted the BLs have to pass in both houses of Congress, after a rigorous analysis by their thematic committees, such as the Federal Senate's Committee on Education, Culture and Sport.

Both the Chamber of Deputies and the Federal Senate have promoted an intense debate on the "School without Party" programme with civil society and specialists. In this context, some initiatives have been taken by the Legislative branch, as mentioned below:

- A public hearing was organized by the Federal Senate's Committee on Education, Culture and Sport on 16 November 2016, with the presence of the Deputy-Attorney General and representatives from the National Union of Students and the Brazilian Union of High School Students.

- Public hearings held by the Chamber of Deputies in February, March and April, with the presence of the State Attorney responsible for the Collective Tutelage of Education in the state of Rio de Janeiro; the President of the National Union of Students; the President of the Brazilian Union of High School Students; the founder of the "School without Party" movement; representatives from the National Confederation of Education Institutions, from the National Confederation of Education Workers and from the National Union of Municipal Education Directors; public university professors; school principals; journalists; lawyers and parliamentarians both in favor and against the "School without Party" programme.

- A Seminar was held at the Legislative Assembly of the state of São Paulo in 15 May 2017, with the presence of lawyers, civil servants and students.

The aim of the public hearings and seminars, according to the Rapporteur of the BLs in the Chamber of Deputies, is to debate as much as possible, so that society's various perspectives on this theme are heard and taken into consideration before any decision on that matter is taken.

In such democratic environment, marked by the autonomous and independent functioning of the three branches of government, the Federal Executive has been acting according to the Brazilian Federal Constitution in order to inform the broad debate on the "School without Party" programme. Therefore, the Ministry of Education has issued an official note against the programme, in a statement referred to the National Congress on 4 April 2017.

The aforementioned statement by the Ministry of Education is based upon the fact that the Law of Directives and Bases for the National Education, in which the "School without Party" programme should be included if the BLs pass in Congress, is aimed at the full development of students, thus preparing them to the exercise of citizenship and qualifying them for their future work lives.

Article 32 of the Law of Directives and Bases for the National Education enshrines guiding principles for the development of education in the national territory, among

which the following must be emphasized: "the freedom to learn, teach, research and disseminate culture, art and knowledge"; "the pluralism of ideas and pedagogical conceptions"; "respect for liberty and appreciation for tolerance"; "appreciation for the school education professionals"; the "linkages among school education, work and social practices", and, lastly, "the need to take into account ethnic-racial diversity."

Therefore, in light of the aforementioned principles and their importance for Brazilian education, the Ministry of Education affirms that the passing of the BLs related to the "School without Party" programme would be incompatible with the spirit and the object of the Law of Directives and Bases for the National Education.

The Judiciary branch has also expressed its perspective on the same matter through its highest body, the Federal Supreme Court. In judging the constitutionality of Law 7.800/2016, which establishes the "Free School" programme in the state of Alagoas – an initiative similar to the "School without Party" programme, only local –, the Federal Supreme Court has issued an injunction in March 2017 suspending the effects of that Law in its entirety. According to Justice Luís Roberto Barroso, Rapporteur in that case:

"[T]he Constitution ensures the emancipating role of education, which enables people to participate in the many spheres of life as humans, citizens and professionals. To that end, it defines the guidelines that must be observed in the teaching process [...], such as (i) the freedom to learn and teach; (ii) the pluralism of ideas and pedagogical conceptions; (iii) the valuing of professionals in school education."

Bearing in mind this context of a broad legislative, political, legal and social debate, held in a democratic regime, Brazil reaffirms its belief that the current situation does not entail a violation of the rights to education, freedom of opinion and expression and freedom of religion or belief.

Moreover, any decision by the Legislative branch on the aforementioned BLs related to the "School without Party" programme may be afterwards submitted to the judicial control of constitutionality by the Federal Supreme Court. In that regard, it is important to highlight that the Brazilian Federal Constitution guarantees the rights to freedom of expression (article 5, item 4), freedom of religion (article 5, item 6) and education

(article 6) – an education based on the principles of the "freedom to learn, teach, research and disseminate culture, art and knowledge" and of the "pluralism of ideas and pedagogical conceptions" (article 206, items 2 and 3), also present in the Law of Directives and Bases for the National Education and mentioned in the decision of the Federal Supreme Court regarding Law 7.800/2016.

2 – THE Common School Curriculum National Basis

With respect to the Common School Curriculum National Basis (hereinafter referred to as “the National Basis”), the main and first aspect that must be dealt with is whether the most recent version of this document lacks reference to the themes of diversity, plurality and gender. As demonstrated below, all of these subjects are fully addressed throughout the text of the National Basis.

The National Basis defines the essential knowledge that every student should acquire through basic education. Its aim is to continue building a just, democratic and inclusive society, which acknowledges the freedom of religion for individuals, families and institutions, as enshrined in the Constitution.

In a federal country such as Brazil, the National Basis is a mandatory reference for school curricula at state and municipal levels, which must foster the improvement of education with equity, while recognizing the different cultures that form the Brazilian identity.

In affirming the plural character of the Brazilian society, the National Basis seeks to ensure universal access to school, as well as high permanence and success rates, without distinction of any kind, such as appearance, religion, ethnicity or gender. Therefore, the National Basis will be able to contribute to promote the inclusion of minorities and vulnerable groups, such as students with disabilities, individuals who did not have access to education at the right age, indigenous people and “quilombolas”, among others. An important goal of the National Basis is to offer to everyone an integral education, which stimulates human development in its intellectual, physical, affective, emotional, social, ethical, moral and symbolic dimensions.

Among the ten general skills that form the structure of the National Basis, four relate specifically to the promotion of human rights, to the respect for others and to the appreciation of diversity, without prejudice of any kind, as follows:

- To appreciate the diversity of cultural knowledge and experiences, and to acquire knowledge and experiences that allow students to understand the relations pertaining to the world of work and to make choices according to their personal, professional and social life plans, with freedom, autonomy, critical awareness and responsibility.

- To debate according to facts, data and reliable information, in order to formulate, negotiate and defend ideas, points of view and common decisions which respect and promote human rights and socio-environmental awareness at the local, regional and global levels, from an ethical perspective in relation to oneself, to others and to the planet.

- To show empathy for others, as well as to practice dialogue, conflict resolution and cooperation, while respecting oneself, promoting respect for the others, embracing and appreciating the diversity of individuals and social groups, their knowledge, identities, cultures and potentials, without prejudice of any kind, such as origin, ethnicity, gender, age, ability/necessity or religious belief and in recognizing oneself as part of a community to which one must feel committed.

- To act personally and collectively with autonomy, responsibility, flexibility, resilience and determination, while making decisions based on the knowledge built at school, according to democratic, inclusive, sustainable and solidary ethical principles.

Additionally, the National Basis addresses and appreciates the cultural and social diversity, both in indicating the skills specifically related to each subject area and curricular components and in defining the abilities to be developed by students during their school lives.

Throughout its text, the National Basis addresses the topic of diversity more than 80 times. Among them, Brazil would like to stress some examples, in order to demonstrate how strongly respect for human rights and the endorsement of pluralism and of an

education oriented to peaceful and respectful social interactions have guided, in a coherent and harmonic way, the project embodied in the National Basis.

In addressing Elementary School and reaffirming school's commitment to "offer an integral formation, based on human rights and democratic principles", the National Basis stresses "the need to denaturalize any form of violence in contemporary societies, including the symbolic violence of social groups, which impose norms, values and knowledge considered universal and that do not establish dialogue among the different cultures present in the community and at school."

One of the specific skills related to the field of the Portuguese language at Elementary School is "to analyze arguments and opinions expressed in social interactions and in the means of communications, taking a critical stand on discriminatory contents, which infringe human and environmental rights."

For the Arts domain, the National Basis defines the following skills to be developed by students: "to discuss the personal and collective body experiences developed during classes, so as to address topics related to gender and the body" and "to reflect on the personal and collective body experiences developed during class or lived in other contexts, so as to address topics related to gender, the body and sexuality."

Similarly, when it comes to Physical Education, the National Basis mentions as a specific skill "to identify the multiplicity of performance, health, beauty and body aesthetic standards, while critically analyzing the models disseminated by the media and discussing consumerist and prejudiced perspectives". Another skill pertaining to the Physical Education domain is "to identify the forms by which prejudices are created, to comprehend their effects and to combat discriminatory positions in relation to body practices and the people who take part in them."

The aforementioned skills aim at "ensuring that stereotypes and prejudices expressed in body practices are overcome" and at promoting a welcoming school environment, where everyone can exercise freely and naturally, without suffering negative pressures from the group. Therefore, as abilities to be developed during the practice of Physical Education, the National Basis establishes the following: "to identify situations of

injustice and prejudice created and/or present in the context of dances and other body practices and to discuss alternatives to overcome them” and “to discuss prejudices and gender, social and ethnic-racial stereotypes related to wrestling and other body practices and to establish social agreements aimed at having interactions based on solidarity, justice, equity and respect.”

Even in the fields of Mathematics and Natural Sciences, the concern with an education that promotes rights, mutual respect and plurality can be found in relation to specific skills linked to those fields. In relation to Mathematics, the National Basis mentions the skill of “acting individually or in cooperation with others, with autonomy, responsibility and flexibility, in the development and/or discussion of projects that address mainly questions of social urgency, according to ethical, democratic, sustainable and solidary principles, while appreciating the diversity of opinions among individuals and social groups, without prejudice of any kind.”

In the Natural Sciences field, the National Basis mentions the following skill: “to make arguments based on reliable data, evidence and information and to negotiate and defend ideas and points of view that respect and promote socio-environmental awareness and respect towards oneself and others, while welcoming and appreciating the diversity of individuals and social groups, without prejudice of any kind”.

Also in the Natural Sciences field, some abilities to be developed by students are “to compare physical characteristics among classmates, in order to observe the diversity of characteristics, while recognizing the importance of appreciating, welcoming and respecting these differences” and “to select arguments that show the multiple dimensions of human sexuality (biological, socio-cultural, affective and ethical) and the need to respect, appreciate and welcome the diversity of individuals, without prejudice based on gender differences.”

Finally, in the field of Humanities, the National Basis highlights in many of its parts the importance of human rights, plurality and the welcoming of diversity. The introduction to the part of Humanities in the National Basis starts with the following sentence: “The field of Humanities helps students develop 'in situ' cognition, necessarily marked by the notions of time and space, concepts which are fundamental in this field. Thus, the

categories of cognition and context are jointly elaborated, in specific historical circumstances, in which diversity – cultural, ethnic and gender-related, among many others – must be highlighted, with the goal of welcoming differences.”

Respect for and the welcoming of diversity are not mere rhetorical in the National Basis, but guiding principles of the whole of its text. In the field of Humanities, they are reaffirmed when it comes to both Geography and History.

When addressing Geography, the National Basis states: “The learning of Geography favors the recognition of diversity and the differences among social groups, according to ethical principles (respect for diversity without ethnic, gender-related or any other form of prejudice).” Moreover, among the specific skills relating to Geography, one is “to make arguments based on geographical information, to debate and defend ideas and points of view that respect and promote socio-environmental awareness and respect for biodiversity and for the others, without prejudice of any kind, such as origin, ethnicity, gender, age, ability/necessity or religious belief.

With respect to History, the National Basis emphasizes "the topics associated to cultural diversity, gender issues and the approaches related to the history of the indigenous peoples and African history" and includes four specific abilities related to human rights, minority rights, gender and the diversity of identities, as follows:

- "to identify the changes that took place in the debate on gender issues in Brazil during the 20th century and to comprehend the meaning of the changes of approach to this theme;"
- "to establish relations between the Human Rights Charter and the process of affirmation of minority rights;"
- "to assess the population dynamics and the construction of ethnic-racial and gender identities in recent history;"
- "to identify and discuss the diversity of identities and their historical meanings at the beginning of the 21st century."

These examples fully demonstrate that the allegations that the National Basis is silent on human rights, plurality, diversity and gender are unsubstantiated. On the contrary, these themes are present and highlighted in all parts of the document, with the goal of guiding

Brazilian education to an integral human formation of children and adolescents and to building a just, democratic and inclusive society.

In April 2017, the Ministry of Education referred the third version of the National Basis to the National Council on Education (CNE), as a result of a broad debate and a wide negotiation process with different actors in the Brazilian society. From this onwards, the responsibility to analyze and turn the National Basis into a formal rule falls upon the CNE, so that it can be subsequently approved by the Minister of Education.

The members of the CNE represent many sectors of Brazilian education field, and have different academic backgrounds, such as Philosophy, Pedagogy, Literature, Economics, Engineering, etc., as well as various professional backgrounds, such as teaching in universities, working with education themes in the government at the federal, state and municipal levels and working with indigenous education.

Apart from reflecting the complexity and diversity of the Brazilian nation, the CNE is reaching out to society in order to hear and consider different perspectives on the National Basis before taking a decision on this subject. To that end, the CNE has scheduled a series of public hearings in every region of the country for the next three months. These events will be open to the whole of society and will include the participation of institutions and specialists related to the field of education. The CNE will also receive written opinions in electronic form by entities and specialists related to the issues present in the National Basis.

Therefore, it is possible to conclude that the current version of the National Basis is still subject to changes. The possible changes to its text, however, will be made after a comprehensive and thorough process of consultations with the Brazilian society.

3 – CONCLUSION

Brazil would like to thank for the opportunity to inform on the current stage of the broad and democratic debates about the "School without Party" programme and the Common School Curriculum National Basis, which are currently taking place in the Brazilian state and society levels.

Lastly, Brazil affirms that its conduct is based upon the necessity of ensuring the protection and promotion of the human rights of everyone, with full respect for the international obligations undertaken by the country.