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THE NEW ZEALAND CURRICULUM DRAFT FOR CONSULTATION 2006

Human Rights Issues



Human Rights
Commission

Te Kāhui Tika Tangata



October 2006

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THE NEW ZEALAND CURRICULUM DRAFT FOR CONSULTATION 2006

HUMAN RIGHTS ISSUES

The New Zealand Human Rights Commission has prepared a brief overview of the New Zealand Curriculum draft for consultation 2006 from a human rights perspective.

This paper identifies some human rights issues for consideration and is provided as a resource for organisations, groups and individuals who are making submissions as part of the consultation process. It has been drafted particularly for Questions 5, 6 and 8 of the Feedback Questionnaire.

The Commission hopes you will find this paper useful in drawing up your submissions to the Ministry of Education. We welcome your feedback on the issues we raise.

**The draft Curriculum can be found on
<http://www.tki.org.nz/r/nzcurriculum>**

**Submissions are due to the Ministry of Education by
November 30, 2006.**

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Introduction

Education is both a human right in itself and an indispensable means of realising other human rights¹.

In New Zealand, education is compulsory for all children aged between six and 16 years, although in practice most children begin school on their fifth birthday. Every child and young person in New Zealand therefore spends at least ten formative years engaged with the school curriculum.

Education should be aimed at the development of each child or young person's full potential, and their ability to get on with others, whatever their race, religion or the country of origin. (Universal Declaration of Human Rights, Article 26)

In 2004 the Human Rights Commission assessed how well human rights are recognised and respected in New Zealand². The review used a framework of four broad standards to assess human rights in education: availability, accessibility, acceptability and adaptability³.

Against this framework it was found that education was generally available to all but that there were some areas that needed attention,

1. participation and success rates were disproportionately low for some groups – Māori, Pacific peoples, disabled people and those from poor communities. The gap between the lowest achieving students and those who are average achievers is increasing and, compared with OECD countries, New Zealand has one of the widest gaps in educational performance.

¹ Full versions of the international conventions cited in this paper are included in Appendix 1.

² *Human Rights in New Zealand Today: Nga Tika Tangata o te Motu* Human Rights Commission (2004). <http://www.hrc.co.nz/report>

³ *Human Rights in New Zealand Today: Nga Tika Tangata o te Motu*. Chapter 15 <http://www.hrc.co.nz/report/chapters/chapter15/education01.html>

2. standards in education vary particularly for disabled children and young people, those in isolated schools and those from low socio-economic communities.
3. there is discrimination, bullying and harassment particularly over race, disability, sexual orientation and gender.
4. there is a lack of any systematic human rights education provision (Appendix 3).

The principles, values, competencies, and learning areas of the curriculum, and how it is delivered, significantly impact on successful participation in schooling, and therefore the achievement of full human potential.

Education should develop each child and young person's personality and talents to the full. It should encourage respect for parents, and for their own and other's cultures. (UN Convention on the Rights of the Child, Article 29)

Every person, whatever their level of academic ability, whether they be rich or poor, whether they live in town or country, has a right as a citizen to a free education of the kind for which they are best fitted and to the fullest extent of their powers. (C. Beeby, 1939)

A Human Rights Perspective

This paper highlights the significance of the draft national curriculum in realising the right to education. The right to education is set out in a number of international treaties⁴.

⁴ The most significant international treaties relating to the right to education include - the International Covenant on Economic, Social and Cultural Rights (Articles 13 & 14) and the Convention on the Rights of the Child (Articles 28 & 29). Other, more specific treaties include the International Convention on the Elimination of All Forms of Racial Discrimination (Articles 5(e) & 7), the International Convention on the Elimination of All Forms of Discrimination against Women (Article 10), and the draft Convention on the Rights of Persons with Disabilities (Article 24).

Specific extracts of these conventions are included in Appendix 1.

It offers a review of the draft Curriculum against domestic and international human rights standards. It focuses on the proposed principles, values, competencies, learning areas and pedagogy.

A human rights approach to the review of the draft Curriculum considers:

1. compliance with the relevant;
 - international human rights standards, and
 - domestic human rights standards in the *NZ Bill of Rights Act 1990*, *Human Rights Act 1993*, and the *Treaty of Waitangi*.
2. assessment against the relevant standards in the *Right to Education: Framework Te Whare T_papa M_tauranga*;
 - education provision promotes equitable achievement outcomes for all learners, and
 - educational experiences promote the achievement of full human potential⁵.

Human Rights Issues in the draft Curriculum 2006

The realisation of the right to education relies on human rights *through* education (in Principles, Values, Key Competencies, and Teaching Pedagogy) and on human rights *in* education, (in the Learning Areas of the curriculum).

In New Zealand, human rights underlie our expectations about life, education, health, work, personal security, equal opportunity and fair treatment, our ability to have a say and our system of government.

The draft Curriculum is to be commended for its expectation that schools will develop their programmes in ways that "take account of the diverse learning needs of their students and expectations of the communities"⁶. Also welcome is the increased opportunity the draft Curriculum offers to teachers to apply their professional

⁵ The Right to Education Framework: Te Whare T_papa M_tauranga can be sourced from *Human Rights in New Zealand Today: Nga Tika Tangata o te Motu* Human Rights Commission, Wellington (2004), Chapter 15, p262.

⁶ Howard Fancy: *NZ Curriculum Draft 2006* Foreword

knowledge, to develop innovative teaching approaches and to engage students in rich and authentic learning experiences⁷.

It is encouraging that a planned and coherent pathway is intended from early childhood through the draft Curriculum to tertiary competencies.

Research recently completed by the Commission⁸, found that the responses of early childhood education services reflected a greater comfort with the language of human rights, and a clear understanding of what human rights-based education might look like. Responses were often made with direct reference to *Te Wh_riki*⁹ and its reflection of human rights in its principles, strands and goals.

It is hoped that the intention of the draft Curriculum to follow on from *Te Wh_riki*, will also result in the practice of education that is based on human rights-based standards.

The Ministry of Education's proposed guidelines are important for ensuring that the implementation of the new Curriculum and the professional development for teachers and schools' managers involve the application of human rights standards.

The development of strategies to apply human rights standards can be assisted by the inter-agency project, *Schools as Human Rights Communities*, which has been initiated as part of the Action Plan for the World Programme of Human Rights Education

⁷ Hon Steve Maharey: Introductory Letter

⁸ Early Childhood Education Services and Schools as Human Rights Communities: A Baseline Study (soon to be published)

⁹ Curriculum for early childhood education

The following comments relate to the Vision, Principles, Values, Key Competencies, Learning Areas and Effective Pedagogy (pp 8 - 25) but not to the technical aspects of the draft Curriculum such as its design and achievement objectives by level.

SUMMARY OF KEY POINTS

1. Incorporate the *Treaty of Waitangi* in the guiding Principles and reflect accordingly throughout the draft Curriculum including the Learning Areas.
2. Include a statement in the *Cultural Heritage Principle* indicating that all students have the opportunity to experience a curriculum that reflects and values *te ao Māori*, thereby strengthening their identity and belonging as New Zealanders.
3. In addition to English, acknowledge *Te Reo Māori* and *New Zealand Sign Language*, as legitimate languages through which the NZ Curriculum is delivered.
4. Explicitly include *human rights education* in the learning statements and across all levels of the learning areas. Ensure schools and communities are prepared for inclusion in curriculum provision.
5. Include *Māori concepts and content* through all learning areas at all levels.
6. Encourage the curriculum and schools, where possible, to provide opportunities in support of community efforts to teach their *heritage languages*.

VISION, PRINCIPLES, VALUES, KEY COMPETENCIES, and TEACHING PEDAGOGY

(Human Rights through Education)

Human rights standards appear reflected throughout components of the draft Curriculum.

The draft Curriculum aims to encourage schools and their communities to recognise and affirm all students' identities, cultures, languages, and talents, thereby achieving excellence through the affirmation of diversity and achievement of equity¹⁰.

- It includes a ***Vision*** statement that encourages confidence, connectedness, lifelong learning, and active involvement as citizens.
- It is based on a broad set of ***Principles*** including excellence, cultural heritage, equity, and connection with community.
- Students are encouraged to ***Value*** excellence, diversity, respect (including for human rights), equity, community and participation, and care for the environment.
- Students are challenged to develop ***Key Competencies*** including relating to others, participating and contributing, and using language, symbols and texts
- Teachers are encouraged to develop ***Effective Pedagogy*** that makes connections, with students, provides multiple opportunities to learn, facilitates shared learning, and creates a supportive learning environment

There are three areas where alignment against human rights standards needs to be strengthened,

- inclusion of the Treaty of Waitangi,
- recognition of the cultural heritage of all children and young people, and
- recognition of M_ori and New Zealand Sign Language as media for education provision.

¹⁰ It is assumed that 'culture' is broadly defined and includes ethnicity, religion, disability, sexual orientation and gender identity.

1. Incorporate the *Treaty of Waitangi* in the guiding Principles and reflect accordingly throughout the Curriculum including the Learning Areas.

The Treaty of Waitangi is barely mentioned in the draft Curriculum¹¹. This is in contrast to the current NZ Curriculum Framework where the Treaty of Waitangi is one of nine principles and is included in several learning areas¹².

The Commission's 2004 review of human rights concluded that the Treaty of Waitangi is a "fundamental reference point for the realisation of human rights and race relations in New Zealand"¹³.

The Treaty,

- is the founding document of New Zealand and the basis of our nationhood,
- contributes to the identity and belonging of all New Zealanders,
- guarantees the right for M_ori to live as M_ori including the protection of taonga, reo and tikanga M_ori.

A State Services Commission survey found that 57 percent of New Zealanders agreed that 'greater knowledge about the Treaty of Waitangi would help many New Zealanders have a better understanding of our country and its history'¹⁴.

The realisation of the draft Curriculum's Vision, Principles and Values statements requires increased and more explicit inclusion of the Treaty. As a minimum it should be reinstated.

¹¹ Apart from a mention in Social Sciences, Level Five, where students are to understand that "the Treaty of Waitangi is responded to differently by people in different times and places"

¹² New Zealand Curriculum Framework, 1993:
The New Zealand Curriculum recognises the significance of the Treaty of Waitangi.

The school curriculum will recognise and value the unique position of M_ori in New Zealand society. All students will have the opportunity to acquire some knowledge of M_ori language and culture. Students will also have the opportunity to learn through te reo and nga tikanga M_ori. The school curriculum will acknowledge the importance to all New Zealanders of both M_ori and Pakeha traditions, histories, and values."

¹³ *Human Rights in New Zealand Today: Nga Tika Tangata o te Motu,*

¹⁴ Treaty of Waitangi Awareness Research - A Qualitative and Quantitative Study (UMR Commissioned by the State Services Commission, 2004)

The Commission understands that the Treaty will be embodied in *Te Marautanga o Aotearoa*, the M_ori medium curriculum, due for release in 2007¹⁵. While this is encouraging, the inclusion of the Treaty in the M_ori Curriculum gives the incorrect impression that that the Treaty is significant only to M_ori.

2. Include a statement in the *Cultural Heritage Principle* indicating that all students have the opportunity to experience a curriculum that reflects and values te ao M_ori, thereby strengthening their identity and belonging as New Zealanders.

The *New Zealand Action Plan for Human Rights: Mana ki te Tangata*¹⁶ stresses the importance of all New Zealanders developing knowledge of reo and tikanga M_ori.

The Cultural Heritage Principle specifies that students who identify as M_ori have the opportunity to experience a curriculum that reflects and values te ao M_ori. Human rights standards support the right for M_ori to have access to an education “in their own culture and provided in their own language”.

Limiting the opportunity to experience a curriculum that reflects and values reo and tikanga M_ori to those students *who identify as M_ori* only will impact negatively in two ways.

- i) It will deny those students who do not identify as M_ori access to the richness of the cultural heritage of tangata whenua which is part of the heritage of all New Zealanders.
- ii) The wider availability of reo and tikanga M_ori to all students will advance the proficiency of teachers, encourage greater resource allocation, and will better protect and develop te ao M_ori.

3. In addition to English, acknowledge *Reo M_ori* and *New Zealand Sign Language* as legitimate languages through which the NZ Curriculum is delivered.

¹⁵ Hon Steve Maharey (Questions to the House, 12.09.06)

The draft Curriculum describes English as the medium for most learning in the NZ Curriculum, but it fails to mention Te Reo M_ori and NZ Sign Language (NZSL), also official languages of New Zealand.

The study of English has been created as a separate and additional learning area. There is no doubt that current level of illiteracy in English excludes identifiable groups of students from participation and achievement in education, in employment and in the community. The right to literacy is a core element of the right to education. The emphasis of the draft Curriculum on raising English literacy levels will contribute to the realisation of full human potential and sense of dignity and self worth.

If the other two official languages, Te Reo M_ori and NZ Sign Language, are not recognised at the highest level, however, they are likely to be disadvantaged in areas such as budget allocation, resource development, teacher education, and timetable priorities.

All young people and adults must be given the opportunity to gain the knowledge and develop the values, attitudes and skills which will enable them to develop their capacities to work, to participate fully in their society, to take control of their own lives, and to continue learning.

This includes;

- A relevant curriculum that can be taught and learned in a local language and builds upon the knowledge and experience of the teachers and learners;
- Respect for and engagement with local communities and cultures.

(UNESCO *The Dakar Framework for Action - Education for All*)

¹⁶ <http://www.hrc.co.nz/report/actionplan>

LEARNING AREAS

(Human Rights in Education)

The learning areas have the potential to,

- enable the full development of the human personality, strengthen respect for human rights and fundamental freedoms, and to promote understanding, tolerance and friendship among all nations, racial or religious groups (*Universal Declaration of Human Rights*, Article 26),
- enable Māori to be educated in te ao Māori (*International Convention on Economic, Social, and Cultural Rights*, Article 1; Treaty of Waitangi, Article 2),
- enable disabled children and young people to learn life and social development skills to facilitate their full and equal participation as members of the community (draft *International Convention on the Rights of Person's with Disabilities*, Article 24),
- combat prejudices which lead to racial discrimination and to promote equity among racial or ethnical groups (*Convention on the Elimination of Racial Discrimination*, Article 7), and to
- ensure access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality and to eliminate any stereotyped concept of the roles of men and women (*Convention on the Elimination of Discrimination Against Women*, Article 10).

The Social Sciences, Health & Physical Education, Learning Languages, and Arts Learning Areas of the draft Curriculum all include elements that contribute to the realisation of human rights and harmonious race relations. In all Levels of the Health and Physical Education Area, for example, two key themes are taught – Relationships with Other People, and Healthy Communities and Environments. In the Learning Languages Area, it is understood that languages are intricately linked to social and cultural contexts.

There are two areas where alignment against human rights standards requires strengthening,

- explicit inclusion of human rights throughout the curriculum, and

- inclusion of M_ori content and concepts.

This section also emphasises the importance of access to the teaching of *heritage languages*.

4. Explicitly include *human rights education* in the learning statements and across all levels of the learning areas. Ensure schools and communities are prepared for its inclusion in curriculum provision.

In order to develop to their full potential and to be able to contribute to society, children and young people have to know their rights and responsibilities and have the opportunities to exercise them. States have an obligation to recognise, respect, protect, promote and fulfil human rights. Human rights education is an essential tool for meeting these obligations.

Human rights education can successfully begin at early childhood level, as demonstrated by *Te Wh_riki*, and needs to be encapsulated in all areas and levels of the curriculum.

It is encouraging therefore to see human rights concepts included in 'Health and Physical Education' (Relationships with other People, and Healthy Communities and Environments), in the Culture strand of 'Learning Languages', in aspects of 'Arts' and 'Science', and in all strands of 'Social Sciences'.

This inclusion is both implied and explicit. For example, human rights are mentioned explicitly in Level 6, Social Studies (Social Sciences), *Individuals groups and institutions work to promote social justice and human rights*¹⁷.

Where it is implied only, the inclusion of human rights education in the delivery of the curriculum will rely on the knowledge of the school and community. The Ministry of Education will need to ensure that strategies are in place to enable human rights standards to be understood and to be included in the curriculum provision.

¹⁷ Ideally education about human rights will be explicit at all levels of the Social Science Learning Area.

5. Include M_ori concepts and content through all learning areas at all levels.

For reasons discussed in Key Point 1, all aspects of the curriculum for all students must include concepts and content reflective of M_ori as the indigenous people of New Zealand. Significant Learning Areas in the draft Curriculum, such as Arts, Health and Physical Education, and Science are silent in this respect.

The draft Curriculum appropriately recognises Te Reo M_ori as a 'source of our nation's self knowledge and identity' and prioritises New Zealand Sign Language (NZSL) as the language of Deaf New Zealanders. It is positive also to see emphasis on Pacific Languages in this Learning Area.

Recognition of Te Reo M_ori, NZSL and Pacific languages is consistent with *The New Zealand Action Plan for Human Rights: Mana ki te Tangata* where priority actions include:

- providing opportunities for all New Zealanders to develop the ability to communicate competently in both English and M_ori,
- making provision for the use of NZSL by Deaf Children, including employing teachers competent to teach in NZSL, and
- ensuring the continued survival and use of the Cook Island Maori, Niuean, and Tokelauan languages in New Zealand and the retention and use of other languages.

6. Encourage the curriculum and schools, where possible, to provide opportunities in support of community efforts to teach their heritage languages.

The NZ Action Plan for Human Rights: Mana ki te Tangata also specifically emphasises the need to support community efforts to teach their heritage languages. It notes that language is a critical issue for human rights and race relations, both in affirming identity and in fostering understanding of different cultures. A priority action is "to develop a languages policy that encourages the learning of a range of languages and supports community efforts to teach their heritage languages". The curriculum can contribute to this both in terms of meeting the needs of children whose mother tongue is not English or M_ori, and providing an appreciation of language diversity for all students.

APPENDIX ONE: International Human Rights Instruments

Universal Declaration of Human Rights

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups. (Article 26)

International Convention on Civil and Political Rights,

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language. (Article 27)

UN Convention on Economic, Social and Cultural Rights

All peoples have the right of self-determination. By virtue of that right they ... freely pursue their economic, social and cultural development. (Article 1)

States Parties recognise the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups. (Article 13)

UN Convention on the Rights of the Child

Disabled children and young people have the right to "education and training in a manner that is conducive to the achievement of fullest possible social integration and individual development". (Article 23).

Education should be directed at,

- the development of the child's personality, talents and mental and physical abilities to their fullest potential,

- the development of respect for the child's parents, their cultural identity, language and values, for the national values of the country in which the child is living, the country from which they may originate, and for civilizations different from their own, and
 - the development of respect for the natural environment. (Article 29)
-

UN Convention on the Elimination of Racial Discrimination

Prohibits racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (v) The right to education and training. (Article 5)

Convention on the Elimination of Discrimination Against Women

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure for them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
 - The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
 - The same opportunities to participate actively in sports and physical education;
 - Access to specific educational information to help to ensure the health and well being of families, including information and advice on family planning. (Article 10)
-

draft Convention on the Rights of Persons with Disabilities

States Parties recognise the right of persons with disabilities to education. With a view to realising this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive, education system at all levels, and life-long learning, directed to the full development of the human potential and sense of dignity and self worth. (Article 24 (a))

draft Declaration on the Rights of Indigenous Peoples

Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language. (Article 14)

Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations, which shall be appropriately reflected in education and public information. (Article 15)

APPENDIX TWO: Domestic Human Rights Instruments

The place of the **Treaty of Waitangi** in New Zealand today has profound significance for human rights and for harmonious race relations.

- Article 1, provides for the Crown's right to govern in New Zealand and provides a basis for settlement
- Article 2, guarantees to M_ori 'full, exclusive and undisturbed possession' (English version) or 'te tino rangatiratanga' (M_ori version) of their lands, estates, forests, fisheries, and 'taonga' (treasured possessions). In addition to the property rights clearly protected, this article provides for M_ori the right to live as Maori and to govern relevant aspects of M_ori life
- Article 3, affirms the equal citizenship rights of M_ori, Pakeha and all New Zealanders (at that time, British subjects).

New Zealand Bill of Rights Act 1990

The NZBORA is an Act to affirm, protect and promote human rights, and to affirm New Zealand's commitment to the International Convention on Civil and Political Rights. The rights and freedoms that it affirms include non-discrimination and minority rights. It requires those in government (including government departments, the judiciary, state-owned enterprises and local authorities) to ensure that any limits imposed on an individual's rights, are reasonable and justifiable, and states that, wherever possible, legislation must be interpreted consistently with the NZBORA.

Human Rights Act 1993

The HRA protects people from unlawful discrimination in education on any of the following grounds - sex including pregnancy, marital status including being in a civil union, religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status, and sexual orientation. Government activities can also be tested against the anti-discrimination standards in the HRA.

APPENDIX THREE: Human Rights Education Defined

Human Rights Education can be broadly defined as, training, dissemination and information efforts aimed at the building of a universal culture of human rights through the imparting of knowledge and skills and the moulding of attitudes, which are directed towards:

1. The strengthening of respect for human rights and fundamental freedoms;
2. The full development of the human personality and the sense of its dignity;
3. The promotion of understanding, tolerance, gender equality and friendship among all nations, indigenous peoples and racial, national, ethnic, religious and linguistic groups;
4. The enabling of all persons to participate effectively in a free society;
5. The furtherance of the activities of the United Nations for the maintenance of peace.

(United Nations High Commissioner for Human Rights)

APPENDIX FOUR: Teachers as Human Rights Defenders

“On World Teachers’ Day, we need to think of ways to support teachers across the world in creating rights-based schools.

The school environment is a crucially important location for learning about and practicing human rights from an early age. It is a place where all children are given the same opportunity to develop respect for human rights. As the UN Convention on the Rights of the Child states, the purpose of education is ultimately to prepare the child for a “responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin” as well as “respect for the natural environment”.

The theme of this year’s World Teachers’ Day is “Quality Teachers for Quality Education”. We cannot emphasize enough how much the qualification of teachers and educators is key - and not only when it comes to teaching our children how to read, write and calculate. Teachers are also primary human rights defenders, and what’s more: key actors for the success of human rights education. Teachers have an essential role in preparing children to assume an active and participatory democratic citizenship.

Human rights values should not only be taught as a separate subject but should permeate the whole education system. Teachers should not only teach about democracy but also act in that spirit, giving students a practical understanding - as well as experience - about democratic customs and behaviour. Each child should be given the opportunity to learn in a democratic atmosphere and to be heard and have his or her opinions taken seriously.

Teacher skills, attitudes and motivation are therefore crucially important for human rights education. The necessary preparation should be given through pre-service teacher education, focusing on both academic knowledge about the taught subjects and teaching methods needed to create a child-centred, inclusive learning environment. In addition, in our fast-changing world, teachers must be engaged in life-long learning to be able to meet new challenges.”

(From the statement by Thomas Hammarberg, Commissioner for Human Rights, on the occasion of World Teachers Day, 5th October 2006)