

**Universal Periodic Review (32nd session, January-February 2019)  
Contribution of UNESCO**

**New Zealand**

**I. Background and framework**

Scope of international obligations: Human rights treaties which fall within the competence of UNESCO and international instruments adopted by UNESCO.

<i>Title</i>	<i>Date of ratification, accession 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>
<i>Convention against Discrimination in Education 1960</i>	State Party to this Convention (12/02/1963)	Reservation to this Convention shall not be permitted		Right to education
<i>Convention on Technical and Vocational Education 1989</i>	Not a State Party to this Convention			Right to education
<i>Convention concerning the Protection of the World Cultural and Natural Heritage 1972</i>	22/11/1984 Ratification			Right to take part in cultural life
<i>Convention for the Safeguarding of the Intangible Cultural Heritage 2003</i>	Not ratified			Right to take part in cultural life
<i>Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005</i>	05/10/2007 Accession	<i>The instrument of accession contained the following declaration*</i>		Right to take part in cultural life

“AND DECLARES that, consistent with the constitutional status of Tokelau and taking into account the commitment of the Government of New Zealand to the development of self-government for Tokelau through an act of self-determination under the Charter of the United Nations, this accession shall not extend to Tokelau unless and until a Declaration to this effect is lodged by the Government of New Zealand with the Depositary on the basis of appropriate consultation with that territory; AND DECLARES that it considers that the obligation in

Article 16 on developed countries to “facilitate cultural exchanges with developing countries by granting, through the appropriate institutional and legal frameworks, preferential treatments to artists and other cultural professionals and practitioners as well as cultural goods and services from developing countries” is not intended to affect the content or interpretation of domestic legislation, or rules or criteria relating to eligibility for immigration visas or permits, or the exercise of discretion under legislation, or in respect of rules or criteria, but is intended to reflect the way in which the entry of those eligible for visas or permits may be facilitated, such as through special procedures for processing applications; AND DECLARES that it considers the clear legal effect of Article 20 is to ensure the provisions of the Convention do not modify in any way the rights and obligations of the Parties under other treaties to which they are also parties;” [Original : English]

## Right to education

### II. Promotion and protection of human rights on the ground

1. Although New Zealand does not have a single written constitution, the Constitution is drawn from a number of important statutes (laws), judicial decisions, and customary rules (constitutional conventions).<sup>1</sup> Both the **Human Rights Act 1993**<sup>2</sup> and the **Bill of Rights Act 1990**<sup>3</sup> protect the right to freedom from discrimination. Section 57 of the Human Rights Act states that it is unlawful to discriminate in the access to educational establishments. In Section 21, it specifies the 13 prohibited grounds of discrimination which are sex (including pregnancy and childbirth); marital status; religious belief; ethical belief; colour; race; ethnic or national origins (including nationality or citizenship); disability; age; employment status; family status; political opinion; and sexual orientation. Besides, **Te Tiriti o Waitangi/the Treaty of Waitangi**<sup>4</sup>, as a constitutional document of New Zealand, also provides legal protection for the right to education of Māori.
2. The **Education Act 1989**<sup>5</sup> is the primary piece of domestic legislation relating to education. The Section 3 provides that every person (from 5-year-olds to 19-year-olds) who is not an international student is entitled to free enrolment and free education at any State school or partnership school kura hourua. Based on Section 61, the obligations are on schools to make reasonable efforts to provide instruction in te reo Māori and tikanga Māori (Māori culture) for the students of parents who request this, and to include the reflection of New Zealand’s cultural diversity and the unique position of the Maori culture in its school charter. According to Section 8, people who have special educational needs have the same rights to enrol and receive education at state schools as people who do not.
3. In terms of reporting to UNESCO, New Zealand participated in the last consultations of Member States on the measures taken to implement the UNESCO Convention

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<sup>1</sup> <https://www.justice.govt.nz/about/learn-about-the-justice-system/how-the-justice-system-works/the-basis-for-all-law/>

<sup>2</sup> [http://www.legislation.govt.nz/act/public/1993/0082/latest/DLM304212.html?search=sw\\_096be8ed81683ca8\\_education\\_al\\_25\\_se&p=1](http://www.legislation.govt.nz/act/public/1993/0082/latest/DLM304212.html?search=sw_096be8ed81683ca8_education_al_25_se&p=1)

<sup>3</sup> [http://www.legislation.govt.nz/act/public/1990/0109/latest/whole.html?search=sw\\_096be8ed80b62589\\_discrimination\\_25\\_se&p=1#DLM225519](http://www.legislation.govt.nz/act/public/1990/0109/latest/whole.html?search=sw_096be8ed80b62589_discrimination_25_se&p=1#DLM225519)

<sup>4</sup> <https://www.justice.govt.nz/about/learn-about-the-justice-system/how-the-justice-system-works/the-basis-for-all-law/treaty-of-waitangi/>

<sup>5</sup> [http://www.legislation.govt.nz/act/public/1989/0080/latest/DLM175959.html?search=qs\\_act%40bill%40regulation%40d\\_eemedreg\\_Education\\_resel\\_25\\_h&p=1&sr=1](http://www.legislation.govt.nz/act/public/1989/0080/latest/DLM175959.html?search=qs_act%40bill%40regulation%40d_eemedreg_Education_resel_25_h&p=1&sr=1)

against Discrimination in Education through submitting national reports within the framework of the 8<sup>th</sup> (2011-2013) and 9<sup>th</sup> (2016-2017) Consultations. In addition, New Zealand has reported on the measures taken to implement UNESCO 1974 Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms for the 5<sup>th</sup> (2012-2013) and 6<sup>th</sup> (2016-2017) Consultations.

### **Freedom of opinion and expression**

➤ Constitutional and Legislative Framework:

4. Freedom of expression is guaranteed in New Zealand under Section 14 of the Bill of Rights Act of 1990.<sup>6</sup>
5. A freedom of information law was adopted in 1982.<sup>7</sup>
6. Libel, slander and defamation are civil offences regulated by the Defamation Act 1954.<sup>8</sup>

➤ Implementation of legislation:

7. The Broadcasting Standards Authority (BSA) was set up under the Broadcasting Act 1989 to oversee the broadcasting standards regime in New Zealand. The main purpose of the BSA is to issue licenses and deal with complaints through research and interpreting legislation and standards. The Authority board consists of four members who are appointed by the Governor-General, on the recommendation of the Minister of Broadcasting.<sup>9</sup>

➤ Safety of journalists

8. UNESCO recorded no killings of journalists and media workers in New Zealand since 2008.

### **III. UPR Recommendations**

#### **Right to education**

9. **Below are the recommendations made within the framework of the 2nd cycle of the Working Group on the Universal Periodic Review (January 2014)<sup>10</sup>:**

*128.36. Enshrine, in the framework of the current constitutional review, the principle of equality between men and women, and redouble efforts to improve the situation of the Māori and the Pacifica in the areas of health and employment on one hand, and*

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<sup>6</sup> <http://www.wipo.int/wipolex/en>

<sup>7</sup> <http://www.rti-rating.org/wp-content/themes/twentytwelve/files/pdf/New%20Zealand.pdf>

<sup>8</sup> <http://www.legislation.govt.nz/act/public/1992/0105/latest/DLM280687.html>

<sup>9</sup> <https://bsa.govt.nz/>

<sup>10</sup> <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NZindex.aspx>

*strengthen the specific measures taken in their favour to raise the level of education of their children on the other hand*

**128.55.** *Continue efforts aimed at promoting the rights of children, in particular in the spheres of education, elimination of child poverty, meeting needs of vulnerable and at-risk children*

**128.64.** *Promote employment, the right to health and judicial fairness for Māori and the Pacific Islanders and raise the level of education for their children*

**128.69.** *Step up the implementation of current national plans for addressing the challenges and disparities in health, education, employment and gender equality, especially for the vulnerable groups of women, children, migrants, ethnic and indigenous people in the country*

**128.72.** *Combat all forms of discrimination in the areas of employment, salary, health and education against, in particular, persons belonging to marginalized populations*

**128.74.** *Continue efforts to address gaps in social service delivery and education programmes and to address societal discrimination against indigenous persons and individuals belonging to ethnic minority groups*

**128.75.** *Establish strategies across all sectors, in particular health, education and justice, to identify and remedy structural discrimination*

**128.78.** *Redouble its efforts to improve the socioeconomic situation of the Māori by combating structural discrimination, in particular by increasing the level of education of Māori children*

**128.79.** *Take further steps in advancing the human rights of its indigenous populations and intensify its efforts in combating discrimination against them, especially in education, health care and employment*

**128.80.** *Continue to address inequalities affecting human rights in the areas of health, education, employment and income that disproportionately affect Māori and other minority groups*

**128.119.** *Continue enhancing legislation and policies to fight the scourge of gender-based violence at its roots, and in particular strengthen awarenessraising campaigns both in the media and in educational establishments*

**128.139.** *Take additional measures to increase access to free education for children from low-income families and families living in rural areas*

**128.140.** *Take measures to address obstacles to accessing free education*

**128.141.** *Particularly address the question of access to education and the situation of disadvantaged groups of women*

**128.143.** *Intensify efforts to increase the levels of education for Māori and Pacific families while protecting and promoting their cultural heritage*

#### **IV. Review and specific recommendations**

10. During the previous UPR cycle, New Zealand was encouraged to address the issue of equal access to education, elimination of discrimination, gender equality, inclusive education, and education quality, specifically for students from ethnic minorities and migrants.
11. First, New Zealand has adopted new legal measures in the field of education since the last UPR cycle. Among them, the **Education (Update) Amendment Act**<sup>11</sup> adopted in 2017 sets the objectives and priorities in education.

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<sup>11</sup> <http://www.legislation.govt.nz/act/public/2017/0020/latest/DLM6928611.html>

12. In relation to **early childhood education**, a new ECE strategy is under development with the first draft expected at the end of 2018. However, the provision of **at least one year of free and compulsory pre-primary education** however remains absent in the current legislation. In this respect, New Zealand should be encouraged to add provisions of at least one year of free and compulsory quality pre-primary education into its legal framework in line with SDG 4 Commitments.
13. In terms of **access to education**, New Zealand reported that its schools' funding system promotes equal access for all by helping the government to deliver extra support to communities that face the greatest barriers to education<sup>12</sup>. That said, barriers continue to exist. In this regard, New Zealand should be strongly encouraged to ensure that education free of charge is ensured for all children.
14. Moreover, substantial freedom to choose schools participated in increasing **inequality in education**<sup>13</sup>. It also directly affected **the quality of education** as the wealthier and higher ability students in better networked schools end up with the most benefits<sup>14</sup>. In this respect, New Zealand should be strongly encouraged to take comprehensive measures to prevent and address inequality in education and ensure that quality educational services are provided to all children, regardless of their socioeconomic background.
15. Regarding **access to education to ethnic and minority groups**, New Zealand has launched and implemented several programs which should be welcomed. **Ka Hikitia: Accelerating Success 2013 – 2017**<sup>15</sup> is a strategy to ensure the education system can rapidly change how it performs so that all Māori students gain the skills, qualifications and knowledge they need to enjoy and achieve education success as Māori.
16. Despite these positive efforts, New Zealand however reported **persistent inequalities** in participation and outcomes in education, especially for ethnic groups<sup>16</sup>. In this respect, New Zealand should be encouraged to ensure that all children from ethnic groups are provided with quality education in line with the government's commitments. In this process, New Zealand should be strongly encouraged to introduce a government-wide strategy to ensure that the nature and impact of unconscious bias is understood by governance bodies and employees at all levels. New Zealand should also be encouraged to ensure that this strategy is supported by comprehensive training and education as well as effective monitoring mechanisms.
17. In terms of **gender equality in education**, women have high levels of participation and achievement in the formal education system. In this respect, New Zealand should be strongly encouraged to ensure that women in vulnerable situations are provided with educational services. Moreover, New Zealand should be encouraged to increase opportunities for women in the STEM and ICT industries.
18. Regarding **children with disabilities**, New Zealand should be strongly encouraged to harmonize its domestic legislation related to the rights of persons with disabilities, including concerning inclusive education, and bring them into line with international standards. New Zealand should also be encouraged to effectively implement the

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<sup>12</sup> Ninth New Zealand Report on UNESCO Convention against Discrimination in Education, p8.

[http://www.unesco.org/education/edurights/media/resources/file/New\\_Zealand\\_Report\\_on\\_the\\_UNESCO\\_Convention\\_Against\\_Discrimination\\_in\\_Education\\_2012\\_to\\_2015.pdf](http://www.unesco.org/education/edurights/media/resources/file/New_Zealand_Report_on_the_UNESCO_Convention_Against_Discrimination_in_Education_2012_to_2015.pdf)

<sup>13</sup> EFA Global Monitoring Report, Education for all 2000-2015: Achievements and Challenges, p216.

<http://unesdoc.unesco.org/images/0023/002322/232205e.pdf>

<sup>14</sup> Ibid, p216.

<sup>15</sup> <https://www.education.govt.nz/ministry-of-education/overall-strategies-and-policies/the-maori-education-strategy-ka-hikitia-accelerating-success-20132017/>

<sup>16</sup> Ninth New Zealand Report on UNESCO Convention against Discrimination in Education, p2.

updated **New Zealand Disability Strategy (2016–2026)**<sup>17</sup> and the **Disability Action Plan (2014–2018)**<sup>18</sup>.

19. In terms of **education for migrants**, New Zealand has developed a **Migrant Settlement and Integration Strategy**<sup>19</sup> to effectively settle and integrate migrants into society. In this respect, New Zealand should be strongly encouraged to develop effective measures to allow all children to benefit from accessible educational services regardless of their legal status.
20. Finally, given the country's **low performance in terms of human rights education**<sup>20</sup>, New Zealand should be encouraged to increase its efforts to promote human rights, global citizenship, gender equality and sustainable development into its education curriculum and materials, and develop age-appropriate learning programmes in line with this.

➤ **Specific recommendations:**

1. New Zealand could be encouraged to introduce provisions of at least one year of free and compulsory quality pre-primary education into its legal framework in line with SDG4 Commitments.
2. New Zealand should be strongly encouraged to ensure that all children have access to quality education, regardless of their socioeconomic background. In this process, New Zealand should be strongly encouraged to give particular attention to children in vulnerable situations.
3. New Zealand should be encouraged to combat and eliminate discrimination in education against people from ethnic and minority groups and ensure that they are provided with educational services.
4. New Zealand could be encouraged to increase its efforts to foster diversity in choices of studies between female and male students. In particular, opportunities in the STEM and ICT industries for women should be encouraged.
5. New Zealand should be encouraged to harmonize its domestic legislation related to the rights of children with disabilities and inclusive education and ensure that they comply with international standards.
6. New Zealand could be encouraged to pursue its efforts to include human rights education into its curricula.
7. New Zealand should be encouraged to continue submitting national reports for the periodic consultations on UNESCO's education-related standard-setting instruments.
8. New Zealand should be encouraged to share with UNESCO any relevant information to update its country profile on UNESCO's Observatory on the Right to Education<sup>21</sup>.

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<sup>17</sup> <https://www.odi.govt.nz/assets/New-Zealand-Disability-Strategy-files/pdf-nz-disability-strategy-2016.pdf>

<sup>18</sup> <https://www.odi.govt.nz/assets/Disability-action-plan-files/disability-action-plan-2014-2018-update-2015.pdf>

<sup>19</sup> <https://www.immigration.govt.nz/about-us/what-we-do/our-strategies-and-projects/settlement-strategy>

<sup>20</sup> Global Education Monitoring Report, Education for people and planet: creating sustainable futures for all, p459.

<http://unesdoc.unesco.org/images/0024/002457/245752e.pdf>

<sup>21</sup> <http://www.unesco.org/education/edurights/index.php?action=home&lng=en>



## **Freedom of opinion and expression**

21. The Government is recommended to continue with its current dispensation on freedom of expression and opinion.

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## **Right to culture**

22. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972)<sup>22</sup> and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)<sup>23</sup>, New Zealand is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions and, as such, 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, New Zealand is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and NGOs from the civil society 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.
23. New Zealand is also encouraged to ratify the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) as a means to promote access to and participation in creative expressions and as such contribute to implementing the right to take part in cultural life.

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## **Freedom of scientific research and the right to benefit from scientific progress and its applications**

24. New Zealand has not submitted its National Report on the implementation of the Recommendation on the Status of Scientific Researchers (1974) for the Second Consultation covering the period from 2013 to 2016 (<http://unesdoc.unesco.org/images/0025/002592/259256e.pdf>). Therefore New Zealand is encouraged to report to UNESCO in future on the implementation of the revised 1974 Recommendation, which is now entitled Recommendation on Science and Scientific Researchers (2017), on any legislative or other steps undertaken by it with the aim to ensure the application of this international standard-setting instrument, paying particular attention to the legal provisions and regulatory frameworks which ensure the implementation of human rights of scientific researchers, as well as human rights obligations related to the Right to Science, the principle of non-discrimination, including urging active promotion of women and girls entering scientific careers, as well as scientists' rights of autonomy, freedom of research, expression and publication.

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<sup>22</sup> Periodic Report available at: <http://whc.unesco.org/document/116967>

<sup>23</sup> Periodic Report available at: <http://en.unesco.org/creativity/governance/periodic-reports/new-zealand-2016-report>