



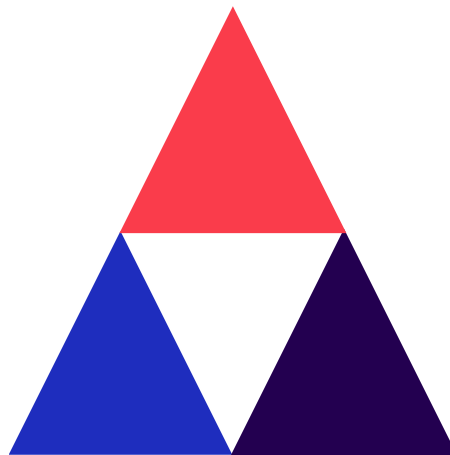
International  
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▶ CEART/14/2021/10

# ▶ Final Report Fourteenth Session

Joint ILO-UNESCO Committee of Experts on the Application of the  
Recommendations concerning Teaching Personnel <sup>1</sup>  
(Geneva, 4–8 October 2021)



Sectoral Policies Department  
Geneva, 2021

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<sup>1</sup> In accordance with established procedures, this Final report will be submitted to the 344th Session of the Governing Body of the ILO (March 2022) for its consideration and to the 215th Session of the Executive Board of UNESCO (autumn, 2022).

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## ▶ Introduction

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This report summarizes the analysis of major issues affecting the status of teaching personnel worldwide at all levels of education by the 14th Session of the Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (the Joint Committee), held virtually from 4 to 8 October 2021, hosted by UNESCO.

Established in 1967 after the ILO and United Nations Educational, Scientific and Cultural Organization (UNESCO) adopted a far-reaching Recommendation concerning the Status of Teachers (1966), the Joint Committee meets every three years to review major trends in education and teaching, and to make relevant recommendations. It also reviews allegations brought by teachers' unions regarding non-respect of the principles of the Recommendation. In 1997, when UNESCO adopted a Recommendation concerning the Status of Higher-Education Teaching Personnel, the Joint Committee was also charged with examining key issues facing higher-education staff.

Composed of independent education experts from around the world, the 14th Session of the Joint Committee examined a number of issues affecting teaching personnel, including teacher education in the twenty-first century, teaching as a collaborative profession, and teacher professionalism from an intercultural perspective.

The Joint Committee furthermore adopted a statement on Recognizing teacher professionalism in the post-pandemic recovery.

The report of this session contains recommendations to the Governing Body of the ILO and to the Executive Board of UNESCO, and through them to governments, employers' and workers' organizations of their Member States, on how to improve the condition of the teaching profession within their respective mandates, using the two Recommendations as guidelines. The recommendations of the Joint Committee are non-binding, being intended to guide the actions of national authorities, employers' and workers' organizations and other education stakeholders.

The Joint Committee's report is submitted to the Governing Body of the ILO, with a request that it be transmitted to the Conference Committee on the Application of Standards of the International Labour Conference, and to the Committee on Conventions and Recommendations of the Executive Board of UNESCO, for transmission to the General Conference. The report of the Joint Committee should be read together with any discussion of it at these respective bodies.

The next meeting of the Joint Committee will take place in 2024. In accordance with its mandate, the Joint Committee may issue an interim report on allegations received between regular sessions.

## ▶ Opening session

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1. In view of continuing travel restrictions due to the COVID-19 pandemic, the Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (hereafter the Joint Committee) held its 14th Session through a virtual platform, hosted by UNESCO, from 4 to 8 October 2021.
2. In accordance with its mandate, the meeting focused on the monitoring and promotion by the Joint Committee of both the ILO/UNESCO Recommendation concerning the Status of Teachers, 1966 (hereafter the 1966 Recommendation) and the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel, 1997 (hereafter the 1997 Recommendation).
3. The agenda of the Joint Committee covered the following substantive items related to its work and the two Recommendations:
  - (a) review of ILO and UNESCO joint or separate activities to promote the two Recommendations;
  - (b) teacher education in the twenty-first century;
  - (c) teaching as a collaborative profession;
  - (d) teacher professionalism from an intercultural perspective;
  - (e) allegations submitted by teachers' organizations concerning the application of the Recommendations;
  - (f) methodology and procedures of the Joint Committee.
4. Members of the Joint Committee designated by the Governing Body of the ILO and the Director-General of UNESCO were as follows:

### **Members appointed by the Governing Body of the ILO:**

Fortidas Bakuza (United Republic of Tanzania)	Assistant Professor, Aga Khan University Institute for Education Development East Africa
Linda Chisholm (South Africa)	Professor at the Centre for Education Rights and Transformation, University of Johannesburg
Glenford Howe (Montserrat, The United Kingdom of Great Britain and Northern Ireland)	Senior Research Officer, The Open Campus, University of the West Indies
Denise Vaillant (Uruguay)	Director, Doctoral Programme in Education, Universidad ORT Uruguay
Frances Vavrus (the United States of America)	Professor; Associate Department Chair; Coordinator of the Graduate Program in Comparative and International Development Education, University of Minnesota
Xiaodong Zeng (China)	Professor, Faculty of Education at the Beijing Normal University

**Members appointed by the Director-General of UNESCO:**

Inés Dussel (Argentina)	Professor at the Department of Educational Research, Center for Advanced Research of the National Polytechnic Institute, Mexico
Munawar S. Mirza (Pakistan)	Vice Chancellor, University of Education of Lahore and Professor Emeritus, University of the Punjab
Nada Moghaizel-Nasr (Lebanon)	Professor and Dean, Faculty of Educational Sciences, Saint Joseph University of Beirut
Assibi Naope (Togo)	Freelance consultant and international expert
Gennady Ryabov (Russian Federation)	President, Nizhny Novgorod Linguistic University
Susan Webb (United Kingdom)	Professor of Education at Monash University, Australia

5. The Joint Committee designated the following Officers:
 

Chairperson:	Denise Vaillant
Vice-Chairperson:	Susan Webb
Reporter:	Glenford Howe
6. Opening remarks on behalf of the Director-General of UNESCO were made by Ms Stefania Giannini, Assistant Director-General for Education, and on behalf of the Director-General of the ILO by Mr Shinichi Akiyama, Deputy Director of the Sectoral Policies Department.
7. Ms Giannini welcomed the participants to the 14th Session of the Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART), noting the arrival of six new experts to the Committee. She underlined that this was a particularly important session of the CEART, the first to be held online, as it took place within a sanitary crisis that has impacted education worldwide and, most certainly, the teaching profession. New research commissioned by UNESCO suggests that the majority of education systems were not prepared to deploy teachers to deliver remote learning, or to use digital technologies, for pedagogical purposes. However, the crisis underlined the importance of teachers as key frontline workers in times of crisis. Indeed it created a turning point for the teaching profession as it seemed to have raised global awareness of the commitment and dedication of teachers who responded quickly so that learning could continue, often at risk to their own and their family's health. Teachers were, and continue to be, instrumental; not only for the continued education of students, but for the sustainability of local and global communities and economies.
8. On behalf of Ms Alette van Leur, Director of the Sectoral Policies Department, Mr Akiyama noted that the deliberations and recommendations of the CEART were especially important at this juncture for a number of reasons. First, as the recent Technical Meeting on the Future of Work in the Education Sector in the Context of Lifelong Learning for All, Skills and the Decent Work Agenda had concluded, the teaching profession was being rapidly transformed through trends including technology, migration, demographic shifts, and changing roles and expectations of teachers. While the trends had generated many new and exciting opportunities for education, they also presented challenges to teachers who must cope with new technologies and pedagogies, as well as new competencies and subject matters. Independent and informed deliberation on these trends would help inform the international system to devise adequate policies and responses to these challenges. Secondly, teachers had never been a higher concern in international education

development. Numerous organizations, including UN agencies, the World Bank, the Organisation for Economic Co-operation and Development (OECD), and various private foundations and actors had renewed their interest in quality teaching, rightly recognizing teachers as a main factor in quality education. Finally, the COVID-19 pandemic had intensified many of the transformations already taking place in teaching, especially in relation to technologies.

9. The Chairperson thanked Professor Vavrus for her two terms as Chairperson of the Committee, and asked the participants to observe a moment of silence to commemorate the life of Professor Toussaint Tchitchi from Benin who passed away in 2019. Professor Tchitchi had been a member of the Committee since its ninth session in 2006 and was formerly the Director of the National Education Training and Research Institute (INFRE) in Benin.

## Agenda of the meeting

10. Consistent with its practice, the Joint Committee created working groups to analyse agenda items related to the 1966 and 1997 Recommendations.
11. The Joint Committee considered a range of studies and reports relating to major themes relevant to the two Recommendations: (a) reports from governments and teachers' organizations on the application of the 1966 and 1997 Recommendations; (b) studies and reports of the ILO and UNESCO on specific items of the 1966 and 1997 Recommendations; and (c) reports by international organizations representing teachers and employers, and by intergovernmental and international non-governmental organizations.

## ▶ I. Monitoring of the 1966 and the 1997 Recommendations

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### A. Major trends: The perspectives of international organizations

12. Continuing a practice from previous sessions, the Joint Committee invited a number of relevant organizations to provide additional information and views on issues arising from the two Recommendations. Presentations around the future/s of education, updating data on teachers, teacher well-being and protecting academic freedoms were made by UNESCO, the OECD, Education International (EI) and the Open Society Foundation (OSF).
13. Mr Sobhi Tawil, representing UNESCO, referenced *Reimagining our futures together: A new social contract for education*, which is a report by the International Commission on the Futures of Education (International Commission). Mr Tawil explained that the world today is characterized by a number of tensions, contradictions and risks, including: high living standards that coexist with extreme inequalities; a quest for growth and development that has overwhelmed the natural environment; technological change that has transformed the worlds of education and work, but has not adequately considered equity, inclusion and democratic participation; and education systems that have created opportunities for many, but continue to exclude vast numbers of learners from quality learning opportunities.
14. At this critical juncture, with one foot in the past while looking to the future, the International Commission has called for a new social contract for education that enables a different way of thinking about the relationship between education, students and the world,



and between knowledge and learning and the foundational principles for education. The social contract would reaffirm and expand the right to quality education, including the right to education throughout a person's lifetime, and recognizes education as a public endeavour and a common good.

15. The guiding foundational principles identified by the International Commission recognize that schools should be protected educational sites, but that they also need to be re-imagined to bring diverse communities together and lead as exemplars, modelling behaviours that we wish to see in society to better promote the transformation of the world towards more just, sustainable and equitable futures. The guiding principles also state that pedagogy should be organized around principles of cooperation, collaboration and solidarity, which also includes unlearning of bias, prejudice and division, and that curricula should emphasize ecological, intercultural and interdisciplinary learning and should support students to access and produce knowledge and develop the capacity to critique.
16. The four principles for dialogue and action proposed by the International Commission state that collaboration and teamwork should characterize the work of teachers; that producing knowledge, reflection and research should be integral to teaching; that the autonomy and freedom of teachers should be supported, including through ongoing professional development; and that teachers should participate in public debates and dialogue on the futures of education.
17. As evidenced by the COVID-19 pandemic, technology should aim to support the educational process, and not replace schools or teachers. In terms of the teaching profession, teaching must be further professionalized as a collaborative endeavour, where teachers are recognized for their work as knowledge producers and as key figures in educational and social transformation. According to the International Commission, “[d]espite studies demonstrating that quality teaching is the single most important in-school determinant of student achievement, teachers remain under-recognized, underappreciated, underpaid and inadequately supported.” Issues related to teacher career structure, its management, teacher motivation and job satisfaction have proven difficult to resolve worldwide without the requisite measure of public investment and political will. Over-reliance on occasional or poorly qualified teachers can erode confidence in the profession and public education.
18. Ms Karine Tremblay, representing the OECD, spoke about the OECD's work on data collection on teachers' numbers, qualifications, rate of attrition and the sources of information that have a strong bearing on teachers' work. She spoke about the central role of the Teaching and Learning International Survey (TALIS) in this regard. TALIS collects data on working time, contract status, pre-service training, stress levels and sources of stress and job satisfaction. The data showed that teachers who felt unsatisfied in their work were more likely to consider leaving the profession. In 2022, the Programme for International Student Assessment (PISA) would also delve deeper into the issue of teacher well-being, which was increasingly recognized as a factor in attracting and retaining teachers in the profession.
19. In addition to TALIS and PISA, the International Summit on the Teaching Profession brought together education ministers, union leaders and other teacher leaders from high-performing and rapidly improving education systems annually to discuss policy trends and how to improve teaching and learning. This was a high-level event which is now in its tenth year. The OECD also engaged in policy work, with a current focus on digitalization policies and trends and changes instigated by the COVID-19 pandemic that were transforming the profession, including in terms of pedagogy and organization of work. The support of

practitioners, and exchanges of expertise through peer discussion, were solicited to support this work.

20. Finally, the OECD's Global Teaching InSights encouraged teachers to upload videos of their work, including information on how they were tackling challenges in the classroom, with the overall aim of building a network of peers to discuss and tackle teaching and learning challenges. The future emphasis of OECD work would be threefold: focusing on lifelong learning for teachers and developing working in teams; building autonomy and trust for teachers to be able to exert and reinforce leadership; and supporting teacher well-being.
21. Ms Antonia Wulff, representing the EI, focused her remarks on the results of the 2021 EI report on the *Global status of teachers and the teaching profession*. The report, authored by Professor Greg Thompson of the Queensland University of Technology in Australia, outlined current factors affecting the status of education workers worldwide, such as pay and working conditions, as well as professional autonomy and the portrayal of teachers in the media. The report surveyed 128 education union leaders and officials in 94 countries across all levels of education.
22. Ms Wulff explained that, although public perception of teachers had improved since the pandemic began, there had been little change in their material conditions and system-wide conditions are failing to attract a new generation of educators to the profession. According to the survey, 48 per cent of respondents indicated that teaching was not an attractive profession.
23. Increased public appreciation of teachers had also not translated into structural improvements such as investment, support, and better working conditions for professional educators. In fact, education budgets had fallen by 65 per cent in low- and middle-income countries, and 33 per cent in upper-middle- and high-income countries. Teacher pay was still too low, working conditions are deteriorating, and infrastructure to support teaching and learning was not a priority for government investment. Over 42 per cent of respondents also stated that there had been a deterioration in teachers' working conditions over the last three years. Some 84 per cent indicated that salaries had decreased during the COVID-19 pandemic.
24. Workloads have intensified. Over 55 per cent of respondents stated that workloads were unmanageable. In addition to increased workloads, teachers' work had also become more complex, including additional administrative tasks and accountability measures. Over 66 per cent of respondents felt that "administrative" requirements were contributing to the excessive workload pressures for education professionals. Many teachers had also lost employment during the COVID-19 pandemic. In Australia, for example, 40,000 educators and staff in higher education lost their jobs. In 2022, 159 countries would face austerity measures, which would see targeted pressure, including from international monetary agencies, to cut or freeze salaries in the public sector, including in education.
25. Insecure employment is growing. Almost 60 per cent of respondents pointed to the use of casual and short-term contracts to employ teachers and academics. In some settings, including sub-Saharan Africa and South-West Asia, many contract teachers described receiving less pay than permanent teachers, and inadequate professional support, as well as experiencing poor working conditions.
26. The respondents were asked for their recommendations on how to improve the status of the profession and stated that a focus on pay, conditions, and particularly workloads, would be valuable elements. Positive policies and practices included hiring adequate numbers of

teachers, trainers, and education support personnel and ensuring that education systems be well-resourced to ensure high-quality education.

27. In moving forward, it was essential to invest in the teaching profession by ensuring the material conditions of teachers, the regular payment of salaries and the provision of continual professional development (CPD). A third of teachers could not choose the kind of CPD that would most benefit them, and that the CPD courses offered are often of poor quality, costly or lacking relevance. There was a need to build trust in the profession and the professional expertise of the workforce and to establish social dialogue. According to the survey, 52.8 per cent of respondents indicated that their collective agreements had been unilaterally altered or cancelled in the past three years. At the same time, there had also been impressive examples of governments working with teachers' organizations to ensure the best teaching and learning conditions for all, including during the pandemic.
28. Ms Camilla Croso, representing the OSF, focused on the issue of protecting and strengthening academic freedoms in public education systems. Academic freedom was a key dimension of the right to education, while the right to freedom of opinion and expression is protected under existing human rights law and also an integral dimension of academic freedoms. Threats to, and restrictions on, academic freedoms limit the sharing of information and knowledge without which societies lose one of the essential elements of democratic self-governance: the capacity for self-reflection, for knowledge generation and for a constant search for improvements of people's lives and social conditions.
29. Ms Croso noted that there had been an increase in censorship, loss of professional autonomy and criminalization of teachers in recent years, from early childhood to higher education, particularly in countries with a rise in authoritarianism. Academics and their institutions faced social harassment and state repression for their research, the questions that they pursued, and the points that they brought to bear on public policy. Recently, prohibition of discussion around gender, human rights and climate change in the classroom had been reported.

## **B. The status of teaching personnel: Trends in the application of the 1966 and 1997 Recommendations**

30. The Joint Committee examined three issues in relation to the 1966 and 1997 Recommendations: teacher education in the twenty-first century, teaching as a collaborative profession, and teacher professionalism from an intercultural perspective. The Joint Committee adopted the following conclusions in respect to these topics.

### **Teacher education in the twenty-first century**

#### **Trends and issues**

31. Teacher education and training is changing, or facing demands to change, in response to increasingly diverse, multicultural and multilingual classrooms and the growing presence of digital technologies in teaching and learning processes. In today's world, teacher education programmes must equip teachers with competences for working in complex, uncertain and rapidly changing educational environments and for becoming resilient lifelong learners themselves.
32. The COVID-19 pandemic highlighted the vital role of teachers in ensuring education continuity. The sudden closure of educational institutions required teachers to adopt online

teaching, even though many were unfamiliar with virtual modalities or were unable to access appropriate devices and infrastructure. The digital divide across all levels of education became more evident during this period. Meanwhile, information and communication technologies (ICT) skills and digital and pedagogical competences became core to teaching and learning at all levels of education. Many teachers, however, lacked the appropriate preparation to teach and assess in different new modes of education delivery and the pandemic underlined the need for further support and professional development so that teachers can effectively make use of digital technologies and adequately respond to emerging skills needs and unanticipated situations or crises.

33. The COVID-19 pandemic has not only affected access and quality issues in education, it has impacted the roles and responsibilities of teachers and their working conditions, including workload and well-being. It should be remembered that teachers seldom participate in the definition of the platforms, devices and contents that might be best to cater for all learners' needs. This raises questions around the professional integrity, status and autonomy of teachers in virtual settings, with some teachers feeling loss of capacity and control to teach effectively.
34. Democratization of education, growing diversity among learners, and education institutions and the rapid uptake of technology in education increasingly require teachers to acquire new pedagogical competences – in order to equip learners with twenty-first century skills and ensure quality and inclusive teaching and learning. However, higher-education teaching personnel often attach less importance to teaching, compared to research, since their promotion and deployment is based on research output, in certain higher-education institutions.
35. The 1966 ILO–UNESCO Recommendation concerning the Status of Teachers and the UNESCO 1997 Recommendation concerning Higher-Education Teaching Personnel are still relevant normative instruments but do not adequately address the changing educational needs of teachers. Also, the Recommendations are not universally observed, particularly in a number of countries.

## Recommendations

36. The Joint Committee recommends that the Governing Body of the ILO and the Executive Board of UNESCO encourage the ILO, UNESCO, Member States, higher-education institutions, and other relevant organizations to:
  - (a) develop and revamp national frameworks for initial teacher education (ITE) that align with international practice and norms, but that respond to local cultures and contexts;
  - (b) develop standards for teacher education programmes and teachers that capture the whole dimension of education, including its social and cultural dimension. Where they already exist, standards should be regularly updated to reflect pedagogical changes and needs;
  - (c) ensure that standards include the values, dispositions, knowledge and skills to:
    - (i) teach effectively in all types of classrooms and through different modalities;
    - (ii) efficiently and effectively use digital and other technologies, while placing pedagogical competences at the forefront;
    - (iii) perform in-class and online formative appraisal of student learning and well-being;

- (iv) adopt and promote skills and practices for sustainable development and lifestyles, including global citizenship and lifelong learning; and
- (v) promote learner well-being, including emotional competences, health and resilience, in the rapidly changing educational settings;
- (d) ensure quality ITE and CPD through different regulatory mechanisms, including national quality assurance agencies;
- (e) introduce registration and certification of teachers along their career path, including mechanisms for the recognition, validation and accreditation of prior learning and experience so as to encourage lifelong learning;
- (f) offer ITE programmes at the higher-education institutions, as laid down in paragraph 21(1) of the 1966 ILO–UNESCO Recommendation concerning the Status of Teachers. The programmes should relate to the school curricula and should be conducted in coordination with education sector stakeholders;
- (g) strengthen pedagogical competences of teacher educators to meet the needs of the twenty-first century, including through:
  - (i) ensuring sufficient command in the effective use of digital technologies and other diversified methods and formats;
  - (ii) conducting research to develop models of active and collaborative teaching and cooperative learning;
  - (iii) establishing networks of teacher educators and teachers to allow for exchange of best and innovative practices; and
  - (iv) working with schools to develop models of working with teachers by developing learning communities.
- (h) in the higher-education sector, encourage the development of teachers' digital and pedagogical competences. Such training may be organized by higher-education institutions, and in consultation with teachers' organizations. The pedagogical engagement of teachers should be recognized in recruitment and promotion practices. Pedagogical approaches should be consistent with relevant national and international quality assurance standards;
- (i) ensure that CPD is needs-oriented and available free of cost at all levels of education. CPD should be integrated with the schools/teaching institutions and have a clear link to classroom practices. Mentoring, peer learning and communities of learning models may be adopted for CPD. Additional, high quality CPD to enhance pedagogical competences and collaborative teaching and learning at the individual's initiative may be rewarded by incentives.

## Teaching as a collaborative profession

### Trends and issues

- 37.** The last decade has seen great changes in the composition and context of education systems around the world, in large part due to technological advancements and greater mobility. Migration has become a common feature of the global landscape, resulting in more diverse classrooms and disrupting the careers of refugee and migrant teachers. More recently, there have been regular disruptions to academic calendars resulting from the

COVID-19 pandemic which has had broader consequences including: curtailed student mobility and teacher exchanges; increased isolation; significant mental health challenges; and limited access to education across sectors, restricting the right to education for all, and thus widening inequalities.

38. Research demonstrates that teachers are expected to take on extensive additional roles in these challenging times including: roles that might have previously been performed by parents, grandparents and local communities or other agencies; learning new approaches and skills for leading and supporting learning; and fostering a sense of belonging to support the personal and social development of students, when teachers themselves may be experiencing trauma, or other disruptions to their practice. Teachers' responses to these challenges demonstrate their capacity to act as agents of change, sustaining inclusive collaborative learning communities and ensuring continuity in students' learning and providing for learners' needs, including emotional support.
39. The new managerialism, meanwhile, with its control of the work of teachers through tests, performance and outputs, and emphasis on competitive accountabilities, devalues the social and collaborative aspects of teachers' work and often denies teachers' agency and professional autonomy and their ability to respond effectively to COVID-19.
40. All of these experiences suggest that teachers' roles are shifting and that they are now both learners and leaders for learning in this new context. Teacher education, continuing development opportunities and working conditions, are required to empower educators to act and learn together with their students, colleagues, and wider communities. Yet, collaboration between educators and the wider communities is often constrained.
41. School and college closures around the world remind us that teachers, students, and their families, rather than physical buildings, make up the school/college and learning communities. Indeed, teachers do not act in isolation and educational outcomes arise from the complex interactions of many actors with whom teachers work closely on a daily basis, including other professionals, families and community members, to address a range of student needs.
42. Sustaining relationships that create a sense of togetherness and participation are essential for building effective and resilient education systems and to make further progress toward any transformative agenda, such as the Sustainable Development Goals (SDGs).

### Recommendations

43. The Joint Committee recommends that the Governing Body of the ILO and the Executive Board of UNESCO encourage the ILO, UNESCO, Member States, and other relevant organizations to:
  - (a) urge Member States to promote the implementation of the 1966 and 1997 Recommendations concerning the Status of Teachers and the recommendations of the CEART reports among stakeholders engaged in supporting and sustaining inclusive collaborative learning communities;
  - (b) organize broad discussion among teachers in different sectors and at various levels about collaboration to build education as a public good. Teaching should be regarded as a form of public service which requires of teachers expert knowledge and specialized skills, acquired, and maintained through rigorous and continuing study; it calls also for a sense of personal and corporate responsibility for the education and welfare of learners in their charge;



- (c) conduct comparative and historical research that explores the conditions enabling the development of a collaborative profession and its effect on the inclusivity of learning communities.

Governments should:

- (a) recognize the relational aspect of teaching, with both teachers and other members of the community working towards building collaborative relationships, to ensure that the needs of all learners are met. Time, resources and incentives should be provided to permit such engagement;
- (b) promote a process of curricular, pedagogical and teaching innovations that supports collaborative activities and the development of teachers as system thinkers who can reflect on and explore where and how their actions can make a difference;
- (c) provide close cooperation between the competent authorities, organizations of teachers, and of parents, as well as cultural organizations and other education and training providers, for the purpose of defining educational policy and its precise objectives.

Social partners and stakeholders should:

- (a) create opportunities that provide for a structured democratic voice for teachers to engage with social partners at all levels on the implications of the changing role of teachers in developing inclusive learning communities;
- (b) respect, trust, and value teachers as professionals and promote their capacity as system thinkers. Working with multiple stakeholder groups, structured opportunities also need to be made available for teachers to feed into, help shape, and work towards both design and implementation of relevant education policy and objectives.

## Teacher professionalism from an intercultural perspective

### Trends and issues

44. Teaching is a heavily contextualized practice that does not take place in isolation of its environment. Even though teaching is often practiced individually, it also has a situated quality and collective dimension that needs to be considered in education agendas.
45. The profession is regulated by nationally defined institutional norms requiring teachers to perform complex and varying tasks that may differ across time and place. In many countries, teaching standards take their normative stance from teaching practices and conditions prevailing in high-income countries, and often don't value the daily work of teachers in helping their communities survive, engaging with local actors and developing strategies for peaceful cohabitation, social inclusion and cultural diversity.
46. Teachers also face tensions and challenges in their daily practice, including in situations of armed conflict and extreme poverty. The ability to teach effectively is adversely affected by overcrowded classrooms, top-down or centralized curriculum that inhibit autonomy or creativity, rapidly shifting pedagogical environments, a lack of adequate materials, bureaucratization, poor compensation and symbolic recognition, and the recent impact of global and regional pandemics. Rapid urbanization around the world and rural-urban migration have also generated abrupt changes in family and social relations, and these shifts have put an extra burden on schools and teachers.

47. The presence of active, strong and independent democratic teacher unions and organizations at all levels (institutional, local, national and regional) is highly encouraged and encouraging. Experience shows that teacher unions act as support networks for teachers and as catalysts of change and social dialogue. Unions and associations must be independent, autonomous, and inclusive, helping to identify issues affecting teachers, ensure teacher participation in key educational matters, and develop strategies to address problems and improve education collectively.
48. The deregulation of teacher training in recent decades is nonetheless a growing problem around the world. Even if context and local cultures have influence in shaping teacher development, teachers in public or private, urban or rural schools are all serving the public and should be regulated and supported by equal norms and standards. The profession should be regulated through public guidelines to ensure common standards that encompass private and public providers, and that bridge gaps between urban and rural schools and colleges.
49. Finally, prevailing teaching standards frequently ignore long-standing legacies of colonialism in the relationships between North and South, and curtail the possibility of sustaining fruitful epistemic dialogues across cultures. Community work, openness to different cultures and participation in social issues are important contributions that teachers from the South are making to redefine profiles and competences for the twenty-first century.

## Recommendations

50. The Joint Committee recommends that the Governing Body of the ILO and the Executive Board of UNESCO encourage the ILO, UNESCO, Member States, higher-education institutions, and other relevant organizations to:
  - (a) respect the standards set out in the Recommendations on teacher preparation and professionalism, while recognizing their application should respond to the tensions and challenges faced by teachers in diverse education systems. They should take into account that education governance structures experience turbulence and crisis, or sometimes do not function well, and that such imbalances can cause teachers to work under conditions of extreme pressure and surveillance, and in other situations be left to their own devices;
  - (b) in all situations, teacher training and recruitment need to be contextualized for relevance. While there is a need for aligning teachers' qualifications to global standards, country practices are context specific. Teacher training should enable teachers to support and work with the schools and communities around them, and help learners to interpret contextually relevant skills in interaction with their local contexts. To this end, the diverse perspectives of teachers working in their national and socio-economic contexts worldwide must be taken into consideration in defining national, regional and global indicators and ideals for teaching and learning;
  - (c) in the integration of digital technologies in education, and particularly in teacher education, the improvement of infrastructure and coverage, should be matched with the enhancement of teachers' pedagogical and technical competences to help learners develop discernment skills to navigate today's digital landscape and interact with technology in meaningful ways. Teachers should be able to promote an increased awareness of the relevance of the architecture and design of digital platforms, and incentivize discussions about platforms' inclusive design, intentions, and their effects



in relation to issues of discrimination, violence, and other harmful behaviour in contemporary societies.

## C. Statement by the 14th Session of the Joint Committee on the occasion of World Teachers' Day 2021

51. The Joint Committee adopted a Statement, contained in Appendix II of this report.

## ▶ II. Progress in promotion and use of the 1966 and the 1997 Recommendations

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### A. Allegations received since the 13th Session, 2018

#### Allegation received by the National Federation of University Teaching Staff (Argentina)

##### Background

52. The Secretariat of the Joint Committee received an allegation from the National Federation of University Teaching Staff (CONADU) through Education International on 20 April 2018. The initial allegation was found to meet the criteria of receivability. As per the Joint Committee's procedures, the allegation was communicated to the Government of Argentina, which provided observations on the allegation on 6 March 2019. Further comments were received from CONADU on 30 September 2019. These comments were transmitted to the Government. The Government indicated in a *note verbale* of 2 April 2020 its intention to reply to the comments but indicated delays due to the pandemic. Despite further reminders, no further communication from the Government has been received. On 24 September 2021, shortly before the 14th Session of the Joint Committee, CONADU sent an update of the situation.

##### Substance of the allegation

53. The allegation by CONADU consists of a series of complaints about non-respect of principles of the 1997 UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel.
54. Education policies and objectives: According to CONADU, the Government of Argentina in 2016 embarked on a deliberate policy of de-financing universities, evidenced by reduced investments in national universities through 2018. While funding of higher education increased in nominal terms, it was not sufficient to keep up with high inflation. This policy was not in line with the objectives of the 1997 Recommendation's paragraph 10.
55. Rights, obligations and responsibilities of institutions: The union also claims that at the National University of La Matanza, the administration had invoked institutional autonomy as an excuse not to respect the Collective Agreement recognized in 1246/2015. This was a violation of the principles of freedom of association and collective bargaining.
56. Moreover, various trade union entities had encountered difficulties being registered. At the University of Buenos Aires, numerous teaching staff had been denied the opportunity to

have their positions regularized imposed, upon teachers without negotiation, in contradiction with paragraph 61 of the 1966 Recommendation.

57. Intimidation and persecution of trade unions: The union further claims that trade union members at the universities of La Matanza, Chaco Austral, Villa Mercedes, and el Oeste were intimidated and in some cases dismissed. This violated not only ILO principles of freedom of association but paragraph 48 of the 1997 Recommendation.
58. Autonomy and collegial governance: The union also claims that individual autonomy and collegiality of governance were infringed, as evidenced by the fact that few positions in teaching were regularized through public competition or other procedures. The lack of employment stability for many teaching staff effectively limited their ability to exercise their rights and participation in governance structures of universities.
59. Conditions of employment: The union further claims that many teaching staff remained on fixed-term and subcontracting contracts which went beyond the probation period of employment. This situation of employment stability reduced working conditions and kept staff from exercising their rights. This situation was not in conformity with paragraph 42 of the Recommendation. The union cites examples from several universities where such contracts ranged from 50 to 100 per cent of the staff. At the same time, there had been a number of firings of staff based on irregular evaluation procedures, contrary to the provisions set out in paragraph 47 of the Recommendation. In addition, at one university, an increase in salary was not paid in relation to higher academic degrees held by teaching personnel, which undermined the quality of education. There had been reductions in the real salary of teaching staff. While nominal increases in teachers' salaries were made, these did not account for the high inflation which had beset Argentina in the last six years.

### The Government's reply

60. The Government, in its reply, points out figures for the financing of universities for 2016/17 and 2017/18, which it claims represented a significant increase in funding. With regard to the other matters raised by CONADU, it cites Law No. 24.521 on Higher Education (1995), which sets out the autonomy of universities. The Government argues that all matters related to working conditions and collegial governance are governed by the universities, and that it would be a violation of university autonomy to interfere in matters raised by the unions.

### CONADU's reply

61. With respect to the financing figures the Government supplied in its reply, CONADU maintain that while there were indeed nominal increases in the allocation for universities from 2015 to 2019, the high inflation rate (which soared over 55 per cent in 2019) effectively meant that the allocation resulted in reduced funding.
62. The union further denounces the Government's excuse that it could not do anything about conditions at universities because of respect for institutional autonomy. With regard to the Government's claim that 50 per cent of collegial bodies were occupied by teaching staff, the union points out that these should ordinarily be titularized teachers, not temporary staff, whose political independence was undermined by employment precarity. The union further laments the lack of reference to the collective agreement covering higher-education teaching personnel.
63. The union further highlighted: the lack of enforcement of the collective agreement; intimidation and persecution of trade unions at a number of universities; obstruction of

trade unions and collective bargaining about working conditions; the manipulation of competitions for titularized posts as a means of limiting rights of teachers; and poor working conditions, especially in the use of fixed-term employment contracts. It also underlines the special case of the University of Buenos Aires, which discontinued its enforcement of the collective agreement.

64. In its update of 24 September 2021, the union indicates that under the Government which was installed in December 2019, there had been improvements in university financing and dialogue with the Government on how to deal with the financial challenges posed by the pandemic. Moreover there had been collective bargaining on the minimum conditions for higher-education teaching personnel.
65. There had also been progress on drafting regulations to cover such issues as workload in relation to telework, the right to disconnect, employment stability and training for staff, including in relation to technology. Many of these principles were recognized in a collective agreement signed on 28 October 2020. A further agreement signed in March 2021 established union participation in setting out return to in-presence teaching. A collective agreement signed on 7 May 2021 provided significant wage increases, including retroactive payments.
66. Further improvement were noted on other issues. A special commission had been established to review the regularization of teaching personnel. The trade union intimidation noted at some universities had ceased, but in others the situation remained tense. This was linked to the fact that union registration remained difficult at some universities. Difficulties remained at the University of Buenos Aires, which did not engage in negotiation and which did not apply the rules regarding teachers' careers as well as retirement age.

### **The Joint Committee's findings**

67. The Joint Committee notes that the allegations made by CONADU concerned policies of the Government which ended its mandate in December 2019. It also notes the new Government's intention to reply further to CONADU's observations in early 2020, and it regrets that the pandemic delayed further communication.
68. While the heavy burden on the Government posed by the pandemic makes delays in response understandable, the Joint Committee stresses that full engagement with the principles set out in the 1997 Recommendation should remain a government priority. The Joint Committee has previously urged Member States to regularly and adequately monitor the implementation of the 1997 UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel, and to report on the status of the Recommendation to the respective bodies of the ILO and UNESCO in their territories.
69. The Joint Committee notes with interest that CONADU reports that there has been positive progress in a number of areas set out in the initial allegation. Moreover, much of this progress, including negotiation on conditions of work in relation to the pandemic, were set out with teacher unions through social dialogue. This is proof positive that constructive dialogue can lead to progress on many issues, and the Joint Committee commends the efforts by both parties to find agreement in these areas.
70. Turning to specific areas mentioned in the initial allegation, the Joint Committee finds the following.
71. Financing of higher education: The Joint Committee recalls that the 1997 Recommendation, in paragraph 10(d), calls for funding of higher-education teaching personnel to be treated

“... as a form of public investment the returns on which are, for the most part, necessarily long term, subject to government and public priorities”.

- 72.** The Joint Committee further recalls that it has held that “... attention should be placed on the benefits of education by making the case that education is a profitable investment and that it contributes to economic development”.<sup>2</sup> With this in mind, the Joint Committee considers that financing measures for higher education should keep the long-term stability of higher-education institutions and their personnel as the highest objective, with a view to maintaining quality. The response by many countries to the pandemic has indicated that public spending on education and other public goods can actually be a stabilizing force during economic crises. Social dialogue with teachers’ organizations on higher-education financing is also recommended.
- 73.** Restrictions of trade union activity: The Joint Committee notes with concern reports of intimidation and dismissal of trade union leaders at several universities. While it is a positive development that such incidents have decreased, the continuation of such practices at other universities remains concerning. While the Joint Committee leaves the aspects of this allegation concerning ILO standards on freedom of association and collective bargaining to the appropriate supervisory bodies, it recalls that paragraph 52 of the 1997 Recommendation sets out that: “Higher-education teaching personnel should enjoy the right to freedom of association, and this right should be effectively promoted. Collective bargaining or an equivalent procedure should be promoted in accordance with the standards of the International Labour Organization (ILO) ...”.
- 74.** Conditions of employment: The Joint Committee also notes with concern that a significant number of higher-education teaching personnel work on part-time, fixed-term, or temporary contracts. The 1997 Recommendation stresses the importance of security of employment as a major procedural safeguard of academic freedom and against arbitrary decisions (paragraph 45), and the Joint Committee has previously expressed concerns that the “... increasing presence of short-term, temporary contracts has also impacted unionization and organizing”.<sup>3</sup> Security of employment is therefore a fundamental condition of exercising other rights related to the Recommendation, such as academic freedom, institutional governance, and freedom of association. In this respect the Joint Committee encourages the Government to continue promoting the regularization of employment contracts as widely as possible through fair and equitable procedures.
- 75.** Institutional autonomy: The Joint Committee also notes with concern that the previous government cited institutional autonomy as a reason not to enforce collective agreements or regulations in universities. It also notes with concern that some universities have cited institutional autonomy to disregard signed collective agreements. In this respect, the Joint Committee recalls that the 1997 Recommendation specifically states, in its paragraph 20 that: “Autonomy should not be used by higher education institutions as a pretext to limit the rights of higher-education teaching personnel provided for in this Recommendation or in other international standards set out in the appendix.”
- 76.** Combined with the Recommendations’ support of collective bargaining for higher-education teaching personnel (paragraphs 52–56), the Joint Committee finds that protection of institutional autonomy should in no way shield governments and universities from the

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<sup>2</sup> ILO and UNESCO, *Final Report: Thirteenth Session – Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel*, CEART/13/2018/10, Geneva, 2018, para. 68.

<sup>3</sup> ILO and UNESCO, CEART/13/2018/10, para. 59.

responsibility to respect collective agreements or other rights of higher-education teaching personnel.<sup>4</sup>

### The Joint Committee's recommendations

**77.** The Joint Committee recommends that the Governing Body of the ILO and the Executive Board of UNESCO encourage the Government of Argentina to:

- (a) urgently ensure that acts of trade union restriction and intimidation cease at all higher-education institutions, as such acts are not in line with fundamental principles and rights at work and the 1997 Recommendation;
- (b) ensure that laws, policies and collective agreements which govern rights at work of higher-education teaching personnel are appropriately applied and enforced, within the framework of respect for institutional autonomy of higher-education institutions;
- (c) continue to promote policies that are aimed at the regularization of higher-education teaching personnel in a fair and equitable manner;
- (d) encourage the Government of Argentina and higher-education institutions to continue to the dialogue with higher-education teaching personnel on matters concerning the use of technology in the workplace and the right to disconnect;
- (e) convene dialogue with teachers' organizations concerning financing of higher education and employment stability in higher education, with a view to elaborating policies that can ensure stability of higher-education institutions and staff in the framework of quality higher education.

## Allegation received by the Fiji Teachers Confederation (Fiji)

### Background

**78.** The Secretariat of the Joint Committee received an allegation from the Fiji Teachers Confederation (FTC)<sup>5</sup> through Education International on 16 March 2018. The initial allegation was found to meet the criteria of receivability. As per the Joint Committee's procedures, the allegation was communicated to the Government of Fiji, which provided observations on the allegation on 31 January 2019. Further comments were received from the FTC on 25 September 2019, to which the Government responded on 22 March 2021.

### Substance of the allegation

**79.** The allegation raised by the FTC deals with three main issues. The first one relates to the new wages and terms and conditions of employment that have been introduced in Fiji, within the broader framework of civil service reform. The FTC alleges that such changes were not in line with the provisions of the 1966 Recommendation. The second issue concerns an alleged lack of social dialogue between the Government and teachers' organizations on these issues. A third issue relates to the experience required to be appointed as a Permanent Secretary for Education within the Ministry of Education.

<sup>4</sup> ILO, *Consensus Points of the Forum, Global Dialogue Forum on Employment Terms and Conditions in Tertiary Education*, Geneva, 2018, para. 3.

<sup>5</sup> The FTC is the umbrella for the two education unions in the country, the Fijian Teachers Association (FTA) and the Fiji Teachers Union (FTU). In the interest of simplicity, reference is only made to the FTC in the context of this analysis. However, references made to the FTC also cover, by extension, the two unions gathered under its umbrella.

- 80.** New wages and terms and conditions of employment: The FTC opposes recent changes in employment conditions that have been introduced in the context of a major civil service management reform. The union reports that teachers were confronted with one of the following options: either signing a fixed-term contract and being granted better salaries, while abandoning security of tenure; or keeping their former permanent contract and missing out on the salary increases. The benefit of enjoying better salaries was therefore conditional upon the signing of new contracts, which implied a renouncement of security of tenure. The union considers that these new conditions were unfair and adversely affected the professional situation of teachers, thereby contradicting paragraph 45 of the 1966 Recommendation on stability of employment and security of tenure.
- 81.** Moreover, a number of concerns are raised by the union more specifically in relation to the new salary structure and career advancement. First, the introduction of a broader salary band that merged previously established salary scales no longer recognized a wider spectrum of differences in grades and seniority among teachers, therefore giving rise to injustices (as referred to in paragraph 117 of the 1966 Recommendation <sup>6</sup>). Second, the withdrawal of certain benefits – such as special allowances – combined with the new contractual instability had a negative impact on the attractiveness of the teaching profession. Last but not least, in the processes to determine promotions, new factors had been brought in which weigh in heavily in relation to job seniority. The union considers that this went against the provisions of the 1966 Recommendation, in particular paragraph 44.
- 82.** More broadly, the union regrets that, as part of the reform, competitive processes had been introduced for occupied teaching positions, thereby creating stressful situations for teachers who had to undergo a new competitive process for the positions they were holding.
- 83.** The FTC adds that this situation was particularly detrimental to the most deserving teachers who had been granted promotions and salary increases of more than 15 per cent in recognition of the additional duties they carried out. The union claims that, as a result of the new procedures and because the salary increases were deemed too important, those teachers were eventually demoted to lower positions (corresponding to their “substantive post”), lost the security of tenure due to the new contractual arrangements, and no longer benefited from the salary increases that used to recognize their individual merits.
- 84.** Lastly, the union complains that tedious, time-consuming, and centralized processes for signing new contracts affected teachers, especially those working in remote and rural areas of the country who were compelled to travel to the headquarters to sign their contract, at the expense of their other duties.
- 85.** Consultations with teachers’ organizations: A second issue raised in the allegation concerns the social dialogue between the Government and the FTC. The union points out a lack of consultations and of a constructive dialogue with teachers’ organizations regarding the above-mentioned reform of wages and terms and conditions of employment. The union claims that most changes were the result of unilateral decisions by the Government. Suggestions for amendments on the reforms were left ignored by the Government, and invitations from the FTC, with a view to establish a dialogue on these issues, were not acknowledged.

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<sup>6</sup> Para. 117 states: “The salary structure should be planned so as not to give rise to injustices or anomalies tending to lead to friction between different groups of teachers”.



86. The absence of participation by teachers' organizations in policy setting meant that the principles set out in paragraph 9 of the 1966 Recommendation were ultimately not adhered to.
87. As regards the issue of promotion and career advancement, the union complains that selection processes resulting in promotions were conducted unilaterally by the Ministry of Education – without consultation with the teachers' organizations – and were not in line with paragraph 44 of the 1966 Recommendation. Furthermore, the union alleges that suggestions for a revision of the professional criteria for promotions were dismissed by the Ministry of Education.
88. Appointment of the Permanent Secretary: The allegation also states that the appointment of the Permanent Secretary for Education within the Ministry of Education contravened the principles set out in paragraph 43 of the 1966 Recommendation, as the current post-holder did not have a teaching background. The FTC claims that the absence of a teaching background disqualified a person from holding such a post of responsibility in the education sector.

### The Government's reply

89. Regarding the new wages and terms and conditions of employment: The Government repositions the recent changes in the overall context of the civil service reform that established a new, consistent salary structure across the civil service, and placed greater emphasis on qualifications and on-the-job performance. In that context, new employment contracts were offered to all civil servants – including teachers – to reflect the new working conditions. The Government supplied a wide range of documents on the new applicable framework.
90. Following the terms of the *Job Evaluation and Civil Service Remuneration Guideline* and transition procedures, the former positions and salary scales were moved to new positions and salary bands; it was in that context that new employment contracts were offered to teachers.
91. According to the Government, this reform aimed at modernizing and streamlining the salary structure of the civil service and at rectifying anomalies of the previous scales. The new salary scale was designed to reflect the performance requirements of the position, and no longer varied depending on the individual holding the position. The Government indicates that the new salary band offered greater salary increases and more clarity. In that respect, the Government disagrees with the union's opinion that reforms have been detrimental to the status of teachers and the attractiveness of the teaching profession, and states that by "redefining the job descriptions and recognizing the status of new positions, the reforms are increasing the status of teachers".
92. The Government states that roles and responsibilities for new positions were properly and fully documented, and that job descriptions were shared with the unions for comment. The selection and recruitment system – including for promotions – was henceforth based on competence and merit as opposed to seniority. As regards the positions which – due to additional responsibilities – were granted a salary increase exceeding 15 per cent, the Government justifies the decision to publicly advertise them by underscoring the need to promote an open merit competition, in line with the *Open Merit Recruitment and Selection Guideline*.

93. Regarding difficulties in the signing of new contracts the Government acknowledges that there were some issues, and reports that new processes have been established to enable the signing of contracts electronically and by distance.
94. Regarding consultations with teachers' organizations: The Government denies claims from the teachers' organizations on an alleged lack of consultation or negotiation. The Government affirms that consultations were organized with all public sector unions, as well as specific meetings with teacher unions since mid-2016. The Government also indicates that the teachers' organizations were given an opportunity to provide feedback during the development of job descriptions for new positions.
95. Regarding the appointment of the Permanent Secretary: In its communications, the Government refutes the arguments of the union regarding the appointment of the Permanent Secretary for Education and considers that this position stood outside of the scope of paragraph 43 of the 1966 Recommendation. Additionally, the Government makes the argument that the Permanent Secretary did not directly supervise teachers or heads of school – such a role would have required the candidate to hold significant teaching experience and qualifications – but was responsible for the efficient and effective management of the Ministry of Education. Therefore, the Government considers that a teaching background was not a prerequisite for holding the position.

### **The Joint Committee's findings**

96. New wages and terms and conditions of employment: The Joint Committee notes with interest efforts to reform the education system of Fiji with a view of improving teaching and the quality of education. In line with paragraph 9 of the 1966 Recommendation, the Joint Committee also notes that teachers' organizations should be associated with the determination of educational policy, including reform. This is the best way to ensure sustainability and support of reform measures by the very people who are expected to implement them.
97. The union and the Government expressed different views on the impact of the reform on the terms and conditions of employment of teachers. The union considers that the impact is detrimental and that it critically affects the stability of employment. The Government underscores that the new positions benefited from higher salaries, without denying that stability of employment and security of tenure is affected by the reform.
98. The Joint Committee notes that paragraph 45 of the 1966 Recommendation states that "Stability of employment and security of tenure in the profession are essential in the interests of education as well as in that of the teacher and should be safeguarded even when changes in the organization of or within a school system are made". The Joint Committee further recalls the general principle set out in paragraph 8 of the 1966 Recommendation that "Working conditions for teachers should be such as will best promote effective learning and enable teachers to concentrate on their professional tasks".
99. In this context, the Joint Committee considers that when changes in teachers' terms and conditions of employment occur, the consideration of maintaining stability of employment and tenure should prevail.
100. The conditions for promotion and career advancement opportunities are another point of disagreement between the Government and the union. The Joint Committee notes the statement of the Government that the selection and recruitment system, including for promotions, was henceforth based on competence and merit as opposed to seniority, which was central in the previous system.



101. The Joint Committee notes the opposing views of the union, regretting that seniority is outweighed by other factors, therefore restricting opportunities for teachers, and affecting their prospects to evolve in the teaching profession. The union further complained that contributions to determining professional criteria for the assessment of teachers were ignored by the Ministry of Education.
102. The Joint Committee notes that paragraph 145 of the 1966 Recommendation reads: "Authorities should recognize that improvements in the social and economic status of teachers, their living and working conditions, their terms of employment and their career prospects are the best means ... of attracting to and retaining in the teaching profession substantial numbers of fully qualified persons". The Joint Committee further notes that paragraph 44 provides that "Promotion should be based on an objective assessment of the teachers' qualifications for the new post, by reference to strictly professional criteria laid down in consultation with teachers' organizations".
103. The Joint Committee therefore encourages the Government and the union to engage in consultations and in a constructive dialogue on this issue to ensure that criteria for promotion are based on an objective assessment of the teachers' qualifications, and take due note of providing career advancement prospects, as a means of teacher motivation.
104. As regards the allegations from the union that it had been left out of selection processes and that the unilateral conduct of the process by the Ministry of Education contravened the above-mentioned paragraph 44 of the 1966 Recommendation, the Joint Committee indicates that it does not support such an interpretation of the paragraph. Paragraph 44 does not provide that teachers' organizations should intervene during the specific selection processes, but that the professional criteria allowing for the assessment of teachers' qualifications should be defined through a consultation process.
105. Finally, the Joint Committee welcomes the information supplied by the Government regarding the new online modalities for signing contracts that would overcome most of the difficulties reported by the union.
106. Consultations with teachers' organizations: With respect to social dialogue, the Committee notes that, in the view of the union, it had not been sufficiently involved and that decisions were already "set in stone", leaving no room for consultations or negotiations.
107. The Joint Committee notes that, in its communications, the Government refers to "consultations" and "a genuine engagement" of public sector unions on the new reform. The extent to which the unions representing teachers attended such consultations is not clearly indicated in the Government response.
108. The Joint Committee notes that the Government recently supplied information to the ILO Committee of Experts on the Application of Conventions and Recommendations that it had been meeting with representatives of the Fijian Teachers Association (FTA) and the Fiji Teachers Union (FTU) (the two unions under the umbrella of the FTC) in relation to the terms and conditions of employment.
109. The Joint Committee observes that the issues at stake hold significant implications for teachers, as the reform concerned the terms of employment and the salary scale for teachers. The Joint Committee recalls that, according to the terms of the 1966 Recommendation, social dialogue on salaries and working conditions cannot be limited to consultations. Paragraph 82 provides "Both salaries and working conditions for teachers should be determined through the process of negotiation between teachers'

organizations and the employers of teachers” and paragraph 116 adds that salary scales should be established “in agreement” with teachers’ organizations.

110. In light of these provisions, the Joint Committee encourages the Government and the unions to engage in a constructive social dialogue and to establish genuine negotiations on these issues pertaining to the terms of employment and salaries for teachers.
111. Appointment of the Permanent Secretary for Education: The Joint Committee notes a difference of interpretation between the union and the Government on the scope of paragraph 43 of the 1966 Recommendation and its applicability to the position of Permanent Secretary for Education within the Ministry of Education.
112. For reference, paragraph 43 reads: “Posts of responsibility in education, such as that of inspector, educational administrator, director of education or other posts of special responsibility, should be given as far as possible to experienced teachers.”
113. The Joint Committee notes that this paragraph is intended to promote the advancement of teachers to posts of responsibility within the school system and considers that the position of Permanent Secretary for Education lies outside the scope of this paragraph.

### The Joint Committee’s recommendations

114. The Joint Committee recommends that the Governing Body of the ILO and the Executive Board of UNESCO encourage the Government of Fiji and the Fiji Teachers Confederation to:
  - (a) engage in a constructive social dialogue, including appropriate negotiations and consultations, and work towards resolving the difference of views expressed by both parties;
  - (b) ensure that the principles of the 1966 Recommendation are duly taken into consideration when negotiating the terms of employment and salaries for teachers, including at the appropriate level;
  - (c) ensure that the professional criteria used to assess teachers’ qualifications for promotions are determined through a process of meaningful consultation with teachers’ organizations;
  - (d) disseminate the 1966 Recommendation to education institutions and among teachers themselves;
  - (e) keep the Joint Committee informed of further developments within one year to allow for monitoring of the situation and further consideration by the Committee.

## Allegations received by the University and College Union (United Kingdom)

### Background

115. Under cover of a letter dated 28 January 2019, the University and College Union (UCU) submitted allegations to the Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel regarding non-respect by the Government of the United Kingdom of principles set out in the 1997 Recommendation concerning the status of higher-education teaching personnel. Education International also joined the allegations.

### Substance of the allegations

116. The allegations relate to the low levels of de jure protection for academic freedom offered by legal instruments in the United Kingdom, which have led to academic staff experiencing a low level of de facto academic freedom in their day-to-day activities as researchers and teachers. These alleged low levels of de jure and de facto protection for academic freedom, which are below those enjoyed by their peers in other comparable EU states, are to the point that the UCU believes that the UK Government is failing to meet its obligations with respect to the 1997 Recommendation.
117. Legislative protection for the freedom to teach: To begin, the UCU points out that there is no constitutional protection for academic freedom (as there is no written Constitution in the United Kingdom) nor comprehensive legislative instruments protecting academic freedom in the United Kingdom, in stark contrast to most European countries. The UCU argues that the legislative protection for individual academic freedom in England (sections 2(8) and 36 of the Higher Education and Research Act 2017 (hereafter HERA)) is derived from institutional autonomy. Hence, protection for the academic freedom of individual academic staff is limited to the context of each academic's relationship with his or her employing institution. According to the union, this directly contradicts paragraph 20 of the 1997 Recommendation which sets out that autonomy should not be used by higher-education institutions as a pretext to limit the rights of higher-education teaching personnel.
118. The UCU continues citing paragraph 28 of the 1997 Recommendation, which states that "Higher education teaching personnel have the right to teach without any interference, ... Higher education teaching personnel should play a significant role in determining the curriculum". According to the union, these rights are undermined by HERA which sets out that higher education providers have the right to determine "the content of particular courses and the manner in which they are taught, supervised and assessed".
119. The UCU also argues that early indications suggest that the Office for Students (OfS), which was recently established and provided with the duty to protect academic freedom, is in a weak position to perform this particular duty.
120. Legislative protection for the freedom to research: As with the protection for academic freedom to research (paragraph 29 of the 1997 Recommendation) in the United Kingdom, the UCU states that the only legislative protection for academic freedom for research arises from paragraph 2 in HERA. This provision is much less explicit and comprehensive than in most of the other EU Member States.
121. Legislative protection for the right to self-governance: The UCU also cites paragraph 31 of the 1997 Recommendation, which requires higher-education teaching personnel to have the right to elect a majority of representatives to academic bodies within the higher-education institution. By examining two universities whose governance structures are typical across the United Kingdom, the UCU argues that neither case came close to meeting the requirements of the Recommendation. On the other hand, the UCU praises the reform brought by the Higher Education Governance (Scotland) Act of 2016, which represents an improvement in the protection for academic freedom and a greater involvement in governance by the academic staff.
122. Legislative protection for the right to security of employment: With regard to tenure and right to employment stability (paragraphs 45 and 46 of the 1997 Recommendation), the UCU contends that in the United Kingdom, prior to the 1988 Education Reform Act, at pre-1992 universities the right to tenure for full-time academic staff was written into

institutional statutes. By contrast, the contracts for staff at the post-1992 former-polytechnic institutions had never contained any provision for tenure. However, section 202 of the 1988 Education Reform Act removed tenure from pre-1992 chartered universities. In answer to criticism that the abolition of tenure might undermine academic freedom, the university commissioners were tasked to ensure to protection of academic freedom, but the commissioners ceased to operate after April 1996. Hence, the UCU criticizes the absence of any legal provision or specifically designated personnel to protect the academic freedom of UK higher-education staff in their day-to-day activities of teaching and research.

- 123.** De facto protection for academic freedom: The UCU then argues that, based on data from two sources, de facto normative protection for academic freedom in the United Kingdom was also not satisfactory. Firstly, data from EU States was gathered via an online survey, created following research funded by an EU Marie Curie Intra-European Fellowship. The total number of responses to the European survey exceeded 5,300, of which those from the United Kingdom were excluded. Secondly, an online survey containing identical questions on academic freedom aimed at academic staff working in UK higher education was launched in December 2016, which resulted in 2,239 responses from UCU members. Overall, UK respondents felt a lower level of protection for academic freedom than their EU counterparts in all aspects. Also, in the United Kingdom, more respondents reported that the protection for academic freedom in their department and university had fallen. The UCU attributes worse results for the United Kingdom to some specific policies introduced by the UK Government.
- 124.** The UCU argues that the UK Government's anti-terrorism legislation and in particular the requirements of the "Prevent duty in higher education" (the Prevent duty) had contributed to a climate of self-censorship in the United Kingdom. With regard to the freedom to teach, a point is made that the majority of UK respondents agree that the Teaching Excellence Framework (TEF) would diminish their academic freedom. Also, the UCU points out that the majority of UK respondents agreed that the UK national Research Excellence Framework (REF) had diminished their academic freedom.
- 125.** In relation to the fact that a higher percentage of UK respondents agreed that employment protection for academic staff in their institution had declined in recent years, the UCU points out weaknesses with the protection of academic freedom in the operation of the model statute which was meant to mitigate the effect of the removal of tenure. Also, the UCU argues that the rapid growth of fixed-term and hourly-paid academic jobs poses an even more potent danger to academic freedom.

### **The Government's initial response**

- 126.** In its response dated 23 May 2019, the Government (Department for Education in England) replied, by compiling observations in collaboration with the relevant governmental departments and the devolved administrations in the United Kingdom.
- 127.** From the outset, the Government clarified that education is a devolved matter in the United Kingdom. It also points out that higher education varies by nations and educational traditions and questions the UCU's comparative analysis limited to the EU. On the allegation that the United Kingdom failed to provide constitutional freedoms for academic staff, the Government rejects that failure to have a codified constitution is a legitimate reason to claim that the United Kingdom lacks protections for academic freedom as these freedoms are given broad legal protection in UK domestic law and international conventions to which the United Kingdom is a signatory. It also does not accept that constitutional comparisons

show any lack of specific legal provision or protection for academic freedom in the United Kingdom.

- 128.** Academic freedom to teach: On the allegation that, in England, HERA undermines the 1997 Recommendation (paragraph 28), the Government argues that nothing in HERA prevents academic staff from playing a significant role in determining the curriculum they teach, and in fact explicitly sets out protections of academic freedom. With regard to the data of experiences of academic staff from their 2016 survey of their members, which is compared with a research survey in European countries, the Government questions the size of the sample and the comparative approach that limits comparison to only the EU in the context of an international higher-education sector. On the UCU's observations on the TEF (now the Teaching Excellence and Student Outcomes Framework), the Government points out that the UCU survey was conducted before the implementation of TEF, so its effect on the actual experiences of academic freedom cannot be known from this data.
- 129.** In the same manner, the Government does not accept that the role of the OfS in promoting choice, quality and value for money for students is in conflict with the protection of academic freedom, and until it is fully operational and empowered (by August 2019), no evidenced judgements are possible of its performance in this respect.
- 130.** Academic freedom to research: On the allegation on the negative effects of the Prevent duty, the Government has seen no evidence of academic freedom being restricted where the Prevent duty is being implemented correctly. The Government explains national research evaluation exercises in detail. According to the Government, the impact element of the REF did not restrict research in any way. It also explains the change to REF 2021 which have been formed in consultation with the higher-education sector and following an independent review of REF 2014.
- 131.** Protection for the right to self-governance: According to the Government, higher-education providers were independent employers in the United Kingdom and are responsible for maintaining good governance arrangements. This was not in conflict with the UNESCO Recommendations. The Government also points out that in England, the OfS did not specify the level of staff representation expected on a senate/academic board for higher-education providers. The Government then explains that the Higher Education Governance (Scotland) Act 2016 brought change to the composition of the governing body of Scottish higher-education institutions. Membership of the governing body must now include two members who are elected directly from the staff.
- 132.** Protection for the right to security of employment: Noting the statistics provided by the UCU on the number of academic staff employed on fixed-term and hourly-paid contracts, the Government explains that in England, higher-education providers are autonomous institutions. As autonomous institutions, higher-education providers were responsible for ensuring their own financial sustainability. It was appropriate that they retain the ability to manage their own workforce policies and planning.
- 133.** In conclusion, the Government argues that the United Kingdom continued to promote and protect academic freedom in a robust yet proportionate way that respects the autonomy of individual academics and higher-education providers. The Government does not accept that the United Kingdom has been shown to fall short of the requirements of the Recommendations. It continued that a significant part of the UCU allegations focuses on the situation in England before the implementation of the substantial changes to regulation of higher education in England following the (as yet ongoing) implementation of HERA, and before the introduction of the TEF.

### The UCU's further comment

134. In September 2009, the UCU submitted its commentary on the UK Government response. First of all, the UCU expresses its disappointment that the initial response of the Government fails to address the key part in the allegation regarding the de facto protection of academic freedom. According to the UCU, apart from comments on the sample size of the UCU survey and the validity of comparisons with EU-based academics, there was no attempt to engage with the substantive issues in either the UCU survey of academic staff or the secondary sources that are cited in the allegation.
135. The UCU counter-argues that institutional autonomy was a precondition for individual academic freedom, rather than individual academic freedom being a guarantor of institutional autonomy, as is argued by the UK Government.
136. The UCU notes the Government comment about the timing of the UCU academic freedom survey and the implementation of the TEF. However, a new research evidence about the impact of the TEF on higher-education staff highlights how the methodology behind the TEF had forced institutions to regulate their teaching ever more closely.
137. Although welcoming some positive changes made to REF 2021, the UCU claims that recent feedback from UCU members suggests that institutions are developing new forms of "game playing" which will restrict staff participation in REF 2021. The concerns expressed by UCU members have been validated by a new pilot study called *The Real Time REF Survey* which was published in June 2019.
138. While the UCU is not satisfied with the Government response on democratic involvement of staff in governance in England, the UCU acknowledges improvements in collegial governance that have been developed in Scotland by the 2016 Higher Education Governance Act in Scotland.
139. The UCU recognizes that higher-education institutions were responsible for the selection, appointment and dismissal of academic staff and that issues relating to the contractual status of staff were primarily matters for decision-making at the institutional level. Still, the UCU argues that the Department for Education in England and the devolved administrations of the United Kingdom could not avoid all responsibility for the current situation regarding job insecurity in higher education and reiterates their concerns about the impact of job insecurity on academic freedom and the UK Government's deviation from key UNESCO standards.
140. In conclusion, the UCU recognizes that progress on academic freedom and in particular collegial governance had been made in Scotland. It believes that one of the reasons for this was that the Scottish government had been more open to meaningful social dialogue with higher-education staff representatives than is the case in England. The UCU, therefore, calls on the Department for Education in England to recognize the value of establishing meaningful social dialogue with staff representatives on issues such as higher-education governance and academic freedom.

### The Government's final comment

141. In its final comment, the Government made it clear that it is very difficult for governments or regulators to respond with objective measures to a small survey size of academics' subjective experiences of their workplaces. Where concerns exist, institutions were responsible for the working conditions and environments of their staff, and it is this separation of responsibilities that underpins the UK Government's approach. Although



direct protections for academic freedom of staff did not exist, there were existing de jure and de facto protections relating to and academic freedom.

- 142.** To conclude, the Government acknowledges that the autonomy of higher-education institutions and the Government's corresponding approach to regulation meant that its levers to intervene may be limited in certain respects, but this did not mean protections did not exist or were ineffective. The Government reiterates its commitment to strengthening and protecting academic freedom, and invites the UCU to engage further with the Government.

### The Joint Committee's findings

- 143.** The Joint Committee takes note of the detailed submission of the UCU which describes a wide range of concerns perceived in the higher-education community about academic freedom in the United Kingdom. The Joint Committee also notes the detailed responses by the Government which address some of the detailed allegations raised by the UCU. It appears both sides have been willing to engage in a thorough examination of the issues at hand, which can lay the groundwork for further constructive dialogue.

- 144.** There is no doubt that the 1997 Recommendation sets out institutional autonomy and academic freedom as fundamental principles in higher education. The Joint Committee recalls previous findings that:

The 1997 Recommendation is necessarily framed in general terms and broad principles. Individual nations and academic institutions are able to organize their activities consistent with national practices to ensure conformance with the principles of the Recommendation. For instance, Section 17 of the 1997 Recommendation sets out the principles to govern institutional autonomy. The final sentence states, "However, the nature of institutional autonomy may differ according to the type of establishment involved."<sup>7</sup>

- 145.** In this respect, the Joint Committee considers that there is no prescribed way to ensure academic freedom or institutional autonomy. There is no requirement to enshrine the principle in the Constitution or in any specific manner in law, as long as there are no specific legal provisions constraining academic freedom.
- 146.** Nonetheless, as the UCU points out, what matters is how academic freedom is implemented in reality in the context of existing laws, policies and practices. In this regard, there may not be one individual policy or practice that undermines academic freedom; it is the totality and overall atmosphere that a constellation of laws, policies and practices can create.
- 147.** In this respect, the Joint Committee notes that the UCU has pointed to apparent concerns raised among higher-education teaching personnel, though surveys and academic reviews, that academic freedom is under pressure in the United Kingdom. These concerns arise from a number of new developments in higher education with regard to quality assurance. This ranges from policies related to the Prevent duty guidance to quality assurance schemes such as the TEF and the REF.
- 148.** The Joint Committee recalls it examined some of these issues in general in its Report of its 13th Session (2018), in relation to the topics "Assessment and evaluation of higher

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<sup>7</sup> ILO and UNESCO, *Report: Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel – Tenth Session*, Paris, 2009, Annex 2, Allegation received from the Dansk Magisterforening (DM) of Denmark, para. 30.

education personnel” and “20 years of the 1997 Recommendation: Assessment of trends and prospects for action”.<sup>8</sup>

- 149.** It is clear that the 1997 Recommendation sets out that, in view of the substantial financial investments made, Member States and higher-education institutions should ensure a proper balance between the level of autonomy enjoyed by higher-education institutions and their systems of accountability. Higher-education institutions should endeavour to open their governance in order to be accountable (1997 Recommendation, paragraph 22).
- 150.** At the same time, the Recommendation sets out that:
- (a) Systems of institutional accountability should be based on a scientific methodology and be clear, realistic, cost-effective and simple. In their operation they should be fair, just and equitable. Both the methodology and the results should be open (1997 Recommendation, paragraph 23).
  - (b) Higher education institutions, individually or collectively, should design and implement appropriate systems of accountability, including quality assurance mechanisms to achieve the above goals, without harming institutional autonomy or academic freedom. The organizations representing higher-education teaching personnel should participate, where possible, in the planning of such systems. Where state-mandated structures of accountability are established, their procedures should be negotiated, where applicable, with the institutions of higher education concerned and with the organizations representing higher-education teaching personnel (1997 Recommendation, paragraph 24).
- 151.** It is not clear from any of the submissions to what degree, if at all, organizations of higher-education teaching personnel were involved in the establishment of the accountability systems cited in the allegation. Clearly it would be a good practice in line with the 1997 Recommendation to engage in constructive social dialogue around these mechanisms as a first step to address the concerns raised by the UCU.
- 152.** While institutional autonomy and academic freedom have a long tradition in the United Kingdom, the various quality assurance mechanisms established in recent years appear to present some vulnerabilities to both political interference and deference to market-driven priorities. The defence against extremism and the search for “value for money” need to be balanced with the need to preserve the right of higher-education teaching personnel to carry out teaching and research “without constriction by prescribed doctrine” (1997 Recommendation, paragraph 27). Robust democratic governance and social dialogue on these mechanisms would be the surest means to minimize these risks and ensure an appropriate balance between accountability and academic freedom.
- 153.** In this respect, the Joint Committee expresses concern that some universities in the United Kingdom do not have representation of teaching staff in their governance and academic bodies in line with paragraph 31 of the 1997 Recommendation, and welcomes the efforts made in Scotland to ensure adequate representation of teaching personnel in such bodies. The Joint Committee therefore urges the Government to engage in dialogue on how representation of teaching personnel can be improved in institutional governance. Democratic governance of higher-education institutions would go a long way in addressing

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<sup>8</sup> ILO and UNESCO, CEART/13/2018/10.



some of the concerns about quality assurance schemes, and it would help resolve some of the concern of how HERA frames academic freedom within institutional autonomy.

- 154.** With regard to security of employment (paragraphs 45 and 46 of the Recommendation), the Joint Committee has on several occasions expressed its concern over the international trend in the proliferation of part-time and temporary contracts that undermine tenure. It considers that changes in employment relationships that diminish employment security and procedural guarantees in the particular environment of higher education would not enhance, and would likely weaken, the full exercise of academic freedom and therefore one of the fundamental pillars of excellence in teaching and research.<sup>9</sup> The Joint Committee recalls that tenure or its functional equivalent, where applicable, should be safeguarded as far as possible even when changes in the organization of or within a higher education institution or system are made (1997 Recommendation, paragraph 46).
- 155.** Therefore, though noting the autonomy of higher education institutions in their arrangements of employment contracts, the Joint Committee encourages the Government to continue to engage in dialogue with the teaching staff representatives on this point. It recalls that the 1997 Recommendation specifies that “the funding of higher education is treated as a form of public investment the returns on which are, for the most part, necessarily long term, subject to government and public priorities” (paragraph 10).

### The Joint Committee’s Recommendations

- 156.** The Joint Committee recommends that the Governing Body of the ILO and the Executive Board of UNESCO:
- (a) urge the Government of the United Kingdom and the respective social partners to engage in effective social dialogue, including joint research and sharing of information, consultation, and, as appropriate, collective bargaining concerning:
    - (i) protection of academic freedom and institutional autonomy in the context of the Prevent duty; and in relation to quality assurance mechanisms that may restrict creativity and innovation in research and teaching;
    - (ii) ensuring adequate representation of higher-education teaching personnel in governance and academic bodies:
      - in a manner consistent with sections 31 and 32 of the 1997 Recommendation; and
      - as far as practicable, informed by best practices within the United Kingdom and in other countries;
  - (b) encourage the Government to address growing employment insecurity among higher-education teaching personnel:
    - (i) by ensuring participation of organizations representing teaching personnel in the design of accountability and research frameworks;
    - (ii) by creating greater opportunities for lifelong learning and continual professional development of teaching personnel;

<sup>9</sup> ILO and UNESCO, *Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART): Interim Report on Allegations Received from Teachers’ Organizations on Non-observance of the Recommendations of 1966 and 1997 Concerning Teachers*, Geneva, September 2008, para. 13.

- (iii) by enhancing policy measures that safeguard tenure or its functional equivalent; and
  - (iv) strengthening mechanisms to protect the academic freedom of UK higher-education staff in their day-to-day activities of teaching and research;
- (c) urge the Government to establish policies to improve institutional environments and the well-being of higher-education teaching personnel, including protection against harassment, intimidation and violence, in line with paragraphs 22 and 63 of the 1997 Recommendation.
- (d) request the Government and the UCU to report on the results of their discussions, progress made and any difficulties encountered to the Joint Committee.

## B. Follow-up on allegations considered at the 13th Session, 2018

### Follow-up on the allegation by the AIM89 Educational Workers' Union (Japan)

#### Background

- 157.** This section presents the follow-up on the allegations considered by the Joint Committee at its 13th Session. The initial allegation submitted by the AIM89 Educational Workers' Union, an independent teachers' union based in Tokyo, essentially centred on disciplinary sanctions affecting teachers who refused to follow official orders to stand and sing the national anthem (Kimigayo) and to salute the national flag (Hinomaru) during school ceremonies.
- 158.** The Joint Committee recommended exploring solutions which allow patriotic ceremonies to go forth uninterrupted, but which can accommodate teachers who do not feel comfortable in participating in particular gestures of compliance. The Joint Committee also formulated a series of recommendations in relation to disciplinary mechanisms and policies. The Joint Committee requested to be kept informed of efforts on its recommendations. Between December 2020 and April 2021, the Joint Committee received a set of follow-up communications from AIM89, to which the Government responded in communications dated 30 July 2020 and 31 August 2021.

#### Follow-up communications by AIM89

- 159.** The follow-up communications submitted by AIM89 do not raise new facts but rather concentrate on the status of implementation of the recommendations made by the Joint Committee at its last session. Whilst reporting that public sessions have been organized by the authorities allowing for an exchange of opinions with the union, AIM89 deplors the lack of progress on the recommendations.
- 160.** Overall, the union is critical of the status given by the authorities to the recommendations of the Joint Committee, and in particular, the lack of efforts to make the report of the last session of the Joint Committee known to school authorities. Three main issues are brought to the attention of the Joint Committee.
- 161.** According to the union, the Ministry of Education, Culture, Sports, Science and Technology (MEXT) transmitted to the concerned local public bodies the original version of the report of the Joint Committee in English without providing a translated version, which considerably limited its accessibility and reach. The report of the Joint Committee was shared without

guidance from the MEXT; as a result, members of the boards with the authority to take disciplinary action were not informed of the substance of the report and were not appropriately guided on how to better implement and promote the principles set forth by the 1966 Recommendation. The union sees this as the reason why local authorities have not changed their position and have continued to refuse to engage in social dialogue on these issues.

162. The MEXT allegedly refused to disseminate the report of the Joint Committee more widely, arguing that the report concerned specific local contexts and that in any case the report could be found online.
163. As for the substance of the allegation, the union continues to report cases where teachers have not been rehired to fill vacancies following their retirement, as per the common practice, because they had a record of disciplinary sanctions for having refused to stand and sing during ceremonies. Additionally, the situation of students with disabilities remains problematic in the context of similar requirements during school ceremonies. Reports on dialogue between the union and the authorities on these matters reveal a persistent difference of understanding of the 1966 Recommendation.

### The Government's response

164. In its response, the Government points out that some opinions expressed by the MEXT and certain facts have been misrepresented by AIM89 in its communications to the Joint Committee. The Government first reaffirms its position with respect to the original allegation and refers to the legality of these practices under Japanese law. The standing and singing requirements are aligned with the national legislation and they do not infringe on the freedom of thought and conscience of students or teachers. Further, as public servants, teachers are required to obey orders from their hierarchy. The Government points out that the 1966 Recommendation "... contains some details that do not necessarily suit the domestic legislation and the current legislation in Japan ...". The Government also underscores that as per the distribution of roles and responsibilities between the state and local governments, the latter hold the authority and responsibility for education.
165. With respect to the issue of information-sharing, the Government notes that it has provided the concerned local boards of education with information that "... [is] regarded as closely related to the report of the thirteenth session of the CEART ...".
166. On this issue, the Government denies having expressed the intention not to share the report of the Joint Committee with every local body and with the public on the grounds that it was available online through the ILO's website. Nevertheless, the Government acknowledges that it considers the report to deal with a situation specific to a few local contexts and that it did not consider it necessary to disclose the information to all local governments or to the public. In this regard, the Government adds that only one case of disciplinary sanctions in relation to the national flag and anthem was recorded in 2020.

### The Joint Committee's findings

167. First and foremost, the Joint Committee welcomes the concordant information submitted by the union and by the Government showing that initial forms of dialogue have taken place. Although these opportunities for dialogue seemed limited in time and in scope, the Joint Committee notes that this is a positive step and encourages both parties to continue to work in that direction.

- 168.** The Joint Committee is however concerned that progress on the recommendations appears slow and that differences of view between the Government and the union remain significant. In this context, the Joint Committee reiterates its recommendation to make use of its reports as a basis for social dialogue.
- 169.** The Joint Committee notes with interest the argument by AIM89 that the absence of a Japanese version of the report limits its accessibility and reach at the local level. The Government did not share its views on this point. The Joint Committee understands that translating the report can be a delicate process considering the challenges to determine the appropriate terminology and the adequate level of interpretation. Yet the Joint Committee believes that such a process, conducted collaboratively by the authorities and the union, could represent in itself an opportunity to exercise dialogue on the issues at hand and possibly lead to a more constructive social dialogue.
- 170.** The Joint Committee further notes the position of the Government regarding the applicability of the 1966 Recommendation – another long-standing and recurrent issue across the allegations involving Japan examined by the Joint Committee. The Government reaffirms its long-standing position that some aspects of the 1966 Recommendation do not suit the national situation and national legislation and refers to court decisions on the legality of the disciplinary measures.
- 171.** As stated in its previous report, the Joint Committee recalls that it does not have the capacity to determine the legality of the issue in Japanese law, but instead, can consider how the facts relate to the principles of the 1966 Recommendation. A non-binding instrument, the 1966 Recommendation nonetheless reflects a landmark commitment by all ILO and UNESCO Member States to set forth the rights and responsibilities of teachers through an international standard. The status of a normative instrument adopted unanimously by Member States confers on the 1966 Recommendation significant political and moral force.<sup>10</sup> The Joint Committee further recalls that Japan was a Member State of both the ILO and UNESCO that participated in the Special Intergovernmental Conference on the Status of Teachers in 1966 that adopted the Recommendation. As an international normative instrument, its standards are intended to apply to all countries. In light of the above, the Joint Committee recommends exploring concrete actions, through social dialogue, with the aim of resolving differences of opinion and of understanding of the 1966 Recommendation and ensuring its principles can be promoted and implemented.
- 172.** The Joint Committee is of the view that effective information-sharing in the context of this allegation would also imply sharing appropriate guidance with local authorities on how to understand and implement the observations and recommendations of the Joint Committee. Therefore, the Joint Committee recommends that, when sharing the translated version of the report with local authorities, appropriate comments and guidance to the local authorities are included.

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<sup>10</sup> SDG 4 – Education 2030 Framework for Action.

### The Joint Committee's recommendations

- 173.** The Joint Committee recommends that the Governing Body of the ILO and the Executive Board of UNESCO encourage the Government of Japan to:
- (a) create a conducive environment for social dialogue with teachers' organizations on this allegation at the national and local level, as relevant, with the aim of resolving differences of opinion and of understanding of the 1966 Recommendation;
  - (b) work collaboratively with teachers' organizations to produce a translation into Japanese of the observations and recommendations of the Joint Committee that relate to this allegation;
  - (c) share with local authorities this translation along with appropriate guidance on how to best ensure that the principles of the Recommendation are applied and promoted in the context of this allegation;
  - (d) give due consideration to the previous recommendations made by the Joint Committee on this allegation, including recommendations pertaining to the disciplinary mechanisms and policies and to the rules regarding patriotic ceremonies; and
  - (e) keep the Joint Committee informed of efforts on the above recommendations.

### Follow-up on the allegation by Nakama Teachers' Union (Japan)

#### Background

- 174.** At its 13th Session, the Joint Committee examined an allegation submitted by the Nakama Teachers' Union in which it described continuing practices that it considers to be not in line with the principles set out in the 1966 Recommendation, as well as a lack of willingness by the Japanese authorities to give effect to the Joint Committee's recommendations. The Joint Committee examined this allegation, alongside the response from the Japanese Government, and formulated observations and recommendations. One of the recommendations was to keep the Joint Committee informed of efforts made on the recommendations. Between September and December 2019, the Joint Committee received follow-up communications from the Nakama Teachers' Union, to which the Government responded in a letter dated 30 July 2020.

#### Follow-up communications from Nakama Teachers' Union

- 175.** In its follow-up communications, the Nakama Teachers' Union reiterates its long-standing allegation that the local authorities in Osaka are not engaging in consultations or negotiations with the union on certain matters pertaining to teachers' working conditions. The union further complains that the Government is not providing appropriate guidance to local authorities based on the 1966 Recommendation and on recommendations of the Joint Committee that would facilitate social dialogue at the local level. Moreover, the union points out several issues on which progress has not been made despite the recommendations of the Joint Committee.

#### Effect given to the Joint Committee's recommendations and the position of local authorities

- 176.** With regard to the disciplinary measures taken further to the refusal of teachers to follow instructions for standing and singing (flag and anthem), the union regrets that progress has not been made on this issue. The union provides examples of cases where procedures for

conducting disciplinary action were not complying with the principles set out in paragraphs 47–50 of the 1966 Recommendation. Dialogue on this matter revealed significant differences of understanding of the 1966 Recommendation between the union and the authorities.

### Grievance mechanism and evaluation system

- 177.** According to the Nakama Teachers' Union, the grievance mechanism was not established in consultation with teacher unions and it did not guarantee a fair process. Furthermore, the grievance examination council did not provide an opportunity for the aggrieved party to express their opinion. The union claims that this situation deviated from the principles set out in the 1966 Recommendation.
- 178.** As regards the evaluation system, the union still considers it to be flawed, particularly as it did not allow for the opinion of teachers to be taken into account. In addition, the opportunity to re-evaluate was not granted in one case where errors were made in the original evaluation.

### Role granted to teachers in the selection of teaching aids and methods

- 179.** The union reports that no significant progress had been achieved regarding the role granted to teachers in the selection of textbooks. The union reports a similar disagreement between the union and local authorities on the use of tablets. The union regrets that these teaching tools were imposed upon teachers without negotiation, in contradiction with paragraph 61 of the 1966 Recommendation.

### The Government's reply

- 180.** The Government's reply contains general comments on the report of the 13th Session of the Joint Committee – only those relating to the allegation at hand will be presented below – as well as specific responses on the Nakama Teachers' Union's communications.

### Effect given to the Joint Committee's recommendations and the position of local authorities regarding consultation and negotiation with the unions

- 181.** First and foremost, the Government recalls its long-standing position that "The Recommendation concerning the Status of Teachers contains some details that do not necessarily suit the domestic legislation and current situation in Japan ...". It states that the situation in Japan and the domestic legislation have not been sufficiently taken into consideration by the Joint Committee in its report.
- 182.** The Government further recalls that negotiations with the local authorities regarding working conditions are governed by the Local Public Services Act. The MEXT was therefore not in a position to enter into negotiations with teachers' organizations, the relevant bodies being the local boards of education. Additionally, no negotiations could be entered with employees' organizations of local government personnel regarding "administrative or operational matters" such as occupational orders and disciplinary action.
- 183.** Nevertheless the Government indicates in its communication that certain efforts have been made: "information [was provided] in September 2019 to the boards of education that are the bodies with power to make appointments and can be considered to be closely related to the report". Furthermore, the Government states that it hopes to continue to appropriately involve itself as necessary, including by providing boards of education with guidance and advice.

- 184.** As regards social dialogue with teacher unions, the Government adds that since June 2019 “exchanges of opinion” have taken place, including on issues related to the allegation submitted by the Nakama Teachers’ Union.

#### Specific issues raised in the communication

##### Measures, including disciplinary action, taken further to the refusal of teachers to follow instructions for standing and singing

- 185.** On this specific issue, the Government simply indicates that the relevant local authority – the Osaka City Board of Education – has reported having appropriately conducted disciplinary action. No further details concerning progress made on the Joint Committee’s recommendations relating to disciplinary mechanisms were included in the Government’s response.

##### Grievance examination system and evaluation system

- 186.** The Government retains its position that issues pertaining to management and administrative matters were not subject to negotiation, even though they may affect teachers’ working conditions. The evaluation system and the grievance examination system were considered to be management and administrative matters, and therefore, not open to negotiation. The Government refers to a report from the Osaka City Board of Education indicating that appropriate responses have been given in line with the legislation.

##### Role granted to teachers in the selection of teaching aids and methods

- 187.** With regard to the use of tablets, the Government explains that these devices are contributing to realizing equal educational opportunities. The Government points out that “an appropriate support system is being operated in order to mitigate the burden of teachers in the classroom”. However, it is clearly stated that this was a management and administrative matter too, and therefore, that negotiations were not possible.
- 188.** As far as textbook selection is concerned, the Government recalls its previous statement that teachers do play a certain role in the selection of textbooks as some teachers were represented within the textbook selection councils set up by the boards of education.

#### The Joint Committee’s findings

- 189.** The Joint Committee first notes the recurring and long-standing issue of the lack of negotiation or consultation on a number of matters that are considered to be “administrative matters”, and therefore not open to social dialogue. Although the Joint Committee has extensively discussed this issue in previous reports,<sup>11</sup> it still appears unresolved.
- 190.** The Joint Committee further notes that another key issue runs through all the specific issues raised in the follow-up communications by the Nakama Teachers’ Union, namely the evaluation system, the disciplinary mechanisms, and the role granted to teachers in the selection of teaching aids and methods. For all these issues, the lack of substantial progress on the Joint Committee’s recommendations is a common thread. The elements brought to the consideration of the Joint Committee do not show signs of genuine progress from the

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<sup>11</sup> In particular the 2003, 2008 and 2011 reports of the Joint Committee.



situation described in the initial allegation, as well as in the context of previous allegations covering the same issues.

- 191.** On the contrary, communications by the union and the Government reveal that significant differences of understanding on the principles of the 1966 Recommendation remain. Neither the Nakama Teachers' Union nor the Government indicate having resolved these issues or made progress towards a common understanding of the principles of the 1966 Recommendation.
- 192.** In this context, the Joint Committee recalls the first three recommendations formulated during the examination of the allegation at its 13th Session in 2018:
- (a) share appropriate guidance with local authorities to ensure that the principles of the Recommendation are applied and promoted;
  - (b) give further consideration to the previous recommendations made by the Joint Committee on the long-lasting issue of consultation and negotiation with teachers' organizations;
  - (c) consider the importance of information-sharing relating to the recommendations of the Joint Committee, including sharing with teachers and their organizations the translation of the report in Japanese, when available, as it could serve as a useful basis for social dialogue.
- 193.** While welcoming information supplied by the Government indicating that exchanges of opinion have taken place with the unions with regard to the current allegation, the Joint Committee would have appreciated receiving more specific information on the instances where a genuine social dialogue has been established with the unions, including, where relevant, at the local level. The Joint Committee takes this opportunity to recall that, in line with the 1966 Recommendation, social dialogue pertaining to working conditions should not be reduced to simple "exchanges of opinion" with teacher unions.
- 194.** In this context, the Joint Committee recalls a previous recommendation<sup>12</sup> made in relation to a statement by the Government of Japan indicating that they are "conducting government activities by paying the maximum respect to the spirit of the Recommendation, within the scope of domestic legislation". The Joint Committee had recommended to seize this opportunity to better inform the unions of the content of such activities and to engage further in social dialogue in a spirit of cooperation. The Government of Japan is invited to include information on this aspect in future communications.
- 195.** The Joint Committee welcomes the encouraging statement by the Government that information was shared with local boards of education and that the Government wishes to continue to do so. The Joint Committee would however like to learn more about the kind of guidance that has been shared with the local authorities. Furthermore, the Joint Committee is interested in knowing whether – and if so, how – this guidance has informed the way local authorities address these issues and if this resulted in an effective social dialogue with teacher unions. In this respect, the Joint Committee also refers to findings in the AIM89 case, in particular in paragraph 19.

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<sup>12</sup> ILO and UNESCO, CEART/13/2018/10, para. 126.



### The Joint Committee's recommendations

- 196.** The Joint Committee recommends that the Governing Body of the ILO and the Executive Board of UNESCO encourage the Government of Japan to:
- (a) create a conducive environment for social dialogue with teachers' organizations on this allegation at the national and local level, as relevant, with the aim of resolving differences of opinion and of understanding of the 1966 Recommendation, including issues related to grievance mechanisms and teacher evaluation;
  - (b) work collaboratively with teachers' organizations to produce a translation into Japanese of the observations and recommendations of the Joint Committee that relate to this allegation;
  - (c) share with local authorities this translation along with appropriate guidance on how to best ensure that the principles of the Recommendation are applied and promoted in the context of this allegation;
  - (d) give due consideration to the previous recommendations made by the Joint Committee on this allegation, including recommendations pertaining to the disciplinary mechanisms and policies and to the rules regarding patriotic ceremonies; policy and practice on the selection of textbooks; and
  - (e) keep the Joint Committee informed of efforts on the above recommendations.

## C. Follow-up on allegations considered at previous sessions

### Follow-up to the allegation received from the All Japan Teachers and Staff Union (Japan)

- 197.** The Joint Committee considered an allegation made by the All Japan Teachers and Staff Union (ZENKYO) at its 12th Session, and in a subsequent interim report published in 2016. In its report at its 13th Session in 2018, the Joint Committee made further recommendations on the case.
- 198.** Not having heard further from either party on this case, the Joint Committee considers that this case is closed.

### Follow-up to the allegation received from the Osaka-fu Special English Teachers' Union (Japan)

- 199.** At its 13th Session in 2018, the Joint Committee considered an allegation from the Osaka-fu Special English Teachers' Union (OFSET) concerning the non-application of the 1966 Recommendation on the Status of Teachers by the Government of Japan, in relation to the status and employment conditions of native English teachers (NETs). The Joint Committee made a number of recommendations to the Government through the Governing Body of the ILO and the Executive Board of UNESCO, including convening dialogue and ensuring the application of the principles provided in the 1966 Recommendation to the NETs so that they are treated as teachers in the sense of this international standard-setting instrument.
- 200.** In a communication to the ILO on 30 July 2020, the Government of Japan contested the Joint Committee's interpretation of the term "teacher". As no further communication was received on this matter, the Joint Committee considers the case closed.

### **Follow-up to the allegation received from the Tokyo-to-Gakko Union (Japan)**

- 201.** At its 12th Session in 2015, the Joint Committee considered an allegation by the Tokyo-to-Gakko Union of Japan. The Joint Committee made a number of recommendations and requested the parties to keep the Joint Committee informed of efforts to implement these recommendations. The Joint Committee has not received any new information in this regard. At its 13th Session in 2018, the Joint Committee encouraged the Government to provide information on how any of the recommendations made in this case have been addressed.
- 202.** No further communication has been received by the union or the Government. Nonetheless, a number of issues raised in this case have been raised again in cases currently before the Joint Committee. The Joint Committee considers this particular case closed. Nonetheless, it encourages the Government to continue to dialogue with teachers' unions on the general matters raised in this allegation.

### **Follow-up to the allegation received from the Cambodian Independent Teachers' Association (Cambodia)**

- 203.** The Joint Committee considered an allegation made by the Cambodian Independent Teachers' Association (CITA) at its 12th Session, and in a subsequent interim report published in 2016. In the final report of its 13th Session, the Joint Committee made a number of recommendations to the Government of Cambodia through the Governing Body of the ILO and the Executive Board of UNESCO.
- 204.** Since the report of 2018, no information has been received by the Joint Committee from the Government or CITA. The Joint Committee notes that the former President of CITA has been convicted on felony charges of incitement to commit a felony or cause social unrest.
- 205.** In view of the ongoing situation on trade union rights in Cambodia, the Joint Committee therefore will keep this case open, and recommends that the Governing Body of the ILO and the Executive Board of UNESCO encourage the Government of Cambodia to:
- (a) implement the recommendations set out in the interim report, including to engage in specific dialogue with CITA around the issues raised in the original allegation;
  - (b) inform the Joint Committee as soon as possible on further developments, in particular regarding social dialogue with CITA and other teachers' organizations, to allow for monitoring of the situation and further consideration by the Committee.

### **Allegation by the National Teachers' Federation (Portugal)**

- 206.** At its 11th Session in 2012, the Joint Committee considered an allegation submitted by the National Teachers' Federation (FENPROF). In 2015, at its 12th Session, the Joint Committee recommended both parties keep it apprised of developments. As no further communication has been received, the Joint Committee considers this case closed.

## ► Appendix I

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### Secretariat of the Joint Committee

#### United Nations Educational, Scientific and Cultural Organization

Ms Stefania Giannini  
Assistant Director-General for Education  
Education Sector

Mr Borhene Chakroun  
Director  
Division for Policies and Lifelong Learning Systems

Mr Carlos Vargas Tamez  
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Ms Nikolina Postic  
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Sectoral Policies Department

Mr David Kapya  
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Sectoral Policies Department

## ▶ Appendix II

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### Statement by the 14th Session of the ILO-UNESCO Joint Committee of Experts on the Application of the Recommendations concerning Teaching Personnel on the occasion of World Teachers' Day 2021 (5 October 2021)

#### Recognizing teacher professionalism in the post-pandemic recovery

The Joint ILO-UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (hereafter the Joint Committee), having met at its 14th Regular Session virtually from 4 to 8 October 2021;

*Noting* the importance of current international deliberations on the futures of education and the role of teachers in post-pandemic reconstruction, and efforts to mobilize and sustain partner efforts in supporting countries towards all the Sustainable Development Goals, and particularly target 4.c: Increase the supply of qualified teachers in developing countries;

*Reaffirming* the importance of the ILO's global call to action for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient;

*Recognizing* that the essential principles on the teaching profession set out in the ILO-UNESCO Recommendation concerning the Status of Teachers (1966) and the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel (1997) are relevant in guiding policies aimed at positioning education and teachers at the heart of recovery;

*Recalling* that the Declaration by the 13th Session of the Joint Committee in 2018 stated that education is not a commodity, a principle also reflected in the Conclusions of the ILO Technical meeting on the future of work in the education sector in the context of lifelong learning for all, skills and the Decent Work Agenda, 2021;

*Noting* that rapid changes in education and teaching brought about or exacerbated by the pandemic have opened up new opportunities for expanding access to education and improving teaching and learning;

*Concerned* that such changes can also result in greater inequality, heavier workloads for teachers, restrictions of professional autonomy, and worsening of employment and working conditions;

*Emphasizing* the importance of education systems adopting human-centred recovery strategies, which recognize the agency, capacity and creativity of teachers and educators to contribute to resilient, responsive and quality education systems;

Adopts the following Statement:

1. School closures over the past eighteen months have reminded us that teachers, learners and their families are at the heart of learning communities. Teachers' quick responses to the COVID-19 pandemic demonstrates their commitment to protecting those communities and to ensuring continuity in learning for students worldwide, as well as their ability to act as agents of change on a daily basis in the face of massive

uncertainty. We commend and celebrate teachers and educators for the central role they have played, and continue to play, in responding to and recovering from the COVID-19 pandemic.

2. There is an urgent need for renewed commitment and strengthened cooperation between governments and all competent authorities, employers' and teachers' organizations, private sector and community actors and other relevant stakeholders engaged in teacher education to:
  - (a) generate more structured and democratic mechanisms to hear the voice of teachers and their representative organizations in relation to their evolving, and increasingly precarious, employment and working conditions, as well as emerging challenges affecting professionalization within the teaching profession that have resulted from the COVID-19 pandemic;
  - (b) promote participatory social dialogue at the national, regional and international levels, taking special care to include teachers' voices from all cultures in defining ideals, indicators and standards for the professionalization of teaching;
  - (c) respect, trust, and value the agency and autonomy of teachers as frontline education professionals who have proven their capacity to drive national COVID-19 education response efforts, including their role in shaping curricular and pedagogic innovations within remote and hybrid classrooms, and in protecting relationships of trust and cooperation between teachers, learners and families within learning communities;
  - (d) protect teachers' safety, health and well-being, including through the reinforcement, expansion and transformation of initial teacher education and continual professional development to respond to teachers' own need for socioemotional and psycho-social support in their practice in the face of COVID-19 related constraints, risks and challenges;
  - (e) update initial teacher education and continual professional development more generally in order to:
    - (i) generate clearer linkages with local contexts and practices, while reflecting the dispositions, values, knowledge and skills needed by teachers and learners in the twenty-first century;
    - (ii) respond to the tensions faced by teachers in low resource and adverse contexts, including in situations of extreme poverty, crisis and conflict where their capacities for adaptation and resilience are highly solicited;
    - (iii) recognize the relational aspects of teaching, and the value of collaborative relationships with families, the community and other actors within a lifelong learning perspective, in ensuring that the needs of all learners are met;
    - (iv) equip teachers with the digital and pedagogical skills to navigate today's digital landscape and critically and effectively use digital technologies in remote, blended or hybrid classrooms, whether in high- or low-tech environments;
    - (v) acknowledge that such training efforts may require the updating or revision of national and regional teaching standards, so as to include mentoring and more community-based, collaborative or networked forms of professional

training which allow for teachers themselves to take a leadership role in their initial training and professional development;

- (vi) promote a collaborative teaching culture and leadership style that works against all forms of discrimination and exclusion, including those based on gender and ethnicity or between rural and urban areas. This includes efforts to overcome the digital divide within countries and ensure equity and inclusion for all teachers and learners everywhere through the availability of digital infrastructure and connectivity;
  - (vii) shelter teachers from any efforts to curtail their autonomy and academic freedom, indeed any of the professional skills, competencies and values that allowed them to react so quickly in the context of COVID-19. Efforts should be made to amplify, valorize and recognize teachers' professional and pedagogical judgement through the promotion of policies and practices aimed at elevating the status of teachers, including through decent working conditions and remuneration.
3. Taking into account the scope and depth of societal and structural changes we have seen over the past year, and the demands and responsibilities now placed on schools and teachers in today's rapidly changing, multi-cultural societies, the Joint Committee also recommends that the Governing Body of the ILO and the Executive Board of UNESCO request their respective Secretariats to prepare an analysis of the ILO–UNESCO Recommendation concerning the Status of Teachers, 1966, and the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel, 1997, to identify new areas related to teachers and teaching which could serve as the basis for a possible revision of these instruments. Such an analysis should also set out the procedural possibilities for revising the instruments, for future possible consideration by the Governing Body of the ILO and the Executive Board of UNESCO.