



# Convention on the Elimination of All Forms of Discrimination against Women

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**Committee on the Elimination of Discrimination  
against Women**

## **Information received from Chile on follow-up to the concluding observations on its seventh periodic report\***

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\* The present document is being issued without formal editing.



## A. Follow-up information relating to paragraph 13 (a) of the concluding observations

1. The draft law on the right of women to a life free from violence (bill No. 11077-07) is currently under discussion. This bill aims to prevent, punish and eradicate any kind of violence against women by regulating protection mechanisms, access to justice and care for those who are victims of violence, both in the public and private spheres. It is at the second stage of review in the Senate as an urgent matter.

2. In addition, there are currently several draft laws in the pipeline that are seeking to end various forms of discrimination against women. These include:

- A draft law to end discrimination that prevents women from entering into marriage 270 days before the dissolution of marriage through divorce, annulment or death (bill No. 11126-07). It is at the second stage of review for immediate discussion in the Senate.
- A draft law establishing equal rights for men and women to administer marital assets and personal property (bill No. 7567-07). It is at the second stage of review in the Senate.

3. In constitutional matters, there is a draft law that seeks to reform the Constitution to establish the duty of the State to promote equal rights between men and women. The bill was submitted with a message from the President of the Republic, Sebastián Piñera, on 29 May 2018. It is currently at the second stage of review in the Senate Committee on the Constitution, without urgency for the time being, while the constitutional process plays out.

4. The constitutional reform arose based on the premise that the Constitution is the supreme norm of all institutional order. In that regard, it contains the social and political agreements that govern the coexistence and development of society. Among these agreements, a fundamental one is the equal rights and dignity of men and women. While enshrining this equality, the reform provides that the State must promote it.

5. Furthermore, as this principle is enshrined in article 1 of the Constitution, it has been established as a constitutional interpretive criterion that has become a basic component of our Republic's institutional structures. The equality of rights and duties between women and men is thus a normative and political statement of the first order – one as important as considering Chile a republican democracy.

6. The constitutional reform would have several effects. The first consequence is that all acts of the State must comply with the duty of equal rights and dignity between men and women. This means making every legal effort necessary to overcome the discrimination that exists today. In this regard, the Gender Equity Agenda should be understood to include the reform of marital partnerships and the elimination of impediments to remarriage. It also provides an element that is useful in resolving judicial disputes with the State and an argument for future legal initiatives.

7. The proposed reform assigns the State a new constitutional "duty" to be carried out by all its organs. The State shall "promote" equality, which is the correct verb from the constitutional point of view, since it is the one used in the relationship between the State and human rights, as is the case in article 5: "It is the duty of the organs of the State to respect and promote such rights".

8. The main consequence of equal rights and dignity is to prevent all abuse, violence and arbitrary discrimination. "Arbitrary" discrimination, which in this context is gender-based discrimination that violates a person's dignity or human

rights, is prohibited. In no case does this mean ignoring the natural differences between men and women or prohibiting different treatment, such as in the workplace measures in support of motherhood, for example.

9. It is important to realize that, owing to the constitutional process under way in Chile, the processing of this bill has been suspended pending the results of the plebiscite of 26 April 2020.

## **B. Follow-up information relating to paragraph 13 (b) of the concluding observations**

10. The draft law on the right of women to a life free from violence does not directly refer to specific judicial complaints in cases of discrimination. It is only indicated, in a general way, in article 8 of the draft law, that: “When the organs of the State develop policies, plans and programmes or other acts related to violence and its diverse manifestations, within the framework of their competencies, they shall promote the adoption of measures conducive to the prevention of violence against women at the national, regional and local levels, which shall be geared towards the eradication of violence and its causes”. Among the prevention measures that are indicated are:

- “To promote a civic culture of reporting violence against women and its complete rejection.
- Sensitization of the media in order to promote a civic culture of reporting violence against women and its complete rejection”.

11. With regard to training for the judiciary in cases of discrimination against women, article 6 of the draft law provides for training only with regard to the particular duties that the State has in respect of women’s rights, establishing that the Ministry for Women and Gender Equity shall provide guidelines and directives for the development of training on violence against women, and noting in particular that the judiciary, the Public Prosecutor’s Office, the Carabineros, the criminal investigation police and the legal assistance agencies shall consider such guidelines in training for their authorities and personnel involved in providing care for victims.

12. While partially containing the issue of training for the judiciary in some provisions, the draft law does not specifically refer to training on women’s issues with respect to lesbian, gay, bisexual, transgender and intersex persons. However, article 1 states that this law also aims to prevent, punish and eradicate violence against women, regardless of their sexual orientation, gender identity and appearance.

13. Although there is no specific judicial complaint mechanism for cases of discrimination against women, in 2012 Chile adopted the Anti-Discrimination Act (No. 20,609), popularly known as the Zamudio Act. The Act aims to institute a judicial mechanism that makes it possible to effectively restore the rule of law whenever an act of arbitrary discrimination is committed.

14. Article 2 of the Act defines arbitrary discrimination as follows: “For the purposes of this Act, arbitrary discrimination means any unreasonable distinction, exclusion or restriction effected either by agents of the State or by private individuals that entails deprivation of, interference with or threats to the legitimate exercise of the fundamental rights established in the Constitution or in the international human rights treaties ratified by Chile that are in force, particularly when such unreasonable actions are based on such grounds as race or ethnic background, nationality, socioeconomic status, language, political views or ideology, religion or belief, membership or non-membership of a trade union or professional organization, sex,

maternity, breastfeeding, nursing, sexual orientation, gender identity, civil status, age, filiation, personal appearance, illness or disability.”

15. On 2 May 2019, an amendment was made to the first paragraph of article 2 of the Zamudio Act (No. 20,609), which establishes measures against discrimination, to include the phrase “maternity, breastfeeding, nursing” after the word “sex”.

16. The second citizens’ consultation on discrimination, launched on 26 December 2019, was national, voluntary, anonymous and non-binding in nature and aimed at updating perceptions and raising public awareness of discrimination in the country. It was available for 30 days at [www.yoterespeto.cl](http://www.yoterespeto.cl) in Spanish, Mapudungun, Aymara, Rapan Nui and Creole. It will be available in Spanish throughout the country in physical format.

17. The consultation will be directly implemented through joint outreach work between the regional ministries and provincial governments. The questionnaire has a total of 15 closed questions, identical to those of the previous consultation, which was developed in 2013.

18. The delivery of results will consist of a quantitative analysis and a final report, with a minimum deadline of eight weeks after the delivery of the inputs, to be carried out by the Public Policy Centre of the Pontifical Catholic University of Chile.

### **C. Follow-up information relating to paragraph 17 (b) of the concluding observations**

19. The fourth national plan on the equality of men and women for the period 2018–2030 is a planning and management tool that helps to ensure compliance with the gender commitments undertaken by the Chilean State and with the legal and legislative frameworks adopted to guarantee women’s rights. The plan also helps to monitor compliance and alignment with the aims of substantive equality and autonomy for women and the gender goals and objectives included in the various ministries’ policies, plans and strategies in the context of the Sustainable Development Goals and the 2030 Agenda, the implementation of which by the State constitutes a global commitment and challenge.

20. The Ministry for Women and Gender Equity drew up the Fourth Gender Equality and Equity Plan (2018–2030), providing continuity with the previous plans developed by the National Service for Women and Gender Equity (Equal Opportunities Plans 1994–2000; 2000–2010; 2010–2020). In developing the plan, the Ministry wished to ensure the involvement of civil society. It therefore organized meetings with a wide range of women countrywide representing diverse realities (including trade unionists, domestic workers, girls and adolescents, immigrant, refugee, rural and indigenous women, lesbian and transgender women, women of African descent, young and older women, women heads of household, women entrepreneurs, students, women with disabilities and women prostitutes or sex workers), as well as meetings with non-governmental organizations and academic bodies, to gain insight into the challenges facing the country in achieving gender equality.

21. The budget allocated to the Ministry for Women and Gender Equity (including the Office of the Undersecretary and the National Service for Women and Gender Equity) is presented below:

Year	Activities	<i>Budget subheadings (in thousand pesos)</i>	
		21 Staff costs	22 Consumption of goods and services
2017	Methodological design and structure of the plan, national consultation process, and preparation of the document with goals, targets, strategies and resources of the plan	14 323 869	4 841 594
2018	Women's agenda implementation follow-up plan	15 329 151	4 908 394
2019	Design of a monitoring system for the follow-up plan	15 948 171	4 828 597
2020	Follow-up plan	16 967 207	4 828 597

22. The Ministry has managed the resource requirements to achieve the expected accomplishments for the design, implementation and follow-up by 2030. The budget allocated in each of the years is guaranteed to advance the objectives, goals and indicators of the Fourth Equality Plan.

23. The implementation, follow-up and evaluation of the national plan on the equality of men and women has required the deployment and application of initiatives to achieve its objectives, goals and indicators. These include those mandated by law:

- Design of policies, plans and programmes generating coordination between State administrative bodies at the national, regional and local levels.
- Implementation of specific plans and programmes in coordination between State administrative bodies at the national, regional and local levels.
- Mainstreaming a gender perspective into the policies and plans of various ministries and services at the national and regional levels.
- International treaties on women's human rights and gender equity, ratified by Chile and in force, especially those relating to the elimination of all forms of arbitrary discrimination and violence against women.
- Cooperation with international organizations devoted to women's human rights and gender equity, without prejudice to the powers of the Ministry of Foreign Affairs.
- Sectoral and intersectoral coordination of public sector agencies in the formulation and incorporation of gender criteria in their policies and programmes, evaluations and planning processes at the national, regional and local levels.
- Collaboration and cooperation agreements with public and private, national and international organizations.
- Public information systems on compliance with and enforcement of existing gender equity regulations.
- Studies and research necessary for the implementation of the plan, both in-house and those of other administrative bodies.
- Training of public officials in gender and public policy matters.
- Diagnosis of gender indicators and ensuring their incorporation into social and economic development planning and in the administration of the State.
- Reports on the situation of women, the exercise of their human rights and gender equity at the national, regional and local levels.

- Communication campaigns at the national, regional and local levels for the promotion and dissemination of the main gaps, inequities and barriers to the full exercise of women's rights.
- Legal reforms to ensure that gaps, barriers and inequities in legislation are reduced.

#### **D. Follow-up information relating to paragraph 25 (b) of the concluding observations**

24. The Ministry for Women and Gender Equity in the Government of President Sebastián Piñera understands that a comprehensive and integral definition of violence is indispensable for the protection and increased empowerment of all women. It has therefore accelerated the adoption of the draft law on the right of women to a life free from violence as a high priority. As of 20 January 2020, the draft law is at the second stage of review in the Senate Women's Committee as an urgent matter.

25. The objective of the draft law is twofold. The first relates to improving institutional responses to victims of domestic violence, both for women and for other people in particularly vulnerable situations. To achieve this objective, the draft law aims to strengthen intersectoral work and promote coordinated actions among the various actors involved in preventive and protection work and the provision of assistance to people more likely to be victims of violence owing to their vulnerability. Towards the same end, it regulates new figures aimed at recognizing the different forms of violence against women, children, adolescents, older persons and persons with disabilities, and improves procedural aspects whose limitations have resulted in a deficit in the protection of the rights of victims of violence, among other relevant issues.

26. The draft law is geared towards all women, “regardless of their age, marital status, ethnicity, language, religion or belief, ideology and political opinion or other views, national or social origin, affiliation, socioeconomic status, employment status, level of education, pregnancy, sexual orientation, gender identity, appearance, health status, migrant or refugee status, disability of any kind or any other condition”. This is a significant advance in incorporating both human rights and gender perspectives, in recognizing that violence against women stems from historically unequal relations between men and women, and in acknowledging the need, from the human rights perspective, to provide special protection to certain groups of the population who face specific vulnerabilities to their rights, such as living a life free of violence.

27. It is important to note that the presidential message on the draft law highlighted the intersecting nature of violence and discrimination. It was pointed out that “violence against women is not a new phenomenon in our country. On the contrary, it is perhaps the harshest reflection of a discriminatory culture that validates historically asymmetrical relations between men and women”. It was also mentioned that the “most extreme form of violence against women, evidence of the discrimination that they have historically suffered, is femicide”. The same message sought to “make it clear that this is not a problem between individuals, but rather a reflection of a social and cultural structure that discriminates against women”.