



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### List of issues prior to submission of the seventh periodic report of Chile\*, \*\*

#### A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please provide information on the processes in place for implementing the recommendations contained in the Committee's preceding concluding observations (CCPR/C/CHL/CO/6).
2. Please report on any other significant developments in the legal and institutional framework for the promotion and protection of human rights that have taken place since the adoption of the preceding concluding observations, including examples of cases in which the provisions of the Covenant have been referred to by national courts.

#### B. Specific information on the implementation of articles 1–27 of the Covenant, including with regard to the previous recommendations of the Committee

##### Constitutional and legal framework within which the Covenant is implemented (art. 2)

3. With reference to the preceding concluding observations (para. 5), please indicate whether consideration has been given to withdrawing the declaration made by the State party upon its accession to the Optional Protocol to the Covenant on an individual communications mechanism and the reservation made upon its ratification of the Second Optional Protocol, aiming at the abolition of the death penalty.

##### Counter-terrorism measures (arts. 2, 14 and 26)

4. In the light of the preceding concluding observations (para. 7) and the information contained in the State party's second follow-up report (CCPR/C/CHL/CO/6/Add.2, paras. 2–6), please provide information on: (a) the current status of the bill which defines terrorist acts and the penalties related thereto and which would amend the Criminal Code and the Code of Criminal Procedure (Bulletin No. 9692-07, merged with Bulletin No. 9669-07); and (b) the current content of the bill, including the definition of terrorism that it sets forth if, in fact, the proposals mentioned in the second follow-up report

\* Adopted by the Committee at its 126th session (1–26 July 2019).

\*\* Unless otherwise indicated, paragraph numbers in parentheses refer to the Committee's preceding concluding observations (CCPR/C/CHL/CO/6).



(CCPR/C/CHL/CO/6/Add.2, para. 3) were incorporated into it, and the length of pretrial detention and the terms of imprisonment stipulated for cases of terrorism. Please also provide information on measures taken to ensure, in law and in practice, that persons charged with terrorism offences are afforded all procedural guarantees under article 14 of the Covenant.

5. Taking into consideration the information contained in the second follow-up report (CCPR/C/CHL/CO/6/Add.2, paras. 5 and 6), please provide updated statistical information on the implementation of the Counter-Terrorism Act (No. 18314), disaggregated by sex, age and ethnicity of the persons tried and/or convicted, and specify the acts investigated, the charges brought and the judgments handed down.

**Non-discrimination, equal rights for men and women (arts. 2, 3, 17 and 26)**

6. Please provide statistical information on: (a) complaints of discrimination received during the period under review, along with an indication of the alleged basis of discrimination, the nature of the investigations conducted and their outcome, and any redress provided to victims; and (b) the application of the aggravating circumstances specified in article 12 (21) of the Criminal Code.

7. In the light of the Committee's preceding concluding observations (para. 14), please provide updated information on the nature and impact of the measures taken, including awareness-raising campaigns, to prevent and combat violence and discrimination based on sexual orientation or gender identity, including in the education system, and to prosecute and punish those responsible. Please also provide information on: (a) the steps taken to repeal article 373 of the Criminal Code, which provides for criminal penalties for anyone who "offends against decency or morality", as recommended by the Committee in its preceding concluding observations (para. 14), and on whether the article has been invoked during the reporting period for the purpose of arresting, prosecuting and/or convicting individuals on the basis of their sexual orientation or gender identity; (b) the current status of the same-sex marriage bill (Bulletin No. 11422-07); and (c) the current status of the bill to repeal article 365 of the Criminal Code (Bulletin No. 6685-07).

8. Regarding Act No. 21120, which recognizes and protects the right to gender identity, please: (a) specify what resources are available to enable persons between the ages of 14 and 18 years to make use of the procedure for changing their registered name and registered sex in the event that their legal guardians refuse to submit a request to that effect; and (b) comment on the compatibility of article 19 – which provides for a procedure for ending a marriage, irrespective of whether or not the spouses wish to maintain their marriage bond, when the person applying to change his or her registered name and registered sex is married – with the provisions of the Covenant, in particular articles 17 and 26.

9. With reference to the preceding concluding observations (paras. 11–13), please provide the following information for the period under review:

(a) Steps taken to adopt legislation that explicitly upholds the principle of equality between men and women;

(b) Legislative measures adopted to modify the current community property regime so as to ensure that men and women enjoy full equality of rights under the marital property regime;

(c) Efforts made to increase the representation of women, including indigenous women, in the public and private sectors, particularly in decision-making positions, and the results achieved;

(d) Measures taken to guarantee that women and men receive equal pay for work of equal value and the impact of those measures, including steps taken to enforce Act No. 20348, and the current status of the two legislative initiatives on equal pay that were launched in 2018 (Bulletins Nos. 12005-07 and 11629-13).

**Violence against women (arts. 2, 3, 6, 7 and 26)**

10. With reference to the preceding concluding observations (para. 16), please provide updated information on the nature and impact of the progress made with regard to the prevention and punishment of violence against women, including domestic violence. In this respect, please include the following information for the reporting period:

(a) Statistical information, disaggregated by age, nationality and ethnic group, on the number of registered complaints concerning any of the various forms of violence against women, the investigations of those complaints and their results, including any sentences handed down to the perpetrators of such acts, and the redress provided to victims;

(b) Steps taken to remove the criterion of “habitual ill-treatment” from the Domestic Violence Act;

(c) The current status and content of the bill on the right of women to a life free of violence (Bulletin No. 11077-17);

(d) Measures taken to expand the definition of femicide to include all gender-motivated killings of women;

(e) Efforts made to provide gender-sensitive training to all judicial and law enforcement personnel;

(f) Steps taken to increase the number of law enforcement officials, prosecutors and judicial personnel who specialize in dealing with violence against women.

**Voluntary termination of pregnancy and reproductive rights (arts. 3, 6, 7, 17 and 26)**

11. With reference to the preceding concluding observations (para. 15) and the Committee’s evaluation of the State party’s first follow-up report (CCPR/C/119/2), please indicate whether measures have been adopted to see to it that the circumstances under which Act No. 21030 permits the voluntary termination of pregnancy include cases in which the pregnancy is the result of incest and cases in which the health of a pregnant woman is endangered. Please also provide information on the nature and impact of the measures taken to ensure that women have prompt and effective access to legal pregnancy termination procedures throughout the country. Kindly also indicate what steps have been taken to inform the general public how to gain access to a legal termination of pregnancy and specify whether institutional conscientious objection is allowed under the existing legal framework. Please include statistics for the period since the adoption of Act No. 21030 on the number of cases in which legal abortions have been performed and the number of cases in which requests for such procedures have been denied; in the latter case, please also explain the reasons for those decisions. Please also indicate if there were any abortion cases subject to criminal prosecution.

12. With reference to the information contained in the second follow-up report (CCPR/C/CHL/CO/6/Add.2), please provide updated information on: (a) steps taken to ensure prompt and effective access to sexual and reproductive health services throughout the country; (b) educational and awareness-raising measures taken with regard to sexual and reproductive health, including in educational establishments; and (c) the impact of measures taken to prevent teenage pregnancy.

**Children with variations of sex characteristics (intersex) (arts. 7, 17, 24 and 26)**

13. Please report on the measures adopted to prohibit the performance of irreversible surgery or other unnecessary medical procedures on intersex newborns and children in both public and private health centres until they have reached an age at which they are able to give their free, prior and informed consent. Please comment on reports that, in some cases, the Civil Registry has refused to register newborn babies whose sex was classified as “undefined” by medical staff.

**Right to life, prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 6 and 7)**

14. With reference to the preceding concluding observations (paras. 8 and 9) please:

(a) Provide updated information on the progress of investigations into the human rights violations committed during the military dictatorship. In doing so, please include statistics on the judgments pronounced by the courts, the sentences handed down to the perpetrators and the amount of time effectively served, including cases in which prison privileges that reduced the time spent in prison were granted;

(b) Indicate whether steps have been taken to repeal or amend article 103 of the Criminal Code so as to ensure that it is not applied to serious human rights violations and whether any sentences were reduced as a result of the application of the article during the period under review;

(c) Provide information on the progress made towards the adoption of the bill aimed at enabling courts to access documents, witnesses' accounts and records submitted by victims to the National Commission on Political Prisoners and Torture (Bulletin No. 10883-07);

(d) Provide information on steps taken to repeal the Amnesty Act (Decree-Law 2191);

(e) Provide information on measures adopted to ensure that all victims of human rights violations committed during the dictatorship receive full reparation.

15. With reference to the preceding concluding observations (para. 17), please provide information on the steps taken to extend the statute of limitations for torture offences. In the light of the preceding concluding observations (para. 18) and the promulgation of Act No. 21154, which designates the National Human Rights Institute as the national mechanism for the prevention of torture, please also provide information on the measures taken to ensure that the mechanism is implemented expeditiously and has the financial and human resources needed to fulfil its mandate effectively.

16. With reference to the preceding concluding observations (para. 19) and the information supplied by the State party in its two follow-up reports (CCPR/C/CHL/CO/6/Add.1, paras. 42–65, and CCPR/C/CHL/CO/6/Add.2, para. 28), please provide updated information on the nature and impact of the efforts made to prevent and eliminate torture and ill-treatment. In this regard, please include the following updated information for the reporting period:

(a) Steps taken to strengthen human rights training for law enforcement and security officials and the percentage of such officials who received training;

(b) Measures taken to review operating procedures for law enforcement personnel;

(c) Statistics on complaints of torture or ill-treatment, including sexual violence, allegedly committed by law enforcement and security officials. Indicate whether any of these complaints related to events that occurred in the context of social protests involving either students or indigenous communities, or during raids or arrests of members of the Mapuche people. Include statistics on the investigations conducted and their outcome, the sentences handed down to the perpetrators and the redress provided to victims.

17. Please provide information on any complaints received during the reporting period about the excessive use of force by law enforcement personnel in the context of social protests, particularly ones involving students or indigenous communities; the investigations conducted and their outcome, including the penalties imposed on the perpetrators; and the redress provided to victims. Please include updated information on the efforts made to prevent and effectively eliminate all forms of excessive use of force.

**Treatment of persons deprived of their liberty (art. 10)**

18. Taking into consideration the preceding concluding observations (para. 21), please provide updated information on:

(a) The accommodation capacity of places of deprivation of liberty, including juvenile detention centres, and the number of inmates actually housed;

(b) The number of persons in pretrial detention and the percentage of the total number of persons deprived of their liberty who are being held in pretrial detention;

(c) The nature and impact of the measures taken to improve prison conditions, reduce overcrowding and meet the basic needs of all persons deprived of their liberty, particularly in terms of access to adequate health and hygiene services, including for pregnant women, and adequate, uninterrupted access to drinking water and water for other uses related to prisoners' hygiene;

(d) Steps taken to review the use of isolation cells as a disciplinary measure and restrict it to exceptional circumstances and strictly limited periods and the steps taken to ensure that, if such cells are used, they meet adequate sanitation and hygiene standards. In this regard, please include information on the use of isolation cells, including the average length of time for which prisoners are held in such cells.

**Trafficking in persons (art. 8)**

19. With reference to the preceding concluding observations (para. 20), please provide information on the efforts made during the period under review to prevent and eradicate trafficking in persons, including domestic trafficking, and on the results of these efforts. In doing so, please include updated information on the scope of human trafficking in the State party; the training activities organized for law enforcement, judicial and migration officials; and measures taken to offer protection, rehabilitation, reparation and reintegration services to victims, including the number of shelters available in the country. Please also provide statistics for the reporting period on the number of complaints of trafficking in persons that were received, the investigations conducted and their outcome, including the sentences handed down to the perpetrators.

**Right to a fair trial and independence of the judiciary (art. 14)**

20. Please indicate the measures taken to strengthen the independence of judges and prosecutors. Also describe the governance bodies that appoint, promote, discipline and remove judges and prosecutors and the procedures they employ for doing so. In the light of the preceding concluding observations (para. 22) and the adoption of Act No. 20968, please also provide information on the progress made in limiting the jurisdiction of the military courts to crimes of a strictly military nature committed by military personnel in active service and in ensuring that all human rights violations, without exception, including those committed by military personnel against other military personnel, are explicitly excluded from military courts' jurisdiction.

**Treatment of aliens, including refugees and asylum seekers (arts. 12, 13 and 14)**

21. In the light of the preceding concluding observations (para. 23), please provide information on the steps taken to: (a) review the Aliens Act and ensure that the relevant legislation fully upholds the rights protected under the Covenant; (b) ensure that persons subject to deportation proceedings benefit from an effective right to be heard and have proper representation and sufficient time to lodge appeals against expulsion decisions; and (c) do away with the practice of confiscating migrant workers' identity documents when they are found to have violated migration laws. Please also provide information on the measures taken to ensure access to efficient refugee status determination procedures and full respect for the principle of non-refoulement when there are substantial grounds for believing that a real risk of irreparable harm exists, including in border areas.

**Freedom of thought, conscience and religion (art. 18)**

22. Please provide information on the steps taken to act upon the Committee's recommendation regarding the adoption of legislation that recognizes the right of conscientious objection to military service (para. 24).

**Measures to protect children (arts. 7 and 24)**

23. Please provide information on the progress made in the implementation of the "Chile Reconoce" ("Chile Recognizes") project, indicating whether there are still children born in the State party to non-resident aliens who have not been granted Chilean nationality.

24. Please provide information on the nature and impact of the measures taken to prevent, combat and punish all forms of violence and abuse, including sexual abuse, against children and adolescents who are wards of the State, whether they are housed in directly administered specialized remedial centres or are in the care of accredited partner agencies. Please also provide information on the current status and content of the bill that would establish a system of guarantees for the rights of children (Bulletin No. 10315-18), in particular with regard to the protection of children from violence.

**Rights of indigenous peoples (art. 27)**

25. Bearing in mind the Committee's preceding concluding observations (para. 10), please provide the following information for the period under review:

(a) Progress made in the constitutional reform process entailing the recognition of indigenous peoples, indicating what consultations have been held in this respect and what their outcome has been;

(b) The current status of the bill that would authorize the establishment of the National Council of Indigenous Peoples and indigenous peoples' councils (Bulletin No. 10526-06) and of the bill providing for the creation of the Ministry of Indigenous Peoples (Bulletin No. 10687-06). In this respect, please provide information on the nature and outcome of consultations held with indigenous peoples about these bills;

(c) Steps taken, including the review of Supreme Decree No. 66 in consultation with indigenous peoples, to establish an effective consultation mechanism in line with the principles set forth in article 27 of the Covenant and with a view to obtaining indigenous peoples' free, prior and informed consent before the adoption and application of any measure that may have a substantial impact on their way of life and culture;

(d) Information on the consultation processes undertaken, particularly in relation to investment projects that may directly affect indigenous peoples;

(e) Measures taken to uphold the right of indigenous peoples to their ancestral lands, including information on the progress achieved with regard to land restitution.

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