



**Convention on the
Rights of the Child**

Distr.
GENERAL

CRC/C/SR.1305
31 January 2008

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-seventh session

SUMMARY RECORD OF THE 1305th MEETING*

Held at the Palais Wilson, Geneva,
on Monday, 28 January 2008, at 10 a.m.

Chairperson: Ms. AIDOO
(Vice-Chairperson)

CONTENTS

CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of Chile under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Initial report of Chile under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

* No summary records were prepared for the 1303rd and 1304th meetings.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 5) (continued)

1. At the invitation of the Chairperson, the members of the delegation of Chile took places at the Committee table.
2. Mr. MARTABIT (Chile), referring to the Optional Protocol on the sale of children, child prostitution and child pornography, said that State institutions had cooperated with civil society to prevent the commercial sexual exploitation of children and adolescents. In 1999, the Government had formulated the Framework for Action against the Commercial Sexual Exploitation of Children and Adolescents in order to tackle the problem more effectively.
3. The scope of existing legislation in respect of sexual offences against children had been extended. For example, measures had been taken to ensure that children did not come face to face with their aggressors when they gave evidence, and more severe penalties had been introduced for those convicted of the illicit trafficking or adoption of minors, particularly when the perpetrator was a person in a position of responsibility, such as a doctor or social worker. In order to protect child workers, a new law had been passed that defined work of a dangerous nature, restricted the working hours of children under 15, and stipulated that schooling should remain compulsory. Since submitting its previous periodic report, Chile had prohibited corporal punishment in the home, and family tribunals were now competent to take measures to protect children from that practice.
4. The National Service for Minors (SENAME), together with international organizations and civil society, provided care for victims of the sex trade, and some 1,510 children had been treated as part of 11 specialized regional recovery programmes. It was hoped that the number of recovery programmes would be increased in the near future. Regional Victims and Witnesses Units, staffed by teams of professionals, had been established to provide social, psychological and legal assistance to child victims of prostitution in particular. The staff of the regional units had received intensive training, enabling them to upgrade their skills and exchange experiences.
5. A joint initiative, “Navega Seguro”, had been launched by the criminal investigation police, SENAME, the Public Prosecutor’s Office, Microsoft and a Chilean television channel in order to prevent the distribution of child pornography on the Internet and encourage secure Internet browsing. Public and private organizations had benefitted from the support of the International Labour Organization to raise awareness of commercial sexual exploitation. In 2007, the criminal investigation police had carried out a campaign to highlight the role that sex workers could play in preventing human trafficking.
6. The Government was taking steps to protect migrants’ rights, guarantee their access to health care and education, and promote their social, economic and cultural integration. If migrants received the same treatment as the rest of the population, they would be less likely to suffer social exclusion or fall victim to labour exploitation and trafficking.
7. Turning to the Optional Protocol on the involvement of children in armed conflict, he said that Act No. 20,045 on the modernization of compulsory military service meant that, during the recruitment process, preference was given to men over 18 who wished to join voluntarily.

Compulsory enlistment would be required only in exceptional circumstances, and for women, military service was always voluntary. Children under 18 were not allowed to participate in armed conflict under any circumstances, and the authorities were not permitted to lower the minimum age for recruitment, even in a state of emergency.

8. Access to arms was controlled by a specific arms control law that stipulated the conditions for possessing and carrying a weapon. Severe penalties were imposed on those who carried firearms or traditional weapons which had had their serial number effaced.

9. The Government attached great importance to the contribution made by NGOs and other partners in civil society, which were a valuable source of information when it came to implementing measures to protect children's rights and reviewing the human rights situation. His delegation would listen carefully to the Committee's recommendations in order to further improve the situation of children in Chile.

Initial report of Chile under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/CHL/1, CRC/C/OPAC/CHL/Q/1 and Add.1)

10. Mr. ZERMATTEN (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) welcomed the fact that children under 18 could not be recruited into the armed forces. However, paragraph 2 of the written replies contained in document CRC/C/OPAC/CHL/Q/1/Add.1 stated that, in times of war, the President could call upon all persons, regardless of sex or age limit, to be employed in the different services that the nation required. That appeared to contradict the remarks made by the head of the delegation, and the Committee would welcome clarification on the matter.

11. The completion of the fourth year of secondary education was not a sufficient condition for entering military service, as some children might not have reached the age of 18 by that time. Although such a practice was not in breach of the provisions of the Convention, it was preferable to set the age limit at 18, particularly if there was no shortage of voluntary recruits.

12. He asked what measures had been taken to disseminate information about the Convention and the Optional Protocols. In its previous concluding observations, the Committee had recommended that Chile establish an independent institution for protecting human rights. It would be useful to know what steps, particularly legislative ones, had been taken by the State party in that regard.

13. Chile should introduce provisions to criminalize the recruitment and use of children in armed conflicts, because there was a risk that Chilean children would be recruited into non-official armed groups on foreign territory. It was interesting to note that Chile had begun to receive child refugees from Colombia and Palestine who had been involved in armed conflict in Iraq. He wondered what specific measures were in place to reintegrate such children. He enquired whether Chile had made progress with ratifying the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

14. Ms. KHATTAB said that, according to information at the Committee's disposal, certain pre-military schools admitted children from the age of 12 and trained them in the use of firearms. The delegation should confirm whether that information was correct, and whether children enrolled in such schools as a means of earning a living.

15. Mr. PURAS asked whether training in pre-military schools focused primarily on military discipline. The delegation should indicate who was responsible for protecting children's rights in such institutions, and how they prevented harmful practices from being inflicted on children, either by staff or by other children. It would be interesting to learn how many cases had been brought in recent years as a result of children's rights being violated, and how such cases had been managed.

16. Ms. ORTIZ asked if there were any complaint mechanisms in place for children in pre-military schools. If such children were victims of abuse or ill-treatment, or if they committed offences themselves, would they come under the jurisdiction of civilian or military courts? Did Chile intend to appoint a children's ombudsman? She requested disaggregated data on the socio-economic identity and origin of children enrolled in pre-military schools, in order to ascertain whether or not poverty was a prime motivator for children to engage in such activities.

17. Mr. CITARELLA requested clarification regarding the minimum age and length of service for voluntary enlistment into the armed forces, as there had been reports of 16 and 17 year olds volunteering for military service. Turning to weapons, he asked for information on the precise regulations and penalties applying to the sale of weapons to children.

18. Mr. POLLAR asked whether it was true that children recovered by the police from traffickers were treated more as juvenile delinquents than victims. He also asked for information on the Batallón Pampa Germania institution and whether there were safeguards to ensure that its students did not participate in practices prohibited under the Convention.

19. Mr. FILALI asked whether article 69 of the Armed Forces Recruitment and Mobilization Act, or any other law, drew a distinction between civil and military defence. As for the Luíz Cruz Martínez pre-military school, what was meant by it being "accredited" by the Ministry of Defence? Were there any other ties with the Ministry of Defence, such as the provision of funding, military instructors or work experience placements in military installations, where students would be in contact with military personnel?

20. The CHAIRPERSON asked whether human rights training for peacekeepers included coverage of the provisions of the Convention, and specifically the Optional Protocol on the involvement of children in armed conflict. Were peacekeepers specifically trained to protect and assist children in the conflict zones where they operated? On the issue of asylum-seeking refugees, were there any procedures for identifying children who might have been involved in armed conflict?

The meeting was suspended at 10.55 a.m. and resumed at 11.10 a.m.

21. Mr. GRIOTT (Chile) said that children in Chile could gain access to military training in two ways. The first was by enrolling in a military school, subject to the requirement that the applicant should have completed the fourth year of secondary education, generally at the age

of 18. In any case, persons under the age of 18 could not be mobilized, which meant that under no circumstances could they take part in an armed conflict or state of emergency. The second possible route to military training was through military service. However, the laws of registration for compulsory military service effectively prevented those under 18 from being selected. Anticipatory enlistment, at the age of 17 years, was possible under an exceptional regulation, but no one aged 16 could enlist. That regulation also provided that such recruits could not be mobilized in a situation of conflict until they reached 18 years of age.

22. Mr. MARTABIT (Chile) stated categorically that 17 year olds had never been mobilized, even in exceptional circumstances. There were cases, however, of children spontaneously helping the local community in civil emergency situations, such as earthquakes, floods or tidal waves, but in no case was there compulsory recruitment for such manoeuvres.

23. Mr. ZERMATTEN (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) said that, nevertheless, the formulation of article 69 read: “in times of war, the President of the Republic can call upon all persons, regardless of ... age limit ...”. He said that it would not be difficult for Chile to modify that law so as to eliminate any confusion with respect to the specific provisions of the Optional Protocol.

24. Mr. FILALI asked whether children of 17 who volunteered for anticipatory enlistment required the consent of their parents.

25. Mr. GRIOTT (Chile) said that since 2006 there had been no compulsory recruitment as such, because all 16,000 places available had been filled with volunteers. Parental consent was required for any persons enlisting aged 17 and they must be volunteering in exceptional circumstances.

26. Mr. MARTABIT (Chile) said that military service was still compulsory but only one third of young people called up for military service were actually accepted. Out of approximately 40,000 recruits called up each year, only 16,000 were required and the new legislation ensured that those 16,000 were selected on the basis of the conscripts’ desire to enlist and the wishes of their parents. Military service was seen by some as a life opportunity, offering skills training and education. Others, such as university students, did not wish to interrupt their studies and so were exempt from military service.

27. Ms. SMITH commended Chile on its system for enlistment into the military service but said that its legislation should clearly prohibit the compulsory conscription and mobilization in a situation of conflict of any person under 18.

28. Ms. ORTIZ asked whether Chile intended to make military service voluntary rather than compulsory, given that only a third of young people were actually called up.

29. Mr. GRIOTT (Chile) said that, since 2006, military service had effectively been entirely voluntary because there were more conscripts than places available, so it was unnecessary to change the law. However, the Government of Chile was considering the establishment of a professional army and a bill in that regard was currently under review by the National Congress.

30. Mr. FILALI expressed concern about the status of those who had not been accepted for military service. Under Chilean law, were they considered to have fulfilled their military service obligation and were they therefore immune to prosecution in the future?

31. Mr. GRIOTT (Chile) said that those who had come forward voluntarily but had not been accepted were deemed to have fulfilled their obligation with respect to military service. Responding to questions regarding the Luíz Cruz Martínez pre-military school, he said that it was a unique educational establishment under the supervision of the Ministry of Education but funded by parents and other private bodies. It was totally independent of the Ministry of Defence, with no coordination of activities with the regular Chilean armed forces. Its students received two hours per week of extra-curricular military training comparable to that received by the Boy Scouts, such as the identification of ranks in the armed forces, marching practice and musical band practice. It was completely distinct from regular military schools and there was no weapons training. The school was open to the public and it was not associated with extreme poverty.

32. Mr. ZERMATTEN (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) sought details of the school's funding. Was it a truly private institution?

33. Mr. MARTABIT (Chile) said that the Luíz Cruz Martínez pre-military school should be seen within the context of a recent proliferation of private, specialized schools in Chile. They were normal secondary schools that specialized in preparing the best candidates for entry to the training schools of certain professions, for example medical schools or architectural colleges. Someone had therefore had the idea of creating a school to prepare the best candidates for entry to military schools. Like all Chilean schools, such institutions received State subsidies, which were means-tested, so that poorer families received higher subsidies. The Luíz Cruz Martínez pre-military school received no State subsidy, as it was self-funding. There was no possibility of weapons training taking place in the school because there were very strict rules governing the use of firearms in Chile, and only the armed forces and the police were authorized to carry such weapons.

34. Ms. ORTIZ said that it appeared there were several pre-military schools and the Luíz Cruz Martínez pre-military school was not unique. How many pre-military schools were there? Were students from pre-military schools given priority for entry to military schools? If pre-military schools received sponsorships from military groups like the "black berets" or the "caras pintadas", were any extra-curricular military training activities coordinated by such groups?

35. Mr. GRIOTT (Chile) said that in Chile there were no pre-military schools other than the Instituto Premilitar Luíz Cruz Martínez. The Batallón Pampa Germania was simply a programme whereby students were able to undergo military training during their studies. Participants had to meet the same criteria as anyone else in the military, including in respect of the minimum age of enrolment. Those criteria were quite stringent, and neither preferential treatment nor any form of sponsorship was given to graduates of the Luíz Cruz Martínez pre-military school.

36. Mr. MARTABIT (Chile), turning to Chile's treatment of refugees, said that, like other Latin American countries, Chile had a joint programme with the Office of the United Nations High Commissioner for Refugees (UNHCR) for the intake of refugees and had accepted nearly 1,000, mostly from Colombia. Chile had also accepted over 100 Palestinian refugees who had had to leave Iraq. Receiving countries had the right to screen applicants for refugee status, and the Chilean Government was attentive to the possibility that children in some families might have been involved in armed conflict. However, among the refugees in Chile, no such cases had yet come to light.

37. Chile was a host country for migrants, in particular from Peru and other neighbouring countries. Every two or three years the Government took steps to regularize the situation of undocumented migrants. The last time that had been done, in December 2007, some 35,000 foreigners had received documentation. The Government was constantly concerned that the presence of undocumented workers would lead to labour law violations and other abuses. As for dissemination of information, the country had social institutions that performed that task, and information on human rights and children's rights was effectively disseminated through high schools, universities and private companies.

38. Ms. CASTILLO (Chile) said that under its mandate the investigative police was obliged to make information available on the legislation in force, including in respect of the rights of the child and other human rights. Its community support department carried out specific activities for the prevention of sex crimes, including those committed against minors, and also for dissemination within the country's various educational establishments of updated information on the relevant legislation.

39. Mr. ATEAGA (Chile) said that Chile's reports to the treaty bodies were submitted to civil society organizations dealing with human rights matters, with the aim of collecting comments from such bodies and enabling them to draw up their own alternative reports.

40. Mr. MARTABIT (Chile) said that it was a source of great pride that Chile, which in the past 10 years had had extensive experience in United Nations peacekeeping operations involving the deployment of some 10,000 troops overseas, had never received any reports of serious misconduct such as sex crimes or offences related to pornography by members of its armed forces. That record reflected the importance given to human rights in the training of members of the Chilean military. Under agreements between the military and Chilean universities, and under international agreements, professors specialized in human rights and law taught courses at Chilean military academies.

41. The Government was aware of no cases of Chilean children involved in armed conflict in other countries. If any such case were to be reported, the Chilean consulate on the spot would take the steps required for the care of such a child.

42. Mr. ZERMATTEN (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict), noting that there had been some 40,000 applications for 16,000 places in the armed forces, said that the considerable interest in military service indicated that there was a risk of recruitment by non-State entities, such as security companies, which hired people to serve as soldiers in other countries. The Optional Protocol called for the State to take measures to criminalize such recruitment, regardless of whether it already existed in fact.

Such companies were considered to be legal entities in Chile, and under Chilean law, legal entities were not subject to criminal prosecution. What would the State do to bring its legislation into line with the Optional Protocol?

43. Ms. ORTIZ asked what courts would hear cases involving persons in the military aged between 16 and 18, for example if they were victims of mistreatment or if they were accused of offences. Noting that the carabineros were part of the military, she asked what courts would hear the case if a member of that force mistreated or tortured a minor.

44. Mr. INOSTROZA (Chile) said that under the statutes governing the military courts, only specific offences could be tried in those courts, and that since sexual abuse and mistreatment of minors were not among them, such cases would be heard by the regular courts and prosecuted by the Public Prosecutor's Office. Chile's gun control law, the Arms and Explosives Control Act, was quite restrictive. Certain weapons were prohibited outright. The Act also described in detail the conditions that citizens must meet to bear firearms, and established penalties for persons who violated its provisions. Minors were not permitted to bear firearms, and could not be issued with gun permits.

45. As from June 2007, a new law had established that young people had criminal responsibility from the age of 14. However, their responsibility was of a special nature, different from that of adults. For example, any penalty imposed on minors must be aimed at their full reintegration in society. Upon conviction, the child was assigned to a specialized centre for juveniles after a hearing in which the judge, the prosecutor, the defence attorney and a representative of the centre agreed on an appropriate programme. Children under 14 were not considered to be criminally responsible for their acts, including possession or bearing of firearms. If children over 14 were found to be in possession of firearms in public or at home, the case would come under the jurisdiction of the criminal courts.

46. Ms. ORTIZ, noting that drug dealers were reputed to use children for drug trafficking and to give such children weapons, asked what penalties such dealers faced, and whether the children who used weapons in such circumstances were treated as criminals or victims.

47. Mr. FILALI asked whether the military courts had to relinquish jurisdiction over a member of the military accused of a sexual offence against a minor in order for the case to be heard by a regular court. If the military courts retained jurisdiction, that would presumably prevent the minor from seeking damages in a regular court.

48. Mr. INOSTROZA (Chile) said that if a member of the military committed a sexual offence against a minor, the regular courts would be the sole body competent to hear the case. In addition, by law, if the perpetrator was a member of either the armed forces, the police or the investigative police, that would give rise to aggravating circumstances, which would entail the imposition of more severe penalties. A bill currently before Congress aimed to extend the scope of such aggravating circumstances to cover offences committed by public servants. Over and above criminal proceedings, members of the military who were found guilty of such offences also faced disciplinary or administrative penalties, which could for example include a dishonourable discharge.

49. Mr. GRIOTT (Chile) pointed out that the military courts, which in the past had been used to hear cases involving civilians, were currently undergoing a thorough reform. A bill was currently before the Congress that would except in certain very specific situations prohibit the use of military courts to hear civilian cases. There was also a commission working to replace the current inquisitorial system of criminal hearings with an adversarial one that would be based on oral arguments. Another part of the reform was aimed at ensuring the total independence of judges. If a member of the carabineros perpetrated an offence against a civilian, the regular courts were competent. However, crimes committed for example within the confines of barracks would fall under military jurisdiction.

50. Ms. COVARRUBIAS (Chile) pointed out that members of the military sentenced for crimes committed against minors also faced disqualification from public service.

51. Ms. ORTIZ, referring to a case in which 45 soldiers had frozen to death in 2005 during a military exercise on the Antuco volcano, said that she had heard that the families of the dead had had difficulty securing compensation in the military courts. While none of the soldiers had been under 18, the case raised the question of whether a minor serving in the army would be able to seek damages before a regular court.

52. Mr. MARTABIT said that the military courts had issued rulings regarding the responsibility of the officers for the deaths of the soldiers, and that severe penalties had been imposed. However, the damage claims put forward by the families had been heard in the regular courts.

53. Mr. ZERMATTEN (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) was pleased that human rights subjects were taught in the military and in the police force. It seemed clear from the delegation's comments that classes at the Luís Cruz Martínez private school were consistent with the curricula in public schools and that pupils did not learn how to handle weapons.

54. The Committee recommended that the recruitment of child soldiers should be made an offence. The question still remained as to whether Chile intended to set up the institution of the human rights ombudsman.

55. He recognized the progress made as far as taking in immigrants and legalizing their status was concerned, but recalled that in 2007, the Committee had urged the State party to ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Initial report of Chile under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
(CRC/C/OPSC/CHL/1, CRC/C/OPSC/CHL/Q/1 and Add.1).

56. Mr. FILALI (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) commended the delegation for its frank replies and sincere commitment to a transparent dialogue with the Committee.

57. He noted first that, until recently, Chilean law had not contained the offence of commercial sexual exploitation, but that a qualitative step forward had been taken recently in recognizing the existence of the phenomenon. The press often reported on the trafficking of women and children, and it had recently discussed in great detail the case of a pregnant girl who had tried to sell her unborn child through the Internet. Thus, there was a public awareness of the problem. According to the initial report, the Government had set out to review its legislation on the rights of the child, and in particular on adoption, child prostitution and child pornography. Considerable progress had been made in the area of child prostitution and child pornography, whereas there was still no definition of the offence of the sale of children as required under the Optional Protocol.

58. As to the form of the initial report, it was regrettable that the State party had not followed the Committee's Guidelines. In particular, the report should have explained how the general principles of the Convention, namely non-discrimination, the primacy of best interests of the child, the rights to life, survival and development, and respect for the views of the child, had been taken into account in the design and implementation of the measures adopted by the State party under the Protocol. It should also have contained information on the legal status of the Optional Protocol in Chile's internal law. Had the Optional Protocol become "the law of the land"? It would also be interesting to know whether judges had been informed of the content of the Optional Protocol, how it was applied and whether any court decisions had invoked the Optional Protocol.

59. A number of positive aspects were worth noting: the ratification by the State party of International Labour Organization (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, legislation in 2004 amending the Criminal Code and the Code of Criminal Procedure, Act No. 20,207 of 31 August 2007 concerning prescription for sexual abuse, initiatives to combat child prostitution, the establishment in 2004 of family courts and the introduction of a number of bills in parliament, for example concerning pornography on the Internet. He asked whether there had been any reaction in Chilean society which might have made the Government's efforts in that area more difficult and how the problem was being addressed.

60. According to paragraph 60 of the initial report, 9,194 cases concerning sexual offences had been terminated during 2005. Those figures alone were insufficient for determining the scale of the problem. He asked whether the statistics were complete: other cases had perhaps not been documented. Moreover, the report did not contain any data on adoption, the sale of children or organ transplants, and there were no statistics disaggregated on the basis of sex, region, age, nationality or ethnic origin. It would also be helpful to have some clarification on the procedures used to collect data.

61. With regard to general measures of implementation, the report did not contain any reference to how domestic legislation had been brought into line with the provisions of the Optional Protocol. Had civil society been involved in efforts to reform domestic legislation? The report also failed to give any information on judicial decisions regarding the sale of children, child prostitution or child pornography.

62. He enquired whether SENAME was a national institution, what body it reported to, how it was actually involved in the protection of children, whether it could represent minors in court and whether it played a role of ombudsman.

63. In respect of budget allocations, the report provided figures suggesting that progress had been made, but it would be useful to have further clarification so as to be certain that allocations were sufficient to ensure that all children benefited from the Optional Protocol.

64. The report referred to a number of programmes, such as the National Plan for Decent Treatment of Children, the Programme on the Prevention and Elimination of Commercial Sexual Exploitation of Children, and a programme of cooperation between Brazil and Chile on sustainable tourism and children, but no information was provided on their coordination, implementation, follow-up or assessment.

65. According to paragraph 60 of the report, many persons had been accused of sexual offences. Apparently, very few had actually been convicted, a circumstance which had an adverse impact on prevention. He also noted that sex tourism was not a separate criminal offence and that no research had been conducted on that phenomenon. It would also be interesting to learn whether the authorities had had any experience in combating Internet crime.

66. Ms. ORTIZ (Alternate Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) commended Chile on the progress made in implementing the provisions of the Optional Protocol. Thanking the delegation for its open and sincere report, she asked whether civil society as well as the various departments in the Government that were associated with the Optional Protocol had been involved in drafting it.

67. She began by referring to the recommendation, which the Committee had reiterated in its concluding observations of 2007, on the need to amend Juvenile Act No. 16,618 of 1967, Chile being one of the few countries that had still not brought its domestic legislation into line with the Convention on the Rights of the Child. Chile had adopted many initiatives for the protection of the rights of the child, but had failed to back them up with the appropriate legal framework.

68. She had been informed during a visit to the Chilean parliament that proposals to establish the office of ombudsman had remained dead letters. The Committee urged the State party to revive efforts to set up such a body, which was vital to any system for the protection of the rights of children.

69. The significant legislative reforms which had been undertaken were incomplete from the point of view of the Optional Protocol. More specific legislation was necessary. For example, the possession of child pornography or the use of children for pornographic purposes still did not constitute a crime in Chile, although the distribution of pornography was an offence. Studies conducted in a number of countries had shown that the possession of such pornography stimulated the urge to sexually abuse children. Hence the need to make possession of child pornography an offence.

70. She noted that the ILO and the International Organization for Migration (IOM) had been stepping up their work throughout Chile, but wondered how well the various initiatives had been coordinated. SENAME had many projects, but was not recognized as being the sole body responsible for implementation of the Convention or the Optional Protocol. Since SENAME did not have ministerial status, it lacked the authority to work with other ministries on an equal footing to close gaps in legislation and make other administrative changes. She expressed

concern that, despite Chile's considerable efforts, the legal framework still lagged behind. That was why there had been so few cases in which convictions had been handed down and offenders punished for commercial sexual exploitation, child prostitution and child pornography.

71. Ms. SMITH asked whether the guidelines for the treatment of child victims during trials to which the report referred were actually implemented in courts throughout the country. The Committee had received information that victims of the sale of children or child prostitution were treated as criminals. She asked whether the delegation could reassure her that that was no longer the case. She would also like to have some information on whether the authorities had been able to identify foreign children present in Chile who had been the victims of trafficking, prostitution or pornography and whether such children, who might have a well-founded fear of persecution in their country of origin, could apply for asylum.

72. Ms. KHATTAB sought further details on the Chile Solidario programme for street children, who were also a problem in her own country, Egypt, and asked whether it had been successful.

73. Ms. ALUOCH said that she would like to know what protection was provided for children in the courtroom. Specifically with regard to implementation of article 8 of the Optional Protocol, she asked whether cases involving children were heard by a family judge, whether child victims gave evidence through an intermediary or whether they were expected to do so in person, whether there was any protective cover for children giving evidence, how lawyers cross-examined child victims, whether the courtroom was in a special area and whether the judges and lawyers were robed in a child-friendly manner. When the offender was a member of the family, she enquired whether children could be removed from the home for their own protection. If so, where were they placed?

74. Mr. KOTRANE was interested to read in paragraph 27 of the written replies that under Act No. 20,207 of 31 August 2007, the period of limitation for sexual offences against minors ran from the date on which the minors in question attained their majority. That enabled children to maintain their right to take action against perpetrators. He would like some more information on Act No. 20,032 of 25 July 2005 which, as noted in paragraph 28, established a support system for children and adolescents through SENAME.

75. According to paragraph 37 of the report, the Chilean Criminal Code established a number of offences of which minors were victims. He would like to know whether the possession of pornographic material was also an offence under the Criminal Code.

76. As he understood the explanation in paragraph 38 of the report, Act No. 19,927 empowered national courts to try persons for offences committed abroad in the context of child prostitution and pornography only if the child was a Chilean national. That was in contradiction with the Optional Protocol. He enquired whether under Chilean legislation an illegal adoption was regarded as trafficking in children and whether forced labour was punished not only as a violation of labour law but also as trafficking in children pursuant to the Optional Protocol. He would also like to know more about the criminal, civil and administrative responsibility of legal persons, in keeping with article 3, paragraph 4, of the Optional Protocol.

77. Mr. CITARELLA, noting that the Optional Protocol required States parties to introduce specific offences into their criminal legislation, asked how far the implementation of that requirement had been taken. Some references had been made to the sale of children, but since Chilean legislation did not define the offence of the sale of children, he wondered what the legal effect would be of the sale of a child in Chile, what rules were applied and what the consequences were in terms of adoption and certain forms of labour.
78. Ms. VUCKOVIC-SAHOVIC, noting that the Committee's Guidelines were available on the Government's website, failed to see why it had not followed them in drafting the report.
79. More information was needed on which body coordinated efforts to ensure implementation of the Optional Protocol. She was surprised to read in paragraph 51 of the report that the Victims and Witnesses Units - teams of professionals comprising attorneys-at-law, psychologists and social workers - were attached to the Public Prosecutor's Office. Ideally, such units should report to the Ministry of Social Affairs.
80. Owing to the late hour, she would save her other questions for the next meeting.

The meeting rose at 1 p.m.