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议程项目 3

促进和保护所有人权——公民权利、政治权利、
经济、社会及文化权利，包括发展权

对智利的访问

酷刑和其他残忍、不人道或有辱人格的待遇或处罚特别报告员艾丽
斯·吉尔·爱德华兹的报告*

概要

酷刑和其他残忍、不人道或有辱人格的待遇或处罚特别报告员艾丽斯·吉尔·爱德华兹于 2023 年 10 月 16 日至 27 日访问了智利。在本报告中，特别报告员审议了与绝对禁止酷刑和其他虐待有关的国家法律和体制框架；评估了智利在履行禁止和防止酷刑和其他虐待的国际义务方面取得的进展；并审查了各种情况下被剥夺自由者的拘留条件和待遇标准。特别报告员还提出建议，以加强国家努力，防止和打击酷刑和其他虐待，并解决侵犯人权行为有罪不罚的现象。

* 本报告概要以所有正式语文分发。报告正文附于概要之后，仅以提交语文和西班牙文分发。



附件

酷刑和其他残忍、不人道或有辱人格的待遇或处罚特别报告员艾丽斯·吉尔·爱德华兹访问智利的报告

I. Introduction

1. At the invitation of the Government, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment conducted an official visit to Chile from 16 to 27 October 2023.
2. The purpose of the visit was to assess progress made by Chile towards the implementation of its international obligations to prohibit and prevent torture and ill-treatment, and to provide remedies and rehabilitation to victims and survivors of torture, and to make recommendations regarding challenges facing the country in that regard.¹
3. The Special Rapporteur expresses her gratitude to the Government of Chile for the invitation to visit the country and commends the exemplary cooperation extended by the national authorities during her visit. She was provided with full access to all the places of deprivation of liberty that she sought to inspect, without prior announcement, including during weekends and, on one occasion, at night. She met and interviewed persons deprived of liberty, including female, male, juvenile and transgender persons, who expressed the wish to talk to her in private, in full compliance with the terms of reference for country visits by special procedures.² When visiting places of deprivation of liberty, the Special Rapporteur paid particular attention to persons at heightened risk, such as women, children and youth, LGBTIQ+ persons, Indigenous People, non-nationals and persons with disabilities.
4. The Special Rapporteur had the honour to meet with the Minister for Foreign Affairs; the Minister of the Interior and Public Security; the Minister of Justice and Human Rights; the Minister of Women and Gender Equality; the President of the Supreme Court; the Human Rights Commissions of the Chamber of Deputies and the Senate; the National Public Prosecutor; the National Public Defender; the National Director of the Forensic Medical Service; the General Deputy Director of the Carabineros de Chile; the Director of Human Rights and Family Protection of the Carabineros de Chile; members of the National Human Rights Institute; members of the Committee for the Prevention of Torture (the national preventive mechanism); the Children's Ombudsman; and the Director of the Museum of Memory and Human Rights.
5. The Special Rapporteur travelled to the capital, Santiago de Chile, as well as to Iquique, Temuco and Valparaíso. In Santiago, she visited the Centro de Detención Preventiva Santiago Sur and the Forensic Medical Service.
6. In the Valparaíso region, the Special Rapporteur visited two police stations of the Carabineros de Chile, namely the Segunda Comisaría Central Valparaíso and the Comisaría de Carabineros No. 1 de Viña del Mar; the Hospital del Salvador, a psychiatric hospital; and two residential homes for the care of children under the custody of the State (Residencias Familiares de Administración Directa del Estado), namely the Residencia Valparaíso in Cerro Alegre (for girls) and the Residencia Viña del Mar (for boys).
7. In the Araucanía region, the Special Rapporteur visited three prisons, namely the Centro de Cumplimiento Penitenciario de Temuco, the Centro Penitenciario Femenino de Temuco and the Centro de Cumplimiento Penitenciario de Angol. She also visited the central

¹ The focus of the visit does not imply a lack of recognition of challenges or positive developments and good practices that are not specifically addressed in the present report.

² See <https://www.ohchr.org/en/special-procedures-human-rights-council/terms-reference-country-visits-special-procedures>.

police station of the Policía de Investigaciones (PDI) in Temuco, the prison cells of the Juzgado de Garantía in Temuco and the Forensic Medical Service.

8. In the Tarapacá region, the Special Rapporteur visited three police stations of the Carabineros de Chile, namely the Primera Comisaría Central and the Cuarta Comisaría (Comisaría Cavancha) in Iquique, the Tercera Comisaría in Alto Hospicio and a Policía de Investigaciones station in Iquique. In Iquique, she visited a juvenile detention centre, namely the Centro de Internación Provisoria y de Régimen Cerrado y Semicerrado, the Regional Hospital Dr. Ernesto Torres Galdames, specifically its Psychiatric Intensive Care Unit, and the Complejo Penitenciario in Alto Hospicio.

9. The Special Rapporteur also met with United Nations representatives. She thanks the United Nations Resident Coordinator, the Regional Representative for South America and the Office of the United Nations High Commissioner for Human Rights (OHCHR) for their invaluable support, as well as the United Nations country team for the assistance provided during her visit. She would also like to acknowledge the role of Dr. Duarte Nuno Viera, forensic expert, who accompanied her throughout the visit, conducted medical examinations of prisoners and reviewed medical and psychiatric facilities.

10. The Special Rapporteur is grateful to the representatives of non-governmental organizations, the human rights defenders and the families of victims and survivors of human rights violations who met with her.

11. The visit coincided with two significant anniversaries in the history of Chile. The fiftieth anniversary of the military coup d'état was observed on 11 September 2023. During the dictatorship that followed the coup in 1973, torture, enforced disappearances, unlawful killings and other human rights violations were carried out with wanton disregard for the rule of law and the life and dignity of human beings, leaving a deep imprint on the bodies and minds of all Chileans. Even though many Chileans were born after the dictatorship and have no living memory of it, many stated that the effects of torture on such a widespread scale are still felt by its direct victims, their families and their descendants, as well as by society as a whole. The shadow of the torturous regime of General Augusto Pinochet was mentioned in numerous conversations by different interlocutors. For many, it acts as a warning and a reminder of the need to keep making progress and to remain ever vigilant.³

12. The visit also coincided with the fourth anniversary of the Chilean social unrest (*estallido social*) of October through December 2019, during which the State's heavy-handed response to public demonstrations caused massive human rights violations, which have still not been fully addressed.

13. The Special Rapporteur believes that the visit offered an invaluable opportunity to discuss achievements, good practices and challenges in strengthening protections against torture and other ill-treatment, to ensure protection for victims and to enhance efforts to end impunity. She looks forward to continuing the constructive dialogue with the Government and other stakeholders.

II. Legal and institutional frameworks

14. Chile has ratified the core international and regional human rights treaties, including the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

³ See, among others, Michelle Bachelet, Under-Secretary-General/Executive Director of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), "Building democracy: reflections from Chile", statement at the panel discussion on democratic transitions, American University of Beirut, 16 January 2012, available at <https://www.unwomen.org/en/news/stories/2012/1/building-democracy-reflections-from-chile>; and Hugo Rojas Corral, "50 years after the 1973 coup in Chile: analysis of the processes of transition to democracy and transitional justice", *Seattle Journal for Social Justice*, vol. 22, No. 3 (2024).

Punishment,⁴ the Inter-American Convention on Human Rights and the Inter-American Convention to Prevent and Punish Torture.

15. Chile has also been playing an active, joint-lead role in the Convention against Torture Initiative, which is a blueprint for international human rights cooperation in prohibiting and preventing torture nationally and globally.⁵

16. In Chile, torture is criminalized in the penal code. However, the definition of the offence is not fully in alignment with article 1 of the Convention against Torture.⁶ In particular, the closed list of “purposes” for which severe pain or suffering inflicted by State authorities becomes torture contrasts with that of article 1 of the Convention, which is purposefully open-ended.

17. This definitional shortcoming has made it difficult to prosecute cases alleging severe pain or suffering from injuries sustained during the 2019 civil unrest as torture. Furthermore, Chilean criminal legislation still includes a statute of limitations for torture of 10 years.⁷

18. The Special Rapporteur calls for the national provisions regarding the definition of torture and other cruel, inhuman or degrading treatment or punishment to be brought fully into compliance with the Convention against Torture and for the statute of limitations to be repealed. She welcomes the explicit reference to sexual or gender-related torture as a crime in Chilean law and the list of the discriminatory grounds for which torture may be committed.

19. The Special Rapporteur acknowledges the strides made by Chile to prevent and combat torture following the end of the military dictatorship in 1990, which have produced remarkable results, including: the work of the National Commission on Political Imprisonment and Torture (Valech Commission); the establishment of a national torture rehabilitation programme, known as the PRIAS programme (Programa de Reparación y Atención en Salud), which provides victims with free access to physical and mental healthcare initiatives;⁸ and, most recently, the launch, in 2023, of the National Plan for the Search for Truth and Justice, which is aimed at finding those who were forcibly disappeared during the military dictatorship, establishing the circumstances behind their disappearance and bringing justice to their families.⁹

20. While consolidating the transition to democracy continues to require effort, the country has emerged, at both the regional and international levels, as a model for transitional justice and as an example of political will and determination to build a State based on the rule of law and the protection of human rights and fundamental freedoms.

21. Under Act No. 20.405, Chile established the National Human Rights Institute,¹⁰ which operates in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and has been accredited with A status.¹¹ The Committee for the Prevention of Torture¹² serves as the national preventive mechanism, pursuant to the Optional Protocol to the Convention against Torture, carrying out regular unannounced visits to places of deprivation of liberty.¹³ Other institutions, such as the Office of the Undersecretary for Human Rights, as well as the Office of the Children’s Ombudsman, which was created in 2018,¹⁴ also play an important monitoring and advisory role.

⁴ See report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on its visit to Chile from 4 to 13 April 2016 (CAT/OP/CHL/1).

⁵ See <https://cti2024.org/>.

⁶ See <https://www.bcn.cl/leychile/navegar?idNorma=1096847> (in Spanish).

⁷ See CCPR/C/CHL/CO/7; CAT/C/CHL/CO/6; and Committee against Torture, general comment No. 3 (2012).

⁸ See <https://saludresponde.minsal.cl/programa-de-reparacion-y-atencion-en-salud-prais/> (in Spanish).

⁹ For an overview of the institutional initiatives undertaken over the years, see also A/HRC/22/45/Add.1.

¹⁰ See <https://www.indh.cl/> (in Spanish).

¹¹ See <https://ganhri.org/membership/>.

¹² See <https://mnpt.cl/> (in Spanish).

¹³ See <https://www.bcn.cl/leychile/navegar?idNorma=1130871> (in Spanish).

¹⁴ See <https://www.defensorianinez.cl/> (in Spanish).

22. The Special Rapporteur notes the entry into force of Act No. 21.430 on guarantees and protection of the rights of children and adolescents, which explicitly refers to the prohibition of torture of children and adolescents, and the recently adopted National Policy on Adolescence and its Action Plan (2024–2032), which aims to combat violence against children and adolescents and to ensure reparations.

23. The Special Rapporteur highlights the work of the Commissions of Human Rights, operating in both the Senate and the Chamber of Deputies, and thanks them for their role in keeping the prohibition and prevention of torture on the parliamentary agenda. She notes that human rights units are established and operating within government ministries, departments and agencies, including the Office of the Public Prosecutor, the Policía de Investigaciones, the Carabineros de Chile and the penitentiary system (Gendarmería).

24. Within the context of the robust human rights architecture in Chile, the Special Rapporteur wishes to emphasize the historical role and contribution of civil society organizations, victims and survivors, as well as their families, in the promotion of truth, justice and reparation for the human rights violations that occurred during the period of the military dictatorship. In Chile today, an unafraid and knowledgeable civil society is a sign of the democratic development and maturity achieved by the country, which should be commended and supported.

III. Investigations and prosecutions of torture and other cruel, inhuman or degrading treatment or punishment

A. Past human rights violations

25. The Special Rapporteur acknowledges the efforts made by successive elected Governments to hold accountable those responsible for human rights violations, including torture and other ill-treatment, committed during the military dictatorship. The process of truth, accountability and redress is not yet complete however: many victims remain missing, numerous cases are still pending and a number of alleged perpetrators are yet to be brought to justice.

26. Between 1995 and 30 June 2023, an estimated total of 658 final verdicts were handed down in cases concerning alleged human rights violations carried out during the dictatorship.¹⁵ Of those 658 verdicts, 124 dealt with stand-alone civil claims, while the remaining 534 dealt with criminal cases. Of the 534 criminal case verdicts, 228 concerned crimes of enforced disappearance; 238 were cases of extrajudicial, summary or arbitrary execution; and 31 related to arbitrary deprivation of liberty and torture. The 534 concluded criminal verdicts dealt with crimes committed against a total of 1,363 people.¹⁶

27. The above data reveal that, at the time of the Special Rapporteur's visit, approximately one third (about 30 per cent) of those currently recognized by the authorities as victims of serious human rights violations, including torture or ill-treatment, have had their cases judicially investigated and resolved through a final sentence.¹⁷

¹⁵ See Cath Collins and Andrea Ordoñez, "*Que las promesas se vuelvan ciertas*": Truth, Justice, Reparations, Memory and Guarantees of Non-Repetition in Chile – 25 Years of Criminal Cases (Santiago, Observatorio de Justicia Transicional, 2023). The figures could not be cross-checked by the Government, which noted that the Office of the National Coordination of Human Rights Cases of the Supreme Court was only established in April 2014 and therefore does not have information for the period before that date.

¹⁶ The figures could not be cross-checked by the Government, which noted that the Office of the National Coordination of Human Rights Cases of the Supreme Court was only established in April 2014 and therefore does not have information for the period before that date.

¹⁷ Ibid.; furthermore, as of May 2023, a total of 19,573 recognized survivors of torture and 4,191 widows or widowers of survivors were receiving reparation pensions, pursuant to Act No. 19.992, amounting to approximately the 60 per cent of the total number of survivors. Act No. 19.992 is available at <https://www.bcn.cl/leychile/navegar?idNorma=233930> (in Spanish).

28. Shortages of human and financial resources and of technical and institutional capacity, as well as the lack of consistent support to victims and survivors to access and participate meaningfully in the justice system throughout the years,¹⁸ were among the challenges to accountability that emerged during the visit. The Special Rapporteur was informed, however, of measures to support victims within the “Truth and Justice” programme.

29. The Special Rapporteur recalls that the rendering of accounts for human rights violations is a legal obligation of States. Chile has a duty to effectively investigate and prosecute all allegations of torture and other cruel, inhuman or degrading treatment or punishment; to bring those allegedly responsible to justice and to sanction them in a manner commensurate with the gravity of their crimes; and to provide victims with adequate legal assistance and reparation.¹⁹

B. Use of force during the social unrest of 2019

30. The Special Rapporteur heard many accounts of individuals injured during the social upheaval of October through December 2019 caused by, inter alia, the use of multiple projectile ammunitions by law enforcement officials.²⁰

31. During the protests, a total of approximately 152,000 12-gauge cartridges, each with 12 pellets, were reportedly fired by members of the Carabineros de Chile, causing severe ocular trauma, visual impairment and permanent disability to hundreds of individuals.²¹

32. Officials who met with the Special Rapporteur acknowledged that the State’s initial response to the protests had been marred by human rights violations and explained measures taken to remedy them. These included the launch, in 2022, of an agenda for truth, justice and

¹⁸ See Collins and Ordoñez, “*Que las promesas se vuelvan ciertas*”. At present, the Santiago regional office of the Corporation for Legal Assistance (Corporación de Asistencia Judicial de la Región Metropolitana) is the only State entity offering free legal advice and legal representation to survivors of torture and other serious human rights violations that allegedly occurred during the military dictatorship, in respect of both civil and criminal cases. As of mid-2023, the Corporation was reportedly active in approximately 150 cases (100 criminal and 50 civil), before the courts in Santiago and San Miguel, a substantial proportion of them relating to torture or other ill-treatment.

¹⁹ See articles 4, 5, 12, 13 and 14 of the Convention against Torture; the updated set of principles for the protection and promotion of human rights through action to combat impunity; the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law; and A/HRC/48/60.

²⁰ For an in-depth analysis of the context, the grievances related to the protests, the applicable legal framework and the human rights violations found to have been committed, see, inter alia, OHCHR, “Report of the mission to Chile, 30 October–22 November 2019” (2019); OHCHR, *Informe de Seguimiento al Informe sobre la misión a Chile del 20 de octubre al 22 de octubre de 2019* (2021); National Human Rights Institute, *Informe Anual sobre la Situación de los Derechos Humanos en Chile en el Contexto de la Crisis Social, 17 octubre–30 noviembre 2019* (Santiago, 2019), available at <https://bibliotecadigital.indh.cl/server/api/core/bitstreams/9b8845b0-9bfe-46fd-8063-26184ca1a3e7/content>; *Primer Informe de Seguimiento a las Recomendaciones del INDH en su Informe Anual 2019* (Santiago, 2021); Amnesty International, *Eyes on Chile: Police Violence and Command Responsibility during the Period of Social Unrest* (2020); Inter-American Commission on Human Rights, *Situación de Derechos Humanos en Chile* (2022); and Children’s Ombudsman, “Informe de seguimiento: verdad, justicia y reparación de derechos humanos de niños, niñas y adolescentes víctimas de violencia estatal durante el estallido social” (2022).

²¹ According to statistics from the Public Prosecutor’s Office and the National Human Rights Institute compiled by Amnesty International, as of March 2021, there were more than 8,000 victims of State violence and more than 400 cases of eye trauma. At least 23 people died during the 2019 protests and about 5,000 were detained. See Fabian Klein, Claudia Zilla and Martin Thunert, *Chile Report: Sustainable Governance Indicators 2022* (Gütersloh, Bertelsmann Stiftung, 2022); José Tejada and others, “Less-lethal weapons: ocular trauma in Chile as psychosocial trauma. Challenges from a human rights and comprehensive perspective”, *Torture*, vol. 34, No. 1 (2024); Álvaro Rodríguez and others, “Ocular trauma by kinetic impact projectiles during civil unrest in Chile”, *Eye*, vol. 35, (2021); and Radio Cooperativa (cooperativa.cl), “Récord mundial de lesiones oculares durante protestas en Chile”, 6 November 2019.

reparations for victims;²² the adoption of Act No. 21.638 of 2023, by which an obligation to make and maintain video recordings of policing operations was introduced; the adoption of Act No. 21.427 of 2022, which established measures for probity and transparency in the work of the police; the establishment of a support and care plan for victims of ocular trauma,²³ which strengthened the previous comprehensive eye reparation programme;²⁴ the granting of pensions to victims of violence who had a permanent, complete or partial impairment of their ability to work; and the establishment of a special commission of inquiry into the reported events by the Chamber of Deputies.²⁵

33. The Special Rapporteur was informed that the Carabineros de Chile and the Policía de Investigaciones were working to reform police intervention procedures for public order control, in line with international standards.²⁶ Members of the Chilean Police Force, in particular, were no longer using the kinetic 12-gauge cartridge, 12-projectile rubber-shot weapons used during the period of social unrest in 2019. Crowd-control weapons now in stock contain three projectiles. In addition, human rights training courses have been introduced for law enforcement officials to prevent and combat institutional violence.

34. The Special Rapporteur recalls the standards relating to the use of force in law enforcement, especially those pertaining to the right to life, to freedom from torture or other ill-treatment, to security of person and to the right of peaceful assembly, as laid down in the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement. She also refers to the Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests.

35. The Special Rapporteur emphasizes that less-lethal weapons may also be used in a lethal fashion, leading to serious injuries.²⁷ Ammunition and launchers containing multiple projectiles are considered unsafe because they are inaccurate, hit targets indiscriminately and arbitrarily and pose a significant risk to bystanders.²⁸

36. Owing to the excessive or unnecessary pain or injury caused, the use of multiple kinetic projectiles, in the view of the Special Rapporteur, inherently constitutes cruel, inhuman or degrading treatment and, as such, is prohibited under international law.²⁹

37. In terms of justice, the Special Rapporteur is concerned by the slow response on the part of the national authorities. According to the Government, at the time of her visit, four years after the social unrest, out of the total of over 8,508 complaints filed, only 35 had led to convictions (less than 1 per cent).

38. The Special Rapporteur urges the Government to expedite criminal investigations into alleged human rights violations committed during the 2019 social unrest and to conduct them in accordance with international standards. The failure of a State to properly investigate suspected unlawful killings is a violation of the right to life itself. Likewise, the lack of accountability for violations of the rights to bodily integrity may itself constitute a violation of those rights. Victims should have access to rehabilitation and support throughout

²² See Government of Chile (gob.cl), “Presidente presentó Agenda Integral de Verdad, Justicia y Reparación a víctimas de violaciones a los derechos humanos durante el estallido social”, 24 May 2022.

²³ See <https://www.gob.cl/pacto/> (in Spanish).

²⁴ See <https://www.amnesty.org/en/latest/news/2023/10/chile-four-years-social-unrest-impunity/>.

²⁵ See Amnesty International, “Chile: four years on from the social unrest, impunity and a lack of comprehensive reparations persist”, 17 October 2023.

²⁶ See Amnesty International, “Chile: reformar para avanzar – recomendaciones para la reforma de carabineros desde una perspectiva de derechos humanos” (2023).

²⁷ See A/HRC/31/66.

²⁸ Ibid.

²⁹ Ibid. See also the list compiled by the Special Rapporteur of items used for law enforcement purposes that should be prohibited as being inherently cruel, inhuman or degrading (available at <https://www.ohchr.org/sites/default/files/documents/issues/torture/sr/annex-i-document-august-2023-ae-18-09-23.pdf>).

proceedings and remedies, including adequate reparation proportional to the violations and harm suffered.³⁰

39. The Special Rapporteur wishes to stress that the conduct of effective medico-legal investigations and the preparation of adequate documentation are essential to prevent human rights violations and deliver justice.³¹

40. The Special Rapporteur suggests that the national medico-legal service would benefit from a profound restructuring.³² The national authorities should increase the capacity of forensic medical experts through capacity-building, adequate resourcing and the conduct of rigorous training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and the Minnesota Protocol on the Investigation of Potentially Unlawful Death.

41. The Special Rapporteur wishes to acknowledge the Government's investments in a new medico-legal infrastructure in Santiago, which will become operational in 2025. She also visited the premises of the medico-legal service in Temuco and she encourages all relevant authorities to promote the impressive conditions she saw throughout the country.

IV. Torture and other cruel, inhuman or degrading treatment or punishment in detention

A. Police custody

42. The risk of torture or other ill-treatment is greater during arrest and the first hours in police custody.³³ Key safeguards to prevent that risk include: notification of rights; the maintenance of accurate detention records; the provision of prompt access to a lawyer; independent medical examinations; the right to communicate with a family member or third party; installation of closed-circuit television cameras; video and audio recording of interviews and interrogations; and judicial oversight. At all times in custody, individuals must be treated humanely.³⁴

43. Persons detained by the police must be informed of their rights and the reasons justifying their detention in a simple and accessible manner and in a language they understand.

44. In the facilities she visited, the Special Rapporteur saw informational posters about the rights of detainees and victims in different languages, including Creole, English, Mapudungun and Spanish. However, they were almost always located only at the entrance of buildings, out of sight of detainees in prison cells.

45. The Special Rapporteur encourages the Chilean authorities to ensure that, in all law enforcement establishments, information on individual rights is displayed in a conspicuous place, where it can easily be seen, and to consider preparing a pictorial representation of those

³⁰ See [A/HRC/31/66](#).

³¹ See [A/69/387](#) and [A/HRC/50/34](#).

³² Ibid.

³³ In the present report, the terminology “arrest”/“arrested”, “apprehension”/“apprehended”, “held in custody”, “detainees”/“detention”, “prisoners” and “deprivation”/“deprived of liberty” are used interchangeably to include all persons in situations of deprivation of personal liberty under any circumstances.

³⁴ Human Rights Council resolution 31/31, paras. 4–6; Convention against Torture Initiative, “Safeguards in the first hours of police detention”, UNCAT Implementation Tool 2/2017 (2017), available at <https://cti2024.org/wp-content/uploads/2021/01/CTI-Safeguards-final-rev.pdf>; and United Nations Office on Drugs and Crime and Convention against Torture Initiative, “Safeguards in police custody”, Police Resource Toolkit: 5.1 (2021), available at https://cti2024.org/wp-content/uploads/2022/05/20221122_CTI_Police-ResKit-5.1-Safeguards-ENG-screen_FINAL.pdf. See also Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

rights for people with reading difficulties, people who cannot read or people who cannot read the main languages of the country.

46. The Special Rapporteur found the various records on arrests and investigations to be generally well kept. She encourages the Chilean authorities to ensure that all relevant officers receive regular training on record-keeping.

47. Prisoners interviewed by the Special Rapporteur were informed of their right to a lawyer or knew that a lawyer would appear in court. In most facilities she visited, it was a regular practice to inform family members of the arrest and location of detention of individuals. The Special Rapporteur notes that the maximum period in custody prior to being brought before a court is 24 hours (the prosecutor is to be informed of arrests within 12 hours).

48. The Special Rapporteur was surprised to learn that there were no audio or video recordings of interviews with accused persons.³⁵ The audio or video recording of interviews reduces the risk of manipulative interviewing, forced or false confessions, coercion and abuse, ultimately leading to improved and more efficient justice outcomes, including cost reductions.³⁶

49. She encourages the Government to introduce the audio and/or video recording of interviews, to consider adopting the Principles on Effective Interviewing for Investigations and Information-Gathering (the Méndez Principles) as part of the standard operating procedures of law enforcement and to put a system of electronic recording of police interviews in place.³⁷

50. The Special Rapporteur was pleased to hear that confessional evidence alone is not enough to proceed to prosecution, in alignment with article 15 of the Convention against Torture, and that minors and alleged victims of sexual violence are interviewed in safe locations other than the police station to avoid possible encounters with the accused.

51. In the police facilities visited, the Special Rapporteur received no specific allegations of torture or other cruel or inhuman treatment or punishment. She heard, however, allegations of the excessive use of force and verbal violence by law enforcement personnel at the time of a person's arrest and, on occasion, during questioning and/or stay in custody.

52. The Special Rapporteur learned about a worrisome change in policy under which persons arrested for carrying drugs inside their stomachs or other orifices ("drug mules") were no longer detained at a hospital to await the expulsion of the ingested drugs. Instead, they were now being required to expel the drugs in cells at police stations, which are generally not adequately equipped for that purpose. Furthermore, the expulsion of drugs could take longer than the time police are permitted to detain such individuals. The Special Rapporteur is concerned about the new policy, in particular owing to the risks to the health and life of detainees. She welcomes the information provided by the Government that an inter-agency working group in the north of Chile is developing a protocol to establish standards of care in such situations. She encourages the development of a nationwide protocol that applies international norms and best practices.

53. The Special Rapporteur calls upon the Government to remain vigilant and to ensure that effective complaints, oversight and investigative mechanisms, as well as systematic medical examinations by independent medical personnel, are in place. Law enforcement officers should be trained on international standards relating to the use of force on a regular basis and should be made aware that torture or other forms of ill-treatment are prohibited in all circumstances and will not be tolerated.

54. The Special Rapporteur was disturbed that many detainees she encountered pleaded with her to provide food and water because they were hungry, including at least one pregnant woman and a minor. She was informed that, if an arrested person is required to stay overnight, meals are to be provided. However, she heard that, because of the insufficient quantity and

³⁵ See [A/71/298](#); see also Principles on Effective Interviewing for Investigations and Information-Gathering (the "Méndez Principles").

³⁶ See [A/71/298](#); and the Méndez Principles.

³⁷ See the Méndez Principles, principle 5; [A/71/298](#); and [A/56/156](#).

quality of the food available, prisoners preferred to rely on meals brought by their families. The Special Rapporteur considers that, at a minimum, the State should provide arrested persons who are detained for longer than four hours with energy biscuits and water and that a nutritious meal and water should be obligatory for those who are detained overnight or for longer than four hours. Special arrangements must be made for pregnant women and minors.

55. In most of the facilities visited, holding cells were found, overall, to offer modest but acceptable material conditions for short-term detention, although some lacked mattresses or blankets for overnight stays and had deplorable sanitary and hygienic conditions. Many required basic improvements, in particular repainting.

56. The Special Rapporteur recalls that, since States are the guarantors of the rights of persons deprived of liberty,³⁸ they must treat all prisoners with the respect due to their inherent dignity and value as human beings and must take all measures to protect their lives and bodily integrity. This includes an adequate provision of food, with at least one full meal every day, and, at a minimum, access to drinking water during detention, on an appropriate basis.³⁹ Furthermore, cells within police stations should be equipped with mattresses and blankets and kept in an adequate state of hygiene. She calls upon the Government to ensure that all law enforcement establishments comply with such requirements.

B. Penitentiary system

57. The Special Rapporteur recalls that international human rights law provides a clear and universal framework, setting general standards of detention for both remand and convicted persons.⁴⁰ In addition, differentiated approaches with respect to persons belonging to certain groups may be required, for instance for women and girls, children and youth, Indigenous Peoples,⁴¹ persons belonging to minorities and LGBTIQ+ persons.⁴²

58. The Special Rapporteur observed a variation in standards among the various facilities visited. She was informed of different levels of autonomy and discretion of prison management at individual sites, including for expenditures. She stresses that, while a certain margin of flexibility may help to address different prison characteristics, the basic minimum requirements should be uniformly enjoyed by all detainees.

59. The majority of prisoners interviewed by the Special Rapporteur told her that they were treated correctly. On occasion, she received allegations that prison guards would “confiscate” food or other items provided to prisoners by their families. She also heard of some instances of physical violence between prisoners.

60. The Special Rapporteur calls upon the Chilean authorities to take all measures necessary to ensure that prison guards consistently abide by the highest standards of professional conduct and are held accountable for any inappropriate behaviour. She encourages the provision of adequate training on the proper management of prisoners to all custodial staff in order to prevent and address instances of inter-prisoner violence.

³⁸ See [A/HRC/42/20](#) and, mutatis mutandis, [CAT/OP/MNG/1](#).

³⁹ See [A/HRC/42/20](#) and [CAT/OP/MNG/1](#).

⁴⁰ This includes the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; Human Rights Committee, general comment No. 35 (2014); the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules); the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules); the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules); the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules); and Committee on the Rights of the Child, general comment No. 24 (2019).

⁴¹ See International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169).

⁴² See [A/HRC/55/52](#).

61. Because the conditions of buildings and of detention vary significantly, it is not possible to generalize about the overall conditions of detention in Chile: some facilities were of high quality while others were in need of significant improvement.⁴³

62. One of the main challenges observed in all the publicly run facilities visited⁴⁴ was overcrowding.⁴⁵ In the Centro de Cumplimiento Penitenciario in Temuco, for instance, the Special Rapporteur saw a single room, about 10 by 8 square metres, housing 70 prisoners of all ages, with five levels of bunk beds and only one toilet. The person occupying the top bunk had to climb up to the top level and was unable to roll over in bed. Conditions in other wings in the same prison were similar.

63. In the view of the Special Rapporteur, such conditions clearly fall below international standards regarding space per person and amount to inhuman or degrading treatment.⁴⁶ She found such conditions to be even more extreme, and somewhat paradoxical, in comparison with those in areas of the same facilities with newly renovated, spacious and clean rooms for conjugal visits.

64. The Special Rapporteur recalls that overcrowding, which leads to severe constraints on institutional resources, imposes a significant burden on all aspects of the functioning and management of places of detention and is a principal reason for their poor condition. Overcrowding also increases the risk of disease transmission and infection and has been identified as a factor in self-harm and suicide.⁴⁷

65. All the authorities the Special Rapporteur met with agreed that overincarceration, the almost automatic recourse to detention, was one of the main causes of overcrowding, particularly for those held on remand (the penal code allows the use of pretrial detention and does not establish a maximum period for it, although, pursuant to article 247, investigations are restricted to a maximum duration of two years).⁴⁸ According to statistics provided by the Supreme Court, in 2023, 30,624 persons were being held in pretrial detention, while 199,907 accused were the subject of precautionary/interim measures. While these pretrial detention figures represent a decrease from 23 per cent to 15 per cent over a 10-year period compared with other forms of detention, they reflect an increase of 12 per cent over the peak lows in 2020 and 2021. Other factors contributing to overcrowding included the excessive length of criminal proceedings, a reported rise in drug-related crimes and changes in related policies. The Special Rapporteur met with many accused who had received no clear guidance

⁴³ See National Human Rights Institute, *Estudio de las Condiciones Carcelarias en Chile 2018* (Santiago, 2020).

⁴⁴ The infrastructure and conditions witnessed during the visit at the Penitentiary Complex in Alto Hospicio, which operates on a private concession basis, were generally higher than those in public prisons. The present report does not specifically address the private concession system in Chile, which may be dealt with in future. Nevertheless, at this stage, the Special Rapporteur recalls that private entities should follow the same rules as public entities and that prisoners should enjoy the same rights in private prisons as those applicable in public prisons. See A/HRC/55/52 and the report of the national Committee for the Prevention of Torture on its visit to Alto Hospicio, March 2023, available at <https://mnpt.cl/wp-content/uploads/2023/03/Informe-final-Alto-Hospicio-marzo-2023.pdf> (in Spanish).

⁴⁵ As of September 2023, the overall prison population amounted to more than 51,000 individuals, 37 per cent of whom were awaiting trial. The occupancy rate in prisons was alarmingly high, reaching approximately 120 per cent of the total official capacity (41,762 places). See Luis Cordero Vega, “Política penitenciaria: Plan Nacional de Infraestructura”, 4 July 2023, available at https://www.camara.cl/verDoc.aspx?prmID=281188&prmTipo=DOCUMENTO_COMISION (in Spanish); and Gendarmería de Chile, “Caracterización de personas privadas de libertad”, available at https://www.gendarmeria.gob.cl/car_personas_pp.html (in Spanish).

⁴⁶ The Special Rapporteur endorses the minimum space-per-person ratio elaborated by the International Committee of the Red Cross. She notes the slightly more generous standard applied by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and considers that States should strive to meet the higher of the two specifications. She recommends that the more generous standards be applied at least in newly built detention centres.

⁴⁷ See A/HRC/42/20.

⁴⁸ The criminal procedure code establishes, however, the need to review such measures every six months.

on their proceedings, some indicating they had been detained for up to three years without trial.

66. The Special Rapporteur calls upon the Government to strengthen efforts to ensure that persons deprived of liberty are provided with adequate living space, to reduce the prison population below the number of places available within the prison system as assessed against the minimum space per person and to address overcrowding.

67. Measures should be taken to avoid the too frequent and unnecessary recourse to remand in custody and to encourage alternative non-custodial measures. While fully recognizing that the deprivation of liberty, in accordance with international standards, remains a necessary and legitimate investigative measure and punitive sanction, the Special Rapporteur emphasizes that imprisonment should remain a measure of last resort. Appropriate criminal justice strategies should be developed in consultation with all actors concerned, namely the police, the judiciary, the legal profession, prosecution services and the penitentiary system.⁴⁹

68. The Special Rapporteur observed that the management of prisoners' files was in place and kept updated and that prisoners were separated according to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). However, she found little differentiation between prisoners held on remand and those sentenced.⁵⁰ She stresses that, while the benefits of the remand regime can elevate standards for the convicted, they must not lower standards for unconvicted persons who should enjoy the presumption of innocence and should be treated accordingly.

69. Detainees interviewed were generally satisfied with the quality, quantity and variety of food (served three times a day). Nutritionists were sometimes present at the sites visited. Television sets and telephones were available to prisoners.

70. On average, lighting and ventilation were problematic and sanitary facilities were in need of substantial improvement. In general, hot water was not available, and, at one location, the showers were outdoors. Showers and toilets were normally not adequate for the number of prisoners housed and, in many instances, were broken and in need of repair. In addition, general cleanliness could be improved; no disinfection programmes were in place.

71. The Special Rapporteur calls upon the Chilean authorities to take the measures necessary to improve the material conditions of detention in the prisons visited, including, to the extent possible, by undertaking their renovation and modernization.⁵¹ Infrastructure should be regularly disinfected and disinfested; all prisoners' accommodation should be areas kept in an adequate state of repair and hygiene; and cells should have sufficient access to natural light and ventilation and to adequate sanitary installations.

72. Visits with lawyers and families appeared adequate. However, foreign detainees told the Special Rapporteur that they were unable to contact their families for prolonged periods of time, mainly owing to lack of money to pay for telephone calls or to receive family visits. In many instances, in particular in the case of foreign nationals held in connection with drug trafficking, their relatives were indigent and unable to afford travel costs.

73. The Special Rapporteur recalls that loss of liberty should not entail loss of contact with the outside world. All prisoners are entitled to some such contact and prison authorities should strive to create circumstances to allow them to maintain it as much as possible. She observes that modern technology offers new ways of communicating electronically that can be used without threatening safety or security.

74. The Special Rapporteur calls upon the Government to consider introducing, at least for foreign detainees in the circumstances described above, the use of Voice over Internet Protocol communications and the possibility of holding virtual visits at no cost. Until such measures are implemented, she encourages the Chilean authorities to consider granting them

⁴⁹ See [A/HRC/55/52](#); [A/HRC/42/20](#); and [CAT/C/54/2](#).

⁵⁰ See, for instance, article 10 (2) (a) of the International Covenant on Civil and Political Rights; and rule 11 (b) of the Nelson Mandela Rules.

⁵¹ See [A/HRC/55/52](#).

at least one free-of-charge telephone call of a reasonable duration every month. Foreign detainees should have adequate access to consular assistance.⁵²

75. The Special Rapporteur found that complaint mechanisms were not consistently available. Complaints were normally dealt with by prison management without a clear procedure identifying, for instance, the official responsible for investigation, establishing deadlines or criteria to challenge decisions. Complaints were not officially recorded and no statistics were compiled.

76. The Special Rapporteur recalls that prisoners must always be allowed to submit complaints to prison authorities, including anonymously. She calls upon the Government to introduce a formal system of complaints at all prisons, including the possible placement of dedicated complaint boxes in detention areas. Complaints should be registered and investigated swiftly, and prisoners should be informed of outcomes. She stresses the importance of data collection and analysis to inform programming and policymaking.

77. The Special Rapporteur found the level of healthcare in prisons visited to be insufficient. In most cases, medical facilities were poorly equipped, with an inadequate supply of medications, an insufficient number of qualified medical personnel and no reliable health data and statistics.

78. Clinical admission examinations, mostly performed by paramedics, were basic; the quality of medical information and the reports seen by the Special Rapporteur was superficial. Most healthcare staff had never heard of the Istanbul Protocol. Forensic medical examinations were not regularly performed as reports of injuries needed to be transmitted to the prosecutor for evaluation and appropriate action.

79. The Special Rapporteur urges the Government to take the measures necessary to substantially improve the procedure and quality of medical examinations. All relevant prison staff should be trained on applicable international standards, particularly the Istanbul Protocol.

80. She emphasizes that all prisoners should undergo a comprehensive medical examination performed by a doctor or qualified healthcare professional within 24 hours of admission. Medical reports should contain detailed descriptions of findings, the conclusions drawn from them by healthcare professionals and any statements by the persons examined. To the extent possible, injuries should be photographed. The reports should be made available to prisoners and their lawyers.

81. The Special Rapporteur found a practice of overmedicating prisoners and an overuse of psychotropic drugs. In a women's prison, over three-quarters of prisoners were routinely given psychotropic drugs or strong sedatives, especially at night. She noted a lack of sufficient psychological care and observed many detainees with serious dental problems requiring treatment.

82. The Special Rapporteur is aware that deprivation of liberty may generate or exacerbate anxiety and other psychiatric conditions. She reiterates, however, that, according to international standards, medication should not be used to control prisoners. She calls for an urgent review of the medical protocols applied in prisons. Psychotropic medications and their dosage should only be used based on a psychiatrist's prescription. She also calls for an increase in psychological support and access to dental care in all prisons.

83. With regard to access to medical care, the Special Rapporteur was told that requests to see a doctor were normally addressed to custodial staff and generally granted without undue delay. However, she heard some prisoners complaining about long delays in gaining access to a doctor and of prison guards ignoring such requests.

84. In the Special Rapporteur's view, the system currently in place could be considerably improved by ensuring that prisoners have access to healthcare without the need of intervention on the part of prison guards. She calls upon the Chilean authorities to consider arranging daily or periodic rounds by healthcare staff in cells and other detention areas to collect requests for medical consultations or the installation of dedicated boxes in detention

⁵² See [A/HRC/39/45](#).

areas, for exclusive access by healthcare professionals, where prisoners could safely leave their requests.

85. Prison officials appeared adequately equipped. However, at the Penitentiary Fulfillment Centre in Temuco, the Special Rapporteur witnessed prison guards carrying long ceremonial swords, awarded for long service. She cautions that such weapons should never be worn inside prisons as they remain weapons and may interfere in the swift response of guards in case of incidents. She recommends that badges be made to symbolize the swords to attach to the uniforms of awarded officers, such that guards' long service would still be recognized.

86. Lastly, in relation to daily regime and activities, the Special Rapporteur was informed of different opportunities for prisoners to conduct workshops. Overall, however, she found that offers of occupational, educational and recreational activities, including outdoor exercise and sport and in relation to religious and spiritual practices, was insufficient. She saw no libraries, for instance, and observed deteriorated recreational spaces, in need of renovation.

87. The Special Rapporteur emphasizes that prisoners, especially young prisoners, repeatedly pointed out that they wished to acquire skills and vocations to build personal and professional skills for a future removed from poverty and crime.

88. The Special Rapporteur recalls that deprivation of liberty should have, as an essential aim, the reform and social rehabilitation of prisoners. A detention regime that provides for opportunities to engage in work, education and recreation is essential for the mental, emotional and physical well-being of detainees. It also helps to prepare prisoners for release, reduces chances of recidivism and increases chances of a successful reintegration into society.⁵³

89. The Special Rapporteur calls upon the Government to take the measures necessary to improve the range of activities available to prisoners in all prisons, in particular by expanding: educational programmes promoting human development; vocational training responsive to economic demands; recreational activities, including those of a religious and cultural nature; and opportunities to engage in physical education and sport. During renovations and/or the building of new prisons, adequate space and facilities should be provided for physical and mental health rehabilitation activities.

90. Within that context, the Special Rapporteur emphasizes that prison libraries are an important resource for all prisoners. Every prison should have a library, accessible and adequately stocked with both recreational and instructional books, and prisoners should be encouraged to make full use of such resources.⁵⁴

91. The Special Rapporteur is concerned about the isolation and lack of meaningful activities for prisoners being held in the maximum-security prison in Santiago, many on remand. While a few books were available, which she observed at one of the guard stations, detainees complained that they were not regularly offered to them and that, unless they could afford or had relatives who could provide other materials or televisions, they spent 22 hours a day in their cells with no meaningful activities.

1. Women and girls

92. The Special Rapporteur recalls that every establishment accommodating women should have distinct policies and approaches for the treatment of women in prison based on a gender-sensitive risk and needs assessment. She recalls the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), in which the specific needs of female offenders are recognized and there is a call for a greater use of non-custodial measures.

⁵³ See [A/HRC/55/52](#) and [A/HRC/40/59/Add.2](#).

⁵⁴ See the Nelson Mandela Rules, rule 64. See also United Nations Educational, Scientific and Cultural Organization (UNESCO) Institute for Lifelong Learning, "How prison libraries support rehabilitation efforts" (Paris, 2020).

93. In the establishments visited, men and women were held separately. In the female facility in Temuco, however, the Special Rapporteur was alarmed to witness unconvicted female prisoners being accommodated in conditions that were grossly inadequate.

94. In one facility the Special Rapporteur saw an ill detainee locked in a cell that was only provided with a large bucket for a toilet; and, in another case, 15 detainees being held in the same room were provided with three buckets for their use at night, which they had to empty in the morning. In the same facility, only two showers were provided for a total of 23 female prisoners, only one of which provided hot water.

95. The Special Rapporteur stresses that access to sanitary and washing facilities, including toilets, is of particular importance for women, especially during menstruation. In her view, the circumstances described above amount to inhuman or degrading treatment. She calls upon the Government to urgently investigate them and to remedy the situation.

96. The Special Rapporteur also met with women who were indigent, lacked regular contact with families or were foreign nationals, who were unable to afford the price of the essential hygiene products sold in prison. She warns that the failure to provide women in prison with such items can amount, in itself, to degrading treatment. She calls upon the Chilean authorities to ensure that all women deprived of liberty are provided with basic hygiene products free of charge.

97. The Special Rapporteur also heard female prisoners complaining about the lack of gynaecological healthcare. She reiterates that States have a duty to guarantee access to healthcare that is tailored to the individual needs of detainees and to ensure that the care available to them is equivalent to that available in the outside community.⁵⁵

98. Accordingly, women's healthcare should be provided by professionals with specific training in women's health, including in relation to gynaecological issues. Furthermore, to the extent that preventive healthcare measures of particular relevance to women, such as screening for breast cancer, are available in the outside community, they should also be offered to women in prison.⁵⁶

99. The Special Rapporteur calls upon the Chilean authorities to ensure that all women deprived of liberty are provided with adequate healthcare, including the availability of and access to breast cancer screening, gynaecological services and annual check-ups.

100. With regard to pregnant women and women with children under 2 years of age, the Special Rapporteur noted efforts to create child-friendly environments. International standards require "special accommodation for all necessary prenatal and postnatal care and treatment" in women's prisons,⁵⁷ and that "adequate and timely food" and a healthy environment be provided free of charge for pregnant women and breastfeeding mothers.⁵⁸ The Special Rapporteur encourages the Government to accelerate the review and implementation of alternative custodial arrangements for pregnant women and mothers.

2. Juvenile detainees

101. Juveniles interviewed by the Special Rapporteur spoke positively of how they were treated by staff.

102. In the facilities visited, juveniles were accommodated in dormitories that were generally clean, well-lit and adequately ventilated and were kept in an acceptable state of repair and hygiene.

103. At the time of her visit, the Special Rapporteur was pleased to learn that all boys and young men were attending classes in prison. She was also told that episodes of violence among juveniles were not frequent.

⁵⁵ See [A/HRC/42/20](#).

⁵⁶ See, *mutatis mutandis*, European Committee for the Prevention of Torture, "Women in prison: factsheet", January 2018, available at <https://www.coe.int/en/web/cpt/women-in-prison>; see also [CAT/OP/27/1](#).

⁵⁷ See the Nelson Mandela Rules, rule 28.

⁵⁸ See the Bangkok Rules, rule 48.

104. In one facility, authorities reported high levels of self-harm among boys and informed the Special Rapporteur that they were all given sleeping pills every evening.

105. The Special Rapporteur considers such an undifferentiated use of medication to be problematic. Juveniles should be offered individualized care based on an assessment of their individual needs. She stresses that the use of psychotropic medication might entail significant health risks, particularly for the young, and should therefore always be prescribed by a child psychiatrist.

106. The Special Rapporteur recalls that deprivation of liberty of a juvenile must always be a disposition of last resort and must be limited to a minimum necessary period in exceptional cases.

107. She stresses that juveniles have a particular need for physical activity and intellectual stimulation. She therefore calls upon the Chilean authorities to ensure that juveniles deprived of liberty are offered an adequate programme of education, sport, vocational training, recreation and other activities. Physical education should constitute an important part of that programme.

108. Lastly, the Special Rapporteur was concerned that domestic legislation permits children to be confined to their rooms or other isolated accommodation for up to seven days, in breach of international standards.⁵⁹ She refers to the Nelson Mandela Rules, which explicitly stipulate that solitary confinement shall not be imposed on juveniles,⁶⁰ and to the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules), which state that any form of confinement which may affect the physical and mental integrity of juvenile offenders should be specifically prohibited.⁶¹ While a period of separation and “down time” from other juveniles for disciplinary or other purposes may be justified under certain circumstances, it is important that such short-term detention takes place in decent rooms and does not become a form of solitary confinement. She notes that during such periods of separation children should continue to engage in activities in their own rooms and notes also that such confinement must be suspended if there are any serious alterations in their health. The Special Rapporteur nonetheless encourages the Government to establish clearer protocols in this regard.

109. The Special Rapporteur heard about growing rates of juveniles with neurodiversity in prisons and recommends that the Government undertake in-depth research in this area and that prison authorities include neurodiversity screening as part of individual assessments, sentence planning and rehabilitative programming.⁶²

3. LGBTIQ+ persons

110. The Special Rapporteur also witnessed various efforts in place to try to accommodate LGBTIQ+ persons safely and in dignity.⁶³ She met and discussed living conditions with a group of transgender detainees in Iquique. They were generally satisfied with the way they were treated and reported that they were subjected to no notably different treatment or discrimination when compared to other detainees. She also met with a transgender woman who had been moved from facility to facility and had spent a considerable amount of time in solitary confinement.

111. The Special Rapporteur recalls that LGBTIQ+ persons are more vulnerable to ill-treatment in detention.⁶⁴ She calls upon the Government to ensure that persons in need of special attention based on their sexual orientation or gender identity are duly protected and have access to adequate medical care, according to their specific situations. All prison staff

⁵⁹ See Law No. 20.084, available at <https://www.bcn.cl/leychile/navegar?idNorma=244803> (in Spanish). Article 45 of Law No. 20.084 prohibits isolation. However, article 75 of Decree 1378, which approves the regulation of Law No. 20.084, establishes a system of responsibility of adolescents for offences against criminal law and allows “separation for up to seven days”.

⁶⁰ The Nelson Mandela Rules, rule 45 (2).

⁶¹ See General Assembly resolution 45/113, annex, rule 67.

⁶² [A/HRC/55/52](#), para. 102.

⁶³ See [A/HRC/31/57](#).

⁶⁴ See [A/HRC/42/20](#), [CAT/C/57/4](#) and [CAT/C/57/4/Corr.1](#).

and law enforcement officials should receive adequate training in human rights norms and standards relating to LGBTIQ+ persons.⁶⁵

4. Detainees from Mapuche communities

112. The Special Rapporteur met with detainees, both convicted and awaiting trial, from Mapuche communities, mainly for offences connected with land protests in the Araucanía region.⁶⁶ She noted that their conditions of detention were generally adequate and that they had been assigned separate quarters where they could reside together, in line with their culture and customs. She discussed a number of challenges faced by prison staff and prisoners.

113. The authorities informed the Special Rapporteur that special regimes were in place in all places of deprivation of liberty housing Mapuche prisoners and that their cultural rights and social customs were accommodated to the greatest extent possible, consistent with the principles of equality and non-discrimination.

114. The Special Rapporteur found that efforts were being made to take the special needs of Mapuche prisoners into account. She received allegations, however, that they were not always able to access culturally appropriate food and adequate space for their traditional practices.⁶⁷

115. She calls upon the Government to ensure that appropriate measures are in place enabling Mapuche detainees to access sufficient, safe and nutritious food and to fully exercise their rights in relation to religious, spiritual and medical needs. She also encourages the Chilean authorities to ensure adequate training of all officials on the needs of Indigenous Peoples in detention, including socioeconomic challenges, remoteness and alienation from their communities.⁶⁸ Furthermore, she calls upon prison authorities to improve the employment rates and representation of Indigenous staff, as well as those with expertise in Indigenous affairs.⁶⁹

116. At the time of her visit, a revision of the national prison regulations was ongoing. The Special Rapporteur urges the Government to ensure substantive consultation with currently detained and recently released individuals from the Mapuche community and other Indigenous Peoples.

5. Persons in psychiatric hospitals or receiving outpatient care

117. At the hospitals visited, the material conditions of accommodation witnessed by the Special Rapporteur could be qualified as generally acceptable. However, the premises were old and in need of extensive renovation.

118. The Special Rapporteur saw patients showing dangerous signs of overmedication, an outdated practice that should be avoided in favour of modern medical standards. She also found an excessive recourse to physical means of restraint and containment practices, such as tying patients to their beds, to keep them under control.

119. The Special Rapporteur emphasizes that the unjustified use of restraints may constitute inhumane and degrading treatment and that their prolonged use can lead to serious muscle injuries, organ failure and trauma. She recalls that patients may only be restrained as a measure of last resort, for the shortest possible time.⁷⁰ Means of restraint should never be

⁶⁵ See, inter alia, [A/HRC/29/23](#); and OHCHR, “Targeted and tortured: UN experts urge greater protection for LGBTI people in detention”, 23 June 2016.

⁶⁶ See [A/HRC/25/59/Add.2](#).

⁶⁷ See Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, principles XI and XV, respectively.

⁶⁸ See, mutatis mutandis, Working Group on Arbitrary Detention, “Preliminary findings from its visit to Mexico (18 to 29 September 2023)”, available at <https://www.ohchr.org/sites/default/files/documents/issues/detention-wg/country-visit/20230929-mexico-preliminary-findings-en.pdf>.

⁶⁹ [A/HRC/55/52](#), para. 96.

⁷⁰ See, mutatis mutandis, European Committee for the Prevention of Torture, “Means of restraint in psychiatric establishments for adults (revised CPT standards)”, 21 March 2017; and [A/78/324](#).

used as punishment, for convenience – for instance, to quickly subdue agitated patients – because of staff shortages or to replace proper treatment.⁷¹ Every resort to means of restraint should always be ordered by a doctor or immediately brought to the attention of a doctor for approval. Staff should be adequately trained before taking part in the application of means of restraint. Patients subjected to restraint should be kept under continuous supervision. Once means of restraint are removed, the reasons for their restraint should be explained to them. In addition, recourse to means of restraint should be accurately recorded.⁷²

120. The Special Rapporteur calls upon the Government to take all measures necessary to ensure compliance with the above-mentioned standards.

121. At one facility she visited, the Special Rapporteur was also informed that, on occasion, electroconvulsive therapy was used without anaesthesia, reportedly owing to the lack of an anaesthesiologist.

122. She recalls that significant controversy surrounds the use of electroconvulsive therapy and its associated risks and that there have been calls for it to be banned while, over the years, recourse to it has dramatically declined.⁷³

123. She stresses that, if permitted, electroconvulsive therapy must only be administered with the written or documented, free and informed consent of the person concerned or the family. She emphasizes that the use of such therapy without consent violates the right to physical and mental integrity and may constitute torture or ill-treatment. People being offered it should also be made aware of its risks and potential short- and long-term harmful effects and it should only be administered with the use of anaesthesia and muscle relaxants.⁷⁴

124. The Special Rapporteur notes that the Ministry of Health is working on updating the electroconvulsive therapy application methodology and urges the Government to ensure that, if retained as a consensual medical intervention, it is applied in strict compliance with the above-mentioned principles.

C. Residential homes for juveniles under the protection of the State

125. As part of the reform of the juvenile care system, the Special Rapporteur visited facilities in Valparaíso housing children who are in the custody and care of the State owing, primarily, to familial circumstances (broken homes, homelessness or domestic violence). The houses were independently run by private entities and housed males and females separately. It was reported that there were high numbers of children with drug- and alcohol-related problems and/or mental health issues.

126. In the home housing females, the Special Rapporteur was concerned that very few girls were attending school, that supervisors did not know how many girls were present at the time of the visit and that, while there were some daily programmes to keep the girls occupied, they were not oriented towards educational, vocational or future career opportunities. She recommends that the Government undertake a thorough review of the residential homes, assess what has been working well and investigate shortcomings. She will continue to monitor action under way to establish a truth, justice and reparation commission for the victims of malpractice by the National Service for Minors.

⁷¹ Ibid.

⁷² Ibid.

⁷³ See World Health Organization (WHO) and OHCHR, *Mental Health, Human Rights and Legislation: Guidance and Practice* (Geneva, 2023). On this, see also [CRPD/C/CHL/CO/1](#).

⁷⁴ WHO and OHCHR, *Mental Health*; and [CRPD/C/CHL/CO/1](#).

V. Conclusions and recommendations

A. Conclusions

127. Since the end of the military dictatorship in 1990, Chile has made steady progress in the fields of transitional justice, institution-building and human rights protection. The country has the necessary institutional framework and suitable political environment, as well as an independent civil society, to support the commitment of the authorities towards the consolidation of democratization and the strengthening of the rule of law, in compliance with its international obligations.

128. The Special Rapporteur is aware that the transition from an authoritarian regime to democracy is a delicate, complex and continuous process, requiring determination in the face of inevitable setbacks. She stresses, however, that commitments must be met by concrete and effective action and warns that building and protecting democracy always requires vigilance in order to ensure that gains made through the years are not lost and can be sustained over time.

129. The Special Rapporteur wishes to continue the constructive dialogue held with the Government during the visit and reiterates her availability to provide technical assistance to all relevant authorities in the implementation of the following recommendations.

B. Recommendations

130. In a spirit of cooperation, and in addition to the various specific recommendations included in the body of her report, the Special Rapporteur recommends that the Government of Chile:

(a) Update the elements of the crime of torture in the penal code to bring it fully into compliance with article 1 of the Convention against Torture by not restricting the purposes for which torture may be committed and to repeal the statute of limitations;⁷⁵

(b) Take all the measures necessary, including the allocation of adequate resources, to ensure the stepped-up processing and adjudication of the remaining historic cases and trials for human rights violations, including torture and other ill-treatment that occurred during the period of the military dictatorship and the 2019 social unrest;

(c) Ensure that law enforcement officials use only single non-lethal shot weapons in policing public assemblies; buckshot or other metal pellets ammunition should be rapidly withdrawn; and in this context, ensure that the use of force in law enforcement always complies with international norms and standards;

(d) Consider joining the State-led Alliance for Torture-Free Trade;

(e) Review and address, in a holistic way, involving all decision makers in the justice system, overcrowding and overincarceration, identify and allocate resources for those prisons that require infrastructural changes and/or demolition, improve the overall health intake and medical treatment available in prisons, including addressing the problem of overmedication, and strengthen efforts towards the rehabilitation of prisoners.

131. The Special Rapporteur further refers the Government to the recommendations contained in her report on current issues and good practices in prison management.⁷⁶ In particular, the Government should:

⁷⁵ See [A/HRC/52/30](#).

⁷⁶ [A/HRC/55/52](#).

- (a) Establish a legal procedure through which prosecutors requesting incarceration and judges ruling on it are provided with up-to-date information on the capacity of various institutions and the range and number of alternatives to detention and placements that are available;
 - (b) Implement an early warning system through which the prison service can alert all relevant actors, including judges and prosecutors, when a prison is near or over capacity so that a response protocol can be instituted;
 - (c) Ensure that the requirement for rehabilitation and preparing prisoners for life after prison is included in prison policies and laws and in prison planning, and ensure that it is properly resourced;
 - (d) Require that prison authorities publish their methodology for measuring capacity and report accurately and regularly on detention conditions and levels of overcrowding to policymakers, decision makers and monitoring bodies;
 - (e) Review the remuneration provided to prison staff on salary scales and under conditions equivalent to those of the police service;
 - (f) Undertake a review of the forensic medico-legal system with view to strengthening forensic medicine capacities;
 - (g) Ensure full financing and independence of the Committee for the Prevention of Torture (the national preventive mechanism) and continue to ensure that it can access all places of deprivation of liberty.
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