



Convention on the Elimination of All Forms of Discrimination against Women

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Summary record of the 750th meeting (Chamber A)

Held at Headquarters, New York, on Wednesday, 16 August 2006, at 3 p.m.

Chairperson: Ms Šimonović (Rapporteur)

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In the absence of Ms. Manalo, Ms. Šimonović, Rapporteur, took the Chair.

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention (continued)

Fourth periodic report of Chile (continued)
(CEDAW/C/CHI/4; CEDAW/C/CHI/Q/4 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Chile took places at the Committee table.*

Articles 10 to 14 (continued)

2. **Ms. Solis Martínez** (Chile) explained that the Ministry of Education had had a policy on sex education since 1993, instituted following the country's return to democracy in 1990. During the years of the dictatorship, schoolchildren and students in Chile had had no education in the areas of sexuality, emotional health and gender. The initial policy on sexuality and emotional health had been drawn up in conjunction with civil society, academic bodies and NGOs. In 2004 the policy had been evaluated and recommendations had been issued by a committee established for the purpose, with the active participation of both students and educators. The outcome had been the 2005-2010 plan for education on sexuality and emotional health, which to date had reached nearly 44 per cent of the country's schoolchildren and students.

3. Chile had elected to make sex education part of the core educational curriculum, regulated by the Ministry of Education, rather than a topic outside the curricular framework. However, in the 2004 evaluation, the teachers themselves had recognized that they did not have the up-to-date information or the skills necessary to provide quality teaching in the areas of sexuality and emotional health. Consequently, a large portion of the plan's funding was directed towards teacher training in those areas. In the current year, 2,000 were being trained at the University of Chile. In addition, 400 counsellors provided students with psychological and social support in cases of pregnancy, maternity, violence, and so on.

4. The Government considered that it had an essential responsibility to assist the family in the area

of sex education. While the family had a fundamental role in that regard, it did not necessarily have the knowledge or skills to carry out that function. In response, the Ministry of Education had produced teaching materials providing answers to the questions most frequently asked by children about sexual and emotional matters. In Chile, education for healthy and responsible sexuality and for emotional health started as early as 3 years of age.

5. The plan for education on sexuality and emotional health included family planning and support for young parents. Those were issues of major concern to the Government, since, as had already been said, the most frequent reason for dropping out of school was pregnancy and motherhood, along with poverty. Shortly after the country's return to democracy, the Ministry had started urging educational establishments to enable pregnant students and young mothers to stay in school. In 2000 a law had been passed, although its implementing regulations had not entered into force until 2004, which established a legal framework under which students could report any discrimination against them in educational establishments because of pregnancy and related issues. Since, under Chilean law, students were required to stay in school for at least 12 years, the Ministry of Education had a duty to protect the right to education of young women who became pregnant.

6. Furthermore, since 2005 the Ministry had disbursed grants to students who were pregnant or had already given birth, primarily to assist with the costs of childcare. While such grants were undoubtedly not yet sufficient, by the first half of 2006 they had helped 1,670 young women to remain in school. An evaluation had been carried out in 2005 to determine how many currently enrolled students had already become parents. The figures were 22,000 in the case of female students and 11,000 in the case of male students. Those figures revealed a need to increase the number of grants for young mothers and to help young fathers to become more involved, committed and responsible.

7. In the seventh year of basic education, all children were required to learn about HIV/AIDS prevention. Since in Chile the HIV/AIDS pandemic was feminized, strong emphasis was placed on ensuring that female students took the right decisions. For students in the second year of mid-level education, teaching material in the form of a series of comics, suitable for adolescents of about 16, had been produced

to impart knowledge and information about HIV/AIDS and to promote the use of all forms of prevention endorsed by the Ministry of Education.

8. **Dr. Castro** (Chile) explained that work with young people in Chile was a joint effort on the part of various bodies, including the Ministry of Education and the Ministry of Health. Chile took a rights-based approach whereby the health care provided to adolescents took into account not only the interests of the parents and the State, but also the interests of the adolescents themselves. When a young man or young woman requested health guidance, that was a very personal matter, and not to recognize or respect that would be injurious, particularly in the area of unplanned pregnancy or sexually transmitted diseases.

9. Since 2000 the Ministries of Health and Education had been running a very ambitious pilot plan called “Towards responsible sexuality” to promote healthy sexual relations among young people. The aim was to help young people to take responsibility for their own sexuality, as a part of their overall development. Like the Ministry of Education, the Ministry of Health had found a need to train its human resources, especially those working in primary health care, on issues of reproductive health. Accordingly, some 2,400 health workers in all parts of the country had been trained.

10. A cross-sectoral approach had been taken to the issue of HIV/AIDS. A national commission composed of different Government agencies had drawn up a plan which guaranteed diagnosis and treatment for all people with HIV/AIDS. In consequence, infection rates were still on the rise in Chile, but the number of deaths from HIV/AIDS was going down.

11. Within the context of the Millennium Development Goals, the Ministry of Health had introduced an additional indicator: a 45-per-cent reduction in teenage pregnancies by 2015. The Government was aware that that was a very ambitious goal, but saw it as an effective way to protect the sexual health of the country’s young men and women.

12. **Mr. Rendón** (Chile) said that, following the adoption of Law 19,617, the Criminal Code, the Code of Criminal Procedure and other legislation relating to sexual offences, including rape, had been amended in order to expand the definition of such offences, eliminate the possibility of subjective interpretations,

strengthen the protection offered to victims and improve investigative procedures.

13. Since the majority of sexual offences were committed by family members or individuals known to the victim, a more recent reform had set the age of consent at 14 years. However, a number of problems relating to confidentiality had arisen because public servants, including health professionals, were obliged to report all suspected cases of sexual abuse. Consequently, even consensual sexual relations involving adolescents under the age of 14 were regarded as statutory rape and had to be reported to the authorities. In an effort to resolve some of the difficulties surrounding that issue, a new law on juvenile criminal responsibility had been drafted, which precluded the possibility of investigating an offence committed more than two years previously. However, that law had not yet entered into force.

14. The penalties for sexual offences depended on the nature of the offence and the age of the perpetrator. Under the draft law on juvenile criminal responsibility, offenders were subject to detention but also benefited from rehabilitation programmes designed to facilitate their reintegration into society. Significantly harsher sentences were imposed on adults and were often accompanied by restraining orders or other measures designed to prevent the perpetrator from coming into contact with the victim.

15. **Ms. Solis Martínez** (Chile) said that, although mother-to-child transmission rates were very low, the national plan on HIV/AIDS contained a number of measures designed to ensure that children living with the virus did not experience discrimination. Discrimination against gay men, lesbians and indigenous women was also prohibited.

16. Eighty per cent of sexual abuse cases involved boys and girls under the age of 18. Consequently, the Ministry of Education was working to ensure that the school curriculum dealt appropriately with the issue of sexual abuse by, *inter alia*, teaching children to respect their bodies and to demand similar respect from others. Under the new legislation on sexual offences, teachers, as public servants, had a responsibility to report suspected cases of sexual abuse to the relevant authorities. Accordingly, they received training on how to detect potential cases, when and how to report such cases and how to approach victims’ family members.

17. **Ms. Silva Donoso** (Chile) said that Chile's indigent population had decreased from 12.9 per cent in 1990 to 5.7 per cent in 2000. Under the "*Chile Solidario*" programme, launched in 2002, the country's 253,000 poorest families, nearly all of which were headed by women, had been granted preferential access to social benefits and received personalized support from specially trained officials. As a result of that programme, the average income of the families concerned had increased from 63,000 to 164,000 pesos. Chile was therefore exceeding the expectations set out in the Millennium Development Goals.

18. **Ms. Schöpp-Schilling** recalled that, when the Beijing Declaration and Platform for Action had been adopted, conservative forces had attempted to replace the word "equality" with the term "equity". Why had the Chilean Government chosen to use the latter in its report and how was that term understood by the authorities?

19. She commended the State party for its efforts to reduce poverty, but expressed serious concern about the growing number of female heads of household, the low female employment rate and the significant pay gap between men and women. She enquired how the Government planned to tackle those interrelated problems, and would be particularly interested to hear about any measures specifically designed to address the feminization of poverty among the elderly. She also wished to know the exact number of female heads of household, as well as their incomes and ages.

20. It was shocking to see that the wage gap between women and men increased as women gained more qualifications and experience, and she wondered whether the Chilean Government had discussed that issue with employers and trade unions. A number of relevant studies had been conducted in the United States and Scandinavia, and she urged the authorities to draw on that research in developing strategies to address the problem.

21. **Ms. Coker-Appiah** said that, with a view to assessing the effectiveness of its policies and programmes on HIV/AIDS, the Chilean Government should start collecting data on infection rates. According to the report, women living in stable relationships, including married women, currently ran the highest risk of infection because their belief in fidelity meant that they did not take precautions. Those

women must be educated about the risk of infection and encouraged to insist on safe sex.

22. In Chile, which had strong religious traditions, contraception was regarded as a moral issue. However, it could more suitably be approached from a social and public health perspective, since rapid population growth put a severe strain on a country's resources, especially when it occurred among low-income groups. The Government had a moral and legal obligation to ensure that all women had access to family planning services, and should make further efforts to that end.

23. **Ms. Gaspard** said that the Committee was concerned that, in the absence of alternative options, abortion was becoming a de facto method of family planning in many countries, leading to an increase in maternal mortality. Abortion was always a harrowing experience for women, but in Chile their distress was compounded by the knowledge that they were committing a crime. Moreover, in the event of complications, women who had had an illegal abortion were unlikely to seek medical attention for fear of prosecution because, under article 84 of the Code of Criminal Procedure, civil servants had an obligation to report suspected cases to the authorities. She wondered whether the Government had given any thought to repealing that article, and also asked how many cases of abortion had been brought before the courts.

24. **The Chairperson**, speaking as a member of the Committee, recalled that, in its concluding comments on the State party's combined second and third report, the Committee had expressed concern that women could be sterilized only in public health institutions, that a husband's consent was required for sterilization and that women wishing to be sterilized must already have had four children. According to the responses to the list of issues and questions, Special Resolution 2326 of 2000 stipulated that a person could undergo sterilization voluntarily, for medical reasons, or, in special cases, at the request of third parties. She requested further information about the circumstances under which voluntary sterilization was permitted and, in particular, asked whether "medical reasons" included an informed decision to prevent further pregnancies.

25. **Ms. Tan** encouraged the State party to clarify the statistics contained in the report by indicating whether the trends they illustrated were positive or negative. With reference to paragraph 225, she asked whether the

plans and policies implemented within the framework of the Statute for the Development of Small Enterprise were meeting their targets and whether they had led to an increase in the number of such enterprises. Had the project met with any obstacles and, if so, how was the Government dealing with them?

26. The State party should provide additional information on National Agricultural Development Institute (INDAP) credits and indicate, in particular, why so few women benefited from them. Was that situation attributable to a lack of female applicants, or was the credit approval process inherently unfavourable to women? In that connection, she requested additional information on loans, the collateral needed to obtain them and interest rates. She also enquired whether studies had been conducted with a view to determining whether it was more difficult for women than for men to obtain loans. Had the Chilean Government taken any measures to inform rural women about the availability of credit programmes?

27. Lastly, she would like to know whether enough women were employed by the Technical Advisory Services, since female employees would be better placed to understand the gender-specific difficulties faced by women farmers.

28. **Ms. Simms** pointed out that although Chile's indigenous people were well integrated, the country also had immigrant minorities about whom not much was said in the report. She wondered whether they all migrated to cities, or whether any worked in rural areas, where problems such as violence and incest were often endemic. If so, what machinery did the Government have, perhaps in partnership with NGOs, to support such immigrant women?

29. **Ms. Albornoz Pollman** (Chile) explained that the Government had no plans to decriminalize abortion, but would wage a vigorous campaign on the prevention of unwanted pregnancies. In reply to Ms. Schöpp-Schilling, she said that 31.7 per cent of households were headed by women. The wage gap was a persistent problem: among workers with 13 or more years of schooling, the gap could be as great as 56 per cent. The Government had decided to work with employers' and workers' organizations on a national plan for good labour practices which would tackle prejudices such as the idea that it was more expensive to employ women. That should help to close the wage gap, especially in the private sector. The public sector had stricter rules,

though it still had many more men than women in the better-paid jobs. Efforts were also under way to remove the bureaucratic obstacles to setting up microenterprises and to harmonize the various programmes for female microenterprise owners, whose number as a percentage of the total had risen by 5 percentage points over the last five years. There were also legislative changes such as the new Family Microenterprise Act, which changed the marital property regime so that women could administer their own property, separately from that of their husbands.

30. Until 2001, there had been a far-reaching female heads of household programme in Chile. The President was keen to restore the programme in 2007. Resources were therefore currently being sought so that female heads of household could be given training under the programme.

31. **Ms. Clark** (Chile) said that globalization, especially in Latin America, had generated a market structure in which many people, especially women, worked in the informal sector of the economy. While the percentage of formal-sector jobs had increased in Chile, pay levels still tended to be low. The Ministry of Labour and Social Security sought to improve women's working conditions and employability, *inter alia* through a programme to subsidize, for four months, the wages and training needs of newly hired workers, especially female heads of household.

32. There was a draft law on subcontracting which would help to formalize employers' labour and social-security obligations towards subcontractors. In view of Chile's sex-segregated labour market, efforts were under way to provide more women with training fellowships and to mainstream the gender perspective in all aspects of training. At the preceding meeting of the Committee, the Chilean delegation had already described the pension and social-security reforms that were being considered with a view to addressing the deficiencies of the current system, which placed women at a disadvantage.

33. As to the use of the terms "equity" and "equality", she clarified that the Government's ultimate goal was to ensure gender equality and that it used the word "equity" in connection with the mechanisms by which it sought to attain that goal.

34. Changes to the Labour Code would be required in order to establish equal pay for work of equal value and the mechanisms needed to assess whether that

standard was being observed in practice, the National Office for Women's Affairs (SERNAM) and the Ministry of Labour and Social Security had formulated an international cooperation agenda for the purpose of devising specific policies to narrow the wage gap and strengthen the leadership role of women in collective bargaining.

35. **Dr. Castro** (Chile) assured the Committee that the Government was monitoring the HIV/AIDS epidemic and would supply more recent statistics. While infection rates continued to rise, the disease could be said to have been stopped, since the whole population had access to treatment. The problem was that men were failing to be faithful to a single sexual partner, in spite of a 2004 campaign explaining why that was the best protection. Within a relationship it was also very difficult for a woman to insist on the use of a condom.

36. Since 1967 Chile had made contraception available to all users of the public health system. No fertility surveys had been done, but it was estimated that 60 per cent of the population used contraception. While the poorest groups were the ones least likely to use contraception, it was hoped that new initiatives would give them the necessary information and resources.

37. New standards were being drafted for fertility regulation, considered a more suitable term in Chile than "family planning" because it highlighted the rights of individuals of both sexes to determine their own fertility. The Ministry of Health had worked closely with NGOs on those standards, and they would soon be published in various media, thereby ushering in an era of real change based on the rights of the individuals involved. In Chile contraception was usually dispensed by nurses and other women, which provided a measure of built-in gender awareness. The country did not plan to change the law making abortion illegal, so all its efforts focused on preventing unwanted pregnancies by improving sex education and the coverage and quality of services.

38. In practice, the requirement that doctors should report women who had undergone abortions was generally complied with only in very specific cases where severe complications were involved and the establishment concerned sought to shield itself from legal liability. The reporting requirement conflicted with the principle of medical confidentiality, and the

Ministry of Health took the view that the latter should take precedence over the former. In any event, no health-care provider could make the provision of services to an individual patient contingent upon whether or not her case was reported.

39. While Ministry of Health regulations had formerly viewed sterilization as a decision to be taken by medical personnel, new regulations introduced in 2000 specified that it must be based on the prior informed consent or request of the individual concerned, and all restrictions as to age, number of children and consent of the male partner or of medical personnel had been abolished. The regulations also allowed sterilization in the absence of consent if it was necessary owing to a medical emergency or, with the consent of a third party, if the person concerned suffered from a psychological or neurological disability that prevented her from regulating her own sexuality and rendered her vulnerable to sexual abuse.

40. **Ms. Albornoz Pollman** (Chile) said that the percentage of INDAP credits received by women had risen from 9.3 per cent in 1992 to 20 per cent in 2004. Nonetheless, the President had asked each ministry to implement specific measures over the next four years to increase the percentage of agricultural credit extended to women and the number of scholarships available for pregnant students, among other aims. At the moment, the number of scholarships fell far short of the number of teenage pregnancies. The President had set a target of at least 50 per cent.

41. The Government was also working on the issue of agricultural labour, *inter alia* with regard to regulations on the appropriate use of pesticides. SERNAM and the bodies responsible for regulating the health and safety of agricultural workers were together looking at ways to monitor their working conditions more effectively and inform them of their rights.

42. Lastly, in response to the need to provide childcare for temporary workers, SERNAM had worked with about 15,000 children in over 150 childcare centres for temporary workers. Account was, therefore, being taken of the needs of temporary workers.

Articles 15 and 16

43. **Ms. Bokpé-Gnacadja** congratulated Chile on its new Domestic Violence Act and hoped that the next report would provide more information about its

impact and its application by the courts. She was also pleased that the grounds for divorce, and the burden of proof in establishing them, were now the same for men and women.

44. While the new Civil Marriages Act was an improvement over previous legislation, she was disappointed that it had stopped short of raising the minimum age for marriage to 18. The State party had expressed concern about its high teenage pregnancy rate. Moreover, under the Constitution, education was compulsory for 12 years in Chile. Why, then, could 16-to 18-year-olds still get married with their parents' consent? In her view, that made teenage girls even more likely to become pregnant and drop out of school. In the past, such provisions had been a way of forcing a pregnant girl to marry the baby's father, thereby saving her family's honour. Unfortunately, such provisions simply encouraged arranged and early marriages. For all those reasons, she urged the Government to raise the minimum marriageable age to 18.

45. She would also appreciate a clarification concerning the new system of justice, in particular the new family courts. Had the competence of civil judges been transferred to family judges, and were family courts functioning effectively?

46. Lastly, she did not understand why, in the event of separation, responsibility for caring for the couple's children lay primarily with the mother. What was meant by responsibility? Did it mean financial responsibility? If so, separation would absolve the father of all responsibility for caring for his child.

47. **Ms. Tan** congratulated Chile on the progress it had made in matters concerning marriage and the family. However, did it agree that, under the Convention, it was obliged to attach a fair value to women's unpaid work in the home? In that regard, how did the family courts quantify such work when deciding how to divide the matrimonial assets in the event of divorce? What were the minimum, maximum and usual percentages that a woman could expect to receive? She also wished to know more about the set-up of family courts. What services did they provide? How did they work with other entities? Were they accessible and affordable for the women who needed them? She would also appreciate more information about the average length and cost of proceedings relating to divorce, protection orders and

enforcement. Lastly, had any gender training been provided for judges, prosecutors and law enforcers?

48. **Ms. Morvai** wished to know why it was taking so long to change the property ownership regime, which the State party itself had admitted was discriminatory.

49. **Mr. Rendón** (Chile) agreed that setting the minimum marriageable age at 16 did not send a very good signal. He was sure that the Committee's comments would spark further debate on the issue.

50. As for the family courts, the issues of divorce and legal separation still needed to be resolved. Previously, as a temporary measure pending the establishment of the family courts, such issues had been handled by the civil courts.

51. The provision that, in the event of separation, the mother would assume primary responsibility for caring for the couple's children was in no way meant to absolve the father of all responsibility. Rather, it was based on an equitable division of income to ensure that the children's needs were met. The law, which had already been reformed significantly in 2001, was being further reformed so that both parents, not just the mother, would be responsible for caring for their children.

52. The provision relating to economic compensation for domestic work was one of the key aspects of the Civil Marriages Act. The Act did not establish a minimum or maximum percentage, but it did establish various factors that must be taken into account. It was important to note that economic compensation for domestic work came after the division of property. When a marriage was dissolved, the property was generally divided evenly between the man and the woman.

53. The Government wanted family courts to be as accessible as possible. Public investment had already been tripled in that area and further measures would be announced in the near future. Judges and law enforcement officers had received training, even if it was sometimes insufficient. SERNAM was constantly reviewing the matter. Training was currently being offered, for example, to prosecutors working in the area of domestic violence.

54. Even though the draft law establishing a new property ownership regime had been submitted in 1995, the Government had not started working on it until 2001. If there were more public debate about such

issues in Chile, legislators might feel more pressured to change the law. The Government had at least recognized that the current regime was discriminatory and, following a complaint to the Inter-American Commission on Human Rights, had undertaken to pass the law as quickly as possible.

55. **The Chairperson** thanked the State party for its contribution and expressed the hope that, under the new President's leadership, it would ratify the Optional Protocol very soon.

The meeting rose at 5 p.m.