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### IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC SOCIAL AND CULTURAL RIGHTS

Second periodic reports submitted by States parties to the  
Covenant, in accordance with Council Resolution 1988 (LX),  
concerning rights covered by articles 10 to 12

CHILE \*/

{29 October 1986}

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\*/ The initial report concerning rights covered by articles 10 to 12 of the Covenant submitted by the Government of Chile (E/1980/6/Add.4) was considered by the Sessional Working Group of Governmental Experts on the Implementation of the International Covenant on Economic, Social and Cultural Rights at its 1981 session (see E/1981/WG.1/SR.7).

## I. INTRODUCTION

1. In accordance with the provisions for the submission of reports concerning the International Covenant on Economic, Social and Cultural Rights (Economic and Social Council resolution 1988 (LX)), the Government of Chile has the honour to submit the relevant report on matters covered by articles 10 to 12 of the Covenant.

2. We would point out in this regard that, as stated in paragraph 7 of the note by the Secretary-General on the subject (E/1985/52), the Government of Chile has submitted its initial report on the rights covered by articles 10 to 12; accordingly, we are now forwarding additional information regarding these articles.

3. It must be noted at the outset, as was done in the report relating to articles 6 to 9 of the Covenant, that the Government of Chile is engaged in the major task of improving and reforming all the complex legislative and administrative measures relating to the matters covered by the articles dealt with in this report.

4. This work has not stopped, but it has been seriously hampered by two factors entirely beyond the control of the Government: firstly, the serious consequences of the world economic recession, which has particularly affected the Latin American region, and secondly, the earthquake of 3 March 1985 and its after-effects, which seriously affected several regions of the country, causing great damage to its infrastructure, including port installations, communications, health and educational facilities and housing.

5. These developments have made it essential to redeploy resources, with due regard for inescapable priorities and for the benefit of the persons most affected.

### Article 10, paragraph 1: Protection of the family

6. Protection of the family is a matter of such importance in Chile that it is referred to in article 1 of the Constitution. This article states: "The family is the fundamental unit of society". All the doctrinal and legal concepts set forth below fall within the context of this concept.

7. Accordingly, in Chile the law proclaims the freedom of the individual to take his own decisions regarding the founding of his family, and it is for the State to ensure that these decisions and the rights and obligations which flow therefrom are respected and complied with, with a view to the establishment of conditions conducive to the general well-being.

8. The Constitution stipulates that "The family is the fundamental unit of society", and that "It is the duty of the State to protect, foster and strengthen the family, and to ensure the right of persons to participate with equality of opportunity in public life".

9. The Constitution further stipulates that "The State is at the service of human beings and its object is to foster the common weal, for which purpose it shall help to create the social conditions that enable each and every member of the national community to achieve the greatest possible spiritual and physical fulfilment, with due regard for the rights and guarantees laid down in the Constitution".

10. The Constitution also provides that "The life of the unborn child shall be protected by law".

11. The Civil Code, for its part, protects the freedom of persons legally to found a family and stipulates, in article 106, that for this purpose "persons who have reached 21 years of age shall not be required to obtain the consent of any person".

12. As regards persons under 21 years of age, the Civil Code provides that "They may not marry without the express consent of their legitimate father or, failing that of the legitimate father, or that of the legitimate mother or, failing that of both, of the closest legitimate ascendant or descendants". In the absence of the said relatives, a person under age is required to secure the consent of his legal guardian.

13. The other limitations on contracting marriage relate to the impediments and prohibitions laid down under the Civil Marriage Act, to wit:

(a) The following persons may not contract marriage: persons bound by a marriage tie which has not been dissolved; persons under the age of puberty; persons suffering from permanent and incurable impotence; persons who cannot express their wishes clearly, orally or in writing; and the insane;

(b) Ascendants and descendants by blood or affinity, and collaterals by blood up to and including the second degree may not enter into marriage with one another;

(c) A surviving spouse may not marry the murderer, or an accomplice in the murder of the husband or wife;

(d) A woman may not contract marriage with her guilty partner in the offence of adultery.

14. In addition to the above impediments, which are normally to be found in the legislation of most countries on the subject, a broad degree of freedom and support for the integration and development of the family is guaranteed in Chile. To this end, society, either through the State or the organized community, makes available to it a wide range of social services with a view to meeting its various needs.

15. These services form part of the global social development policy, from which derive the regular programmes and activities which the State carries out in this field, supplemented by a vast social network designed to operate in an integral, rational and concentrated manner among those population groups which have special needs, such as backward children, children who have no family, those who have behavioural problems, those who live in remote geographical areas or areas that are difficult of access, and those in rural areas.

16. The strategy being applied in Chile for dealing not only with the social demands inherent in normal human development, but also in a special way with those overall and urgent requirements of minors who are affected by adverse situations of various kinds is marked by the treatment of the family as the basic agent of social change and support for it through a wide range of resources, with a view to ensuring better expectations of development.

17. Accordingly, a social system has been evolved for the protection of those children who, because they have no family or because the family is seriously prevented from exercising its protective role, are not in a position to assert their rights, so that their relationship with their environment is defective, which can affect their participation in society to varying degrees.

18. A broad system of welfare has therefore been introduced with a view to replacing or supplementing the role of the family in such situations and thus securing the proper social integration of such minors.

19. Protection of the family can be broken down into a number of very important activities, some of which are considered in the paragraphs that follow.

Article 10, paragraph 2: Protection of motherhood

20. On this question, it should be pointed out that the provisions relating to the protection of motherhood are to be found in Decree-Law No. 2200, book I, section 2, articles 95 to 106, and apply to every working woman without discrimination of any kind. Articles 95 and 96 provide for the right to antenatal and postnatal leave and the right to additional leave in the event of illness resulting from pregnancy or childbirth. They read as follows:

"Article 95. Women workers shall be entitled to maternity leave of 6 weeks before childbirth and 12 weeks after childbirth. This right may not be waived and during the leave period, pregnant and puerperal women are forbidden to work. Notwithstanding any provision to the contrary, their posts shall be retained for them during that period."

"Article 96. If, during pregnancy a pregnancy-related illness, attested by a medical certificate occurs, the woman concerned shall be entitled to additional antenatal leave, the duration of which shall be determined by the services responsible for giving her prophylactic or curative medical treatment.

"If the birth occurs later than six weeks after the date on which the woman started her maternity leave, antenatal leave shall be extended until childbirth and postnatal leave shall run from the date of the birth, the facts being duly attested before the period expires by an appropriate medical or midwife's certificate.

"In the event of birth-related illness, attested by a medical certificate, which prevents the mother from returning to work for a period longer than the postnatal leave, that leave shall be extended for a period determined by the service responsible for her prophylactic or curative medical treatment.

"The certificates referred to in this article shall be issued free of charge when they are requested from doctors or midwives who receive remuneration from the State on any basis."

21. Article 98 of Decree-Law No. 2200 establishes that a woman on maternity leave under the terms of articles 95 and 96 quoted above is entitled to receive an allowance. The text reads:

"A woman taking maternity leave under the terms of article 95 or additional or extended leave as provided for in article 96 shall receive an allowance equivalent to the whole of the remuneration and benefits which she normally receives, subject only to deduction of social security contributions and other applicable legal charges."

22. Article 99 of Decree-Law No. 2200 provides for the right to leave and an allowance in the event of illness in a child under the age of one year. It reads:

"Every working woman shall be entitled to leave and the allowance established under the foregoing article when she is compelled to stay at home because a child of hers under the age of one year is suffering from a serious illness.

"The illness must be attested by a medical certificate issued or confirmed by the paediatric services."

23. With regard to guarantees against dismissal referred to in the question under consideration, article 100 of Decree-Law No. 2200 provides that:

"During the period of pregnancy and up to one year after the expiry of maternity leave, the woman concerned shall come under the provisions of article 22.

"If her contract of employment has been terminated in breach of the provisions of article 22 because her pregnancy was not known, the termination shall be null and void, and the woman shall be reinstated in her post on presentation of the appropriate medical or midwife's certificate, without prejudice to her right to remuneration for the period during which she has been wrongfully out of work, if during that time she has not been entitled to an allowance.

"Notwithstanding the provisions of the preceding paragraph, if the illegal termination of contract occurs while the woman is taking maternity leave as referred to in articles 95 and 96 of this Decree-Law, she shall continue to receive the allowance referred to in article 98 until the end of the leave period. For the purposes of unemployment allowance, if applicable, the contract of employment shall be deemed to expire on the date on which she ceased to receive her maternity allowance."

24. The following is the text of article 22 of the Decree-Law No. 2200, to which the foregoing article refers:

"In the case of workers subject to labour regulations, the employer may not terminate the contract of employment without prior authorization from the competent magistrate, who may grant such authorization on the grounds set out in article 13, subparagraphs (b) and (c), and in article 14."

25. Article 101 of Decree-Law No. 2200 contains provisions relating to the types of work which are deemed to be harmful to the health of a pregnant woman. It reads:

"During the period of pregnancy, a woman who is habitually engaged in work which is deemed by the authorities to be harmful to her health shall be transferred, without reduction of pay, to other work which will not be harmful in her condition.

For these purposes, the following types of work, in particular, shall be deemed to be harmful to her health:

(a) Work which entails lifting, dragging or pushing heavy objects;

(b) Work which requires physical exertion, including standing for long periods;

(c) Night work;

(d) Working unsocial hours; and

(e) Any other work that the competent authority may declare to be inadvisable during pregnancy."

26. Article 105 of Decree-Law No. 2200 establishes the right of mothers to feed their children. The text is as follows:

"For the purpose of feeding their children, mothers are entitled to have two periods not exceeding a total of one hour a day, which shall be regarded as time worked for the purposes of calculation of wages, irrespective of the system of remuneration.

"The right to use this time for the purpose stated, may not be waived in any way."

27. Finally in relation to maternity benefits, article 102 of Decree-Law No. 2200 provides for crèches as follows:

"Establishments employing 20 or more female workers of any age or civil status shall have accommodation adjoining but separate from the work place in which women can feed their children of under the age of two and leave them while they work.

"The crèches shall comply with the standards of hygiene and safety specified by the regulations.

"Nevertheless, establishments referred in the first paragraph which are situated in the same geographical area may, subject to prior authorization from the National Kindergarten Board, build and maintain joint crèches for the care of the children of the female workers employed by all the establishments in question.

"An employer shall be deemed to have complied with his obligations as set out in the present article if he pays the costs of the crèche directly to the establishment in which the woman worker leaves her children under the age of two.

"The employer shall select the crèche referred to in the foregoing paragraph from among those licensed by the National Kindergarten Board.

"The period of absence referred to in article 105 shall be extended to cover the mother's return travel time in connection with feeding her children.

"The employer shall defray the cost of any fares paid in order to convey the child to and from the establishment concerned and any fares which have to be paid by the mother in the case mentioned in the preceding paragraph."

Article 10, paragraph 3: Protection of children and young persons

28. The protection of children and young persons is a subject of the greatest importance to which Chilean legislation has given priority practically since the beginning of the Republic. The present situation is described in the following paragraphs.

29. The protection of the child begins in its earliest years; in Chile, this represents a long-standing tradition and is at present channelled in particular through the body known as the "National Kindergarten Board".

30. The National Kindergarten Board, established by Act No. 17,301 (see annex 1) promulgated on 22 April 1970, is an autonomous body with legal personality in public law; its operations are decentralized and it is linked with the authorities through the Ministry of Education. It is responsible for the establishment, planning, promotion, encouragement, co-ordination and supervision of both the organization and functions of kindergartens.

31. Its main function is to promote, regulate and supervise comprehensive care, including feeding, education according to age, and social, medical and dental care for children up to the age of five years who attend the kindergartens under the Board's control, and who are voluntarily enrolled in the kindergartens by their parents. It focuses attention and resources on children most greatly at risk, with the purpose of giving equal opportunities in life to everyone and thus providing a practical solution to an important social problem.

32. The National Kindergarten Board has 405 kindergartens throughout the country, situated in very poor urban districts.

Population served

33. Kindergartens are attended by 53,799 young children at the following levels:

Crèche level: 4,089 babies up to the age of two years;

Intermediate level and pre-school level: 49,710 children from 2 to 5 years of age.

Attendance

34. The kindergartens provide a comprehensive service in accordance with two different schedules:

Full day: from 8.30 a.m. to 5.30 p.m.

Half day: from 8.30 a.m. to 1 p.m. and  
from 1 p.m. to 5.30 p.m.

Type of staff

35. To look after the children, the National Kindergarten Board has the following staff throughout the country:

Infant schoolteachers with university degrees:	1,221
Social welfare workers with university degrees:	33
Nutritionists with university degrees:	19
Qualified assistant infant schoolteachers:	1,805
Catering staff with diplomas awarded by the health services:	150
Cleaning staff:	484

Work with parents

36. Kindergartens are aware of the need to establish a close relationship between themselves and the parents of young children in order to reinforce their educational work. Accordingly, since 1974, parents' and guardians' centres have been functioning in all the kindergartens to promote the active and organized participation of the family in the systematic education of the child.

37. From 1974 onwards, kindergartens have conducted educational programmes for parents, to provide practical information which will enable them to tackle satisfactorily the upbringing of their children and thus achieve consistency between the education given by the kindergarten and the education the children receive at home. In addition to such educational successes, it has been possible to integrate the parents more effectively with the kindergarten, thus enabling them to learn about and understand the kindergarten's educational work and establishing better communication between families and staff.

Relationship of the National Kindergarten Board with government Ministries

38. Ministry of Education. The National Kindergarten Board is linked with the Government through this Ministry. For this reason, all its activities are integrated and co-ordinated with the Ministry.

39. Ministry of Health. The objective of co-ordination with this Ministry is to ensure that all the children under the care of the National Kindergarten Board receive all the health treatment to which they are entitled under Chilean law, from both the prophylactic and curative standpoints. There are some special Ministry of Health projects, such as the Food and Nutritional Monitoring System (SISVAN), with which co-ordination is even closer for the purpose of preventing malnutrition.

40. Secretariat for Development and Social Assistance. The object of co-ordination with this body is to rationalize the use of resources allocated to assist extremely poor children between the ages of 2 and 5 years.

Measures to ensure the healthy development of children

41. The psychomotor development of all children under the care of the National Kindergarten Board is measured on the Scale of Evaluation of Psychomotor Development for Crèches and the Denver Infant Development Test for the intermediate and pre-school levels. According to these evaluations, there is an annual improvement of about 43 per cent in the children of crèche age and about 60 per cent among children at the intermediate and pre-school levels.

42. The SEMPE tables are used to measure the nutritional condition of all young children. The prevalence of malnutrition as measured in March and December 1984 fell from 14.5 per cent to 8.6 per cent, a decline of 40.7 per cent.

43. The text of Act No. 17,301, which established the institution known as the "National Kindergarten Board", is appended hereto (see annex 1).

Protection of children and young persons

44. On this point it should be stated that the relevant subject-matter is to be found in Decree-Law No. 2200, articles 23 and 29, of 1978.

45. With regard to the minimum age for employment, article 23, first to sixth paragraphs, states:

"For the purposes of the labour laws, persons over 18 years of age shall be deemed to be of full age and may freely enter into contracts for their services.

"Persons under 18 but over 15 years of age may enter into contracts of employment if they have the express authorization of their father or mother or in default of parents, the authorization of their paternal or maternal grandfather, or in default of parents and grandparents, that of guardians, persons or institutions which have charge of the young person concerned, or in default of all the foregoing, that of the competent labour inspector.

"Persons under 15 but over 14 years of age may enter into contracts for their services provided they have authorization as referred to in the preceding paragraph, that they have complied with the compulsory schooling requirement, and that they engage only in light work which will not harm their health or development and will not prevent their attendance at school and their participation in educational or training programmes.

"A labour inspector who has given the young person authorization in the cases mentioned in the preceding paragraphs shall bring the particulars of the case before the judge of the competent juvenile court, who may cancel the authorization if he deems it contrary to the interests of the young person concerned.

"If the authorization is granted, the provisions of article 246 of the Civil Code shall apply to the young person and he shall be deemed fully capable of undertaking the relevant activities.

"The provisions of the second paragraph shall not apply to married women, who shall be subject to the provisions of article 150 of the Civil Code."

46. Article 29 prohibits night work in the following terms:

"Young persons under 18 years of age are forbidden to perform any night work in industrial establishments between the hours of 10 p.m. and 7 a.m., with the exception of establishments in which only members of the family work, under the authority of one of those members.

"Males over 16 years of age are excepted from this prohibition in the industries specified in the regulations governing work which, owing to its nature, must necessarily continue day and night."

47. The final paragraph of article 23 restricts hours of work in the following terms:

"In no case may persons under 18 years of age work more than eight hours a day."

48. Rest periods for young persons, within the eight hours a day which they are permitted to work, are governed by the general rule set out in article 45, first paragraph, Decree-Law No. 2200, which states:

"The working day shall be divided into two parts, with an interval between them of at least half an hour for a meal. This period shall not be regarded as working time for the purposes of calculating the length of the working day."

49. The weekly rest day is also governed by the general rule in Decree-Law No. 2200, article 46, first paragraph, which states:

"Sundays and official holidays shall be rest days, except for activities legally authorized on those days."

50. Penalties for violation of the foregoing provisions are imposed in conformity with article 165 of Decree-Law No. 2200, except in cases where a special penalty is proscribed by law. Article 165 states that "infringements of Decree-Law No. 2200 for which no special penalty is specified shall be punishable by a fine payable to the treasury of 2 to 20 development units, which shall be doubled in the event of repetition of the offence within a period of six months".

51. Decree Law No. 2200, articles 24, 26 and 27, also contain relevant provisions:

"Article 24. Persons under 18 years of age shall not be permitted to work underground or on tasks which require excessive exertion or to engage in activities which may prove harmful to their health, safety or morals.

"Persons under 21 years of age shall be passed as fit before being recruited for underground work.

"Any employer who recruits a person under 21 years of age without complying with the requirements set out in the preceding paragraph shall be liable to a fine of two to five times the minimum monthly wage, which shall be doubled in the event of repetition of the offence."

"Article 26. Persons under 21 years of age are forbidden to work in cabarets and other similar establishments which present live entertainment and in establishments which sell alcoholic beverages for consumption on the premises.

"However, minors may perform in such entertainment with the express authorization of their legal guardian and the judge of the juvenile court."

"Article 27. In cases which have been duly investigated, and with the authorization of the legal guardian or the judge of the juvenile court, young persons under 15 years of age may be allowed to enter into contracts of employment with persons or entities engaged in the theatre, cinema, radio, television, circus or similar activities."

52. The penalty for violation of the above provisions is the same as that for the previous category, with the sole exception of the case referred to in article 24, second paragraph.

53. In conformity with Decree-Law No. 2200, article 28, if a minor is recruited in breach of the provisions of articles 23, 24, 26 and 27, "the employer shall be subject to all the obligations which flow from the contract while it is in force but the inspector of labour, by virtue of his office or at the request of one of the parties, may order the contractual relationship to be terminated and impose the appropriate penalties on the employer".

54. Under article 10 of the International Covenant on Economic, Social and Cultural Rights, the States parties recognize that: "The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses".

55. In keeping with that principle, Chile recognizes, in article 1 of its Constitution of 1980, that "The family is the fundamental unit of society" and that "It is the duty of the State to safeguard national security, protect the people and the family, and promote the strengthening of the latter". Accordingly, the protection of this fundamental unit is promoted in various fields of legislation.

56. In the field of social security, mention may be made of the regulations relating to family allowances, family subsidies for needy persons and other benefits granted through the Family Compensation Funds, such as social credit and additional benefits or through the welfare system. Legal provisions about family allowances, medical benefits and similar matters are appended (see annex 2).

Young people in an irregular situation

57. Owing to their vulnerability and dependence, young people have special rights under the law in order that they may be born, grow up and live in full measure. Thus the child has the following rights: to develop, physically, mentally, morally, spiritually and socially, with the support of his family in an atmosphere of affection and security; to an education which enables him to become integrated within society and to enjoy good health; to be protected against any form of neglect, cruelty or exploitation; not to work at too early an age and to become integrated within society in conditions of equality and dignity.

58. However, whether for reasons specific to individual cases or owing to their surroundings, not all young people are able fully to enjoy such rights, and accordingly find themselves in an "irregular situation" as compared with their peer group which has full access to those advantages.

59. Over the years many definitions of this expression have been given; it was first used in 1940 on the occasion of the Inter-American Congress on the Child, held in Quito, Ecuador. In Chile, it was first employed in Law-Ranking Decree No. 220-1412 of 1942, which merged various bodies dealing with young people within the Directorate-General for the Protection of Children and Young People. Article 5 of this Decree states that "a young person under age shall be deemed to be in an irregular situation when his social behaviour deteriorates, when he has been morally or materially abandoned or is in danger of so being, or when he has committed an offence, irrespective of his civil status".

60. Subsequently, the meaning of the term has undergone various changes and the current general definition is as follows:

"A young person in an irregular situation is any person under 21 years of age suffering from organic, congenital or acquired defects, or whose social surroundings have deteriorated in economic and/or cultural and/or psychological terms, as a result of which his normal physical and psycho-social development is impaired. These variables must be persistent or likely to grow worse or be impossible to correct immediately by the young person's family group."

61. To tackle all the factors involved in the irregular situation of a young person requires, in view of their extent and diversity, intersectoral action whose efficiency will depend upon the prior delimitation of the competence of each sector.

62. This is how the courts defined their responsibility. They operate both at the legal level, as determined by law, and at the psychological and social levels, analysing clearly contributory factors and the social context. This approach covers those young persons who lack protection or if they have it, it is from a source that constitutes a danger for their normal full development in the case of those who have behavioural problems and those who have fallen foul of the law.

63. The conceptual analysis just described is based on the principle, which has already been mentioned, that every child, simply by virtue of his age, is entitled to certain special rights which he cannot claim for himself owing to

his vulnerability but can enjoy only through those who have the duty of protecting him - a term which is taken to mean the whole nexus of rights and duties which fall to the parents or to specific persons appointed by law or by a judge in relation to the upbringing, education and personal care of the young person.

64. Consequently, given that the expression "young person in an irregular situation" is used to refer to young people who experience a lack or deficiency which distinguishes them from their peer group, from the legal standpoint young persons in an irregular situation are primarily those who cannot exercise the rights granted them by law to protect their persons, through those whose duty it is to look after them, either because they have no natural person who can be required to fulfil the obligation to protect them, or because they have been abandoned by their parents. Similarly, a young person may be in an unprotected state because, although he has someone who is responsible for his protection, that person or the environment are affected by some circumstance, either material or moral, which constitutes a danger to his full development.

65. When irregular situations result from the absence of protection or a deterioration in the provision of protection, it is not always possible to establish precisely whether the parents or guardian or the social context in which the young person lives should be held responsible.

66. Nevertheless, studies and inquiries on the subject show that, in the great majority of cases, the structure and dynamics of the families of young people so affected have various shortcomings which, if they continue, will leave the young person in a vulnerable position and will constitute elements which are highly conducive to antisocial behaviour. Irregularity may also show itself in the young person's behaviour, whether reflected in a failure to conform to the standards which society expects from an individual according to his age or in offences against legislation currently in force. In the first case, what is involved is behaviour counter to the established social roles, such as absenteeism from school, running away from home and rebelliousness. In the second case, the irregularity is more serious since it brings the young person into conflict with the law and implies a deterioration of behaviour fraught with greater consequences.

67. Study and analysis of present-day realities show that such situations are the product of the continuing interrelationship of many factors, both within and outside the family, which are most frequently linked with various levels of irregularity.

68. Among the former factors are a number of characteristics in the parents - illiteracy or poor education, alcoholism, and shortcomings in family structure and dynamics revealed by the total or partial absence of parental figures in the home, the young person living with another family, an excessively extended family group, repeated unions on the part of the mother, inadequate relationships between parents and children, violence and conflicts in the home, a lack of any sort of encouragement for the young person, promiscuity, and scant regard for the child and his needs.

69. Among the factors outside the family are adverse conditions in the community or surroundings within which the young person lives, such as delinquent behaviour, alcoholism and drug addiction. The impact of such

conditions on the young person constitute serious constraints on the satisfactory development of his potential, both physical and mental, and on the structuring of his personality. Similarly, the obstacles which such conditions represent for the child's development in the cognitive, emotional, affective and social fields prevent the expression and unfolding of skills, talents, personal aspirations, abilities, maturity and satisfactory patterns of behaviour. Thus, children and young people grow up poorly adjusted to the requirements of the educational system and, basically, to the standards, roles and values of society as a whole.

70. It is important to bear in mind that a balanced and positive interrelationship between these areas, as well as the individual's capacity to learn and to adapt socially, are linked with his earliest experiences. These experiences occur precisely in the network of interacting influences at the level of both the family and the environment, the quality of which determines the possibility of the individual's personal development and the type of conditions governing his incorporation into society.

71. This is what some authors call the "hidden curriculum" or life story of the majority of young people who come before the courts; it consists of a series of adverse experiences or incidents which finally place them in a deficient or irregular situation which requires special measures.

72. What has been said constitutes only an overall viewpoint of the dynamics and nature of child and juvenile irregularity since, although it is not possible to speak of aetiology in the strict sense of the word, the experience so far recorded represents an approximate estimate of the determining factors of the phenomenon, in the context in which it generally occurs.

#### Some diagnostic background material

73. Diagnostic studies of young people in irregular situations, especially with regard to the calls on the system designed to help this group of people, have made it possible to classify the deficiencies which chiefly affect them and to detect, with a certain degree of approximation, the elements involved in the emergence of irregularities, in protection or in behaviour or in both.

74. In the great majority of cases, there has been a deterioration of the family structure, basically taking the form of family disintegration, one or both parents leaving, instability of the parental figures or the death of one or both parents.

75. Closely associated with the foregoing there is a high degree of unfitness among parents or guardians to bring up their children in a satisfactory manner, owing to the irresponsible way in which they perform their roles, alcoholism, ill-treatment of the child, physical or mental incapacity, and other problems. Furthermore, there are a significant number of serious family conflicts, factors which are directly associated with truancy, running away from home and criminal behaviour in the young person. This latter problem affects a smaller number of young people than those directly related to family circumstances, in that fewer than one third of young people who require assistance from the authorities have fallen foul of the law.

76. For children up to about 10 years of age, an irregular situation is characterized mainly by deficiencies in the family structure and the unfitness of parents or guardians, in addition to economic problems. After that age, although the above-mentioned factors have an important impact, other problems become relevant, such as deterioration in family dynamics, deviant behaviour and adverse environment outside the family.

77. From the educational standpoint, over half such young people are backward, generally by more than four years. The relationship between this variable and the situation of the young people reflects the growing impact of this deficiency as other problems, such as the influence of bad company and deterioration in behaviour, are added to the problems of protecting the young person.

78. Consequently, in analysing the situation of the young people who form the bulk of calls on assistance organizations from the standpoint of their development process, it may be observed that the irregularity begins in the majority of cases with a problem of vulnerability arising from shortcomings in the family in early infancy. As the child grows older, additional problems emerge and, interacting with the existing problems, bring about a high-risk situation conducive to deviant behaviour.

79. Legislation relating to the care and protection of young people in irregular situations is appended hereto (see annex 3).

#### Article 11: The right to an adequate standard of living

80. It should first of all be noted that, in view of its importance, the subject-matter covered in this article has constitutional status in Chile. Thus, the Constitution states:

"Article 19. The Constitution guarantees to all persons: ...

"8. The right to live in a pollution-free environment. It is the duty of the State to ensure that this right is protected and to safeguard the preservation of nature.

Specific restrictions on the exercise of certain rights or freedoms may be established by law in order to protect the environment;

"9. The right to protection of health.

"The State shall protect the free and egalitarian access to activities for the promotion, protection and recovery of the health and rehabilitation of the individual. The co-ordination and control of health-related activities shall likewise rest with the State.

It shall be the prime duty of the State to guarantee the implementation of health activities, whether undertaken by public or private institutions, in the form and conditions determined by law, which may establish mandatory contributions.

"Everyone shall have the right to choose the health system he wishes to join, whether State or private".

81. Article 11 of the Covenant deals with various subjects such as food, housing and clothing which must be studied separately in order to gain a better understanding of them. In Chile as in other countries, they are the responsibility of different ministries and administrative departments, and accordingly each of them has been requested to extend the necessary co-operation.

82. Obviously, Chile fully complies with the provision relating to international co-operation in these matters, for it is totally persuaded that this is a field in which such co-operation has been and is of fundamental importance, especially in remedying, even to a minimal extent, the very profound inequalities which still exist in this respect over the greater part of the globe. Accordingly, Chile is an active member of all the international organizations with competence in these matters, such as the Food and Agriculture Organization of the United Nations, the World Health Organization (WHO), and the United Nations Environment Programme and the United Nations Development Programme.

#### Housing

83. Among the important matters covered by this article, we shall deal first of all with housing. The purpose of this section is to describe the work done by the Supreme Government between 1976 and 1985 in providing access to housing.

84. To this end, the points in this section have been dealt with in accordance with the general guidelines for the submission of reports on all the rights recognized in articles 10 to 12 of the Covenant (A/40/600/Add.1).

85. Information concerning the principal laws, regulations and agreements designed to promote the right to housing and information on the measures, programmes and tax incentives to expand housing construction have been merged in a single account comprising a brief description of the general principles, objectives and policies on housing which have been formulated for action by the Ministry of Housing and Town Planning and a year-by-year survey of the main outlines, including relevant legislation on housing (see annex 4).

86. With regard to information on the use of scientific and technical knowledge to develop and improve our housing construction, a compilation has been made of existing national standards relating to housing construction and a brief account given of the Act and General Ordinance on Construction and Town Planning. Mention is also made of international co-operation through foreign loans and the work of the Ministry of Housing and Town Planning in dealing with the emergency caused by the earthquake in March 1985.

87. With regard to information on measures taken to solve the problem of housing in rural areas, mention is made of the assistance given by the Ministry to the rural population through the Rural Subsidy System.

88. On the question of measures for the protection of tenants and rent control, the Ministry has no policies on this subject since one of its basic objectives is to generate possibilities of house ownership.

89. Mention is also made of statistical information on the work done in various fields during the period 1976-1985.

General observations

90. Housing produces a variety of external benefits which indirectly affect the social behaviour of the population, such as hygiene, health and family security; these generate social benefits in the medium and long terms, reducing death rates and infant mortality and improving the general health of the population and life expectancy.

91. The family tends to satisfy its food and clothing requirements before meeting its need for housing. When incomes are low, only a small proportion is put aside as savings. World Bank studies show that in countries with low per capita incomes, which include Chile, the percentage of savings from income is between 10 per cent and 15 per cent, whereas it is 20-25 per cent in developed countries. In view of economic conditions in Chile, the State adopts a subsidiary approach, thus providing the poorer sectors with opportunities for home ownership.

92. The principal objective of the Ministry of Housing and Town Planning is to improve the living conditions of the individual by looking after the urban and rural population's needs for urban development and housing. All statements on housing policy and urban development concerning action in the area of housing and town planning have this aim in view.

Basic objectives

93. The objectives of current housing policy are:

- (a) To improve quality of life of the individual;
- (b) To eliminate extreme disparities in housing standards by giving priority to the poorest sectors;
- (c) To provide possibilities of home ownership for the various socio-economic sectors of the population;
- (d) To produce the greatest possible number of dwellings with the resources which the country can provide for that purpose, adopting an impartial and non-discriminatory approach to housing construction.

94. In pursuit of these objectives, the Supreme Government is endeavouring to achieve sustained growth in housing construction in a manner consistent with the real needs of the population, thus enabling all Chileans to acquire housing which satisfies minimum standards of hygiene, shelter and privacy, giving equality of opportunity to both rural and urban family groups in solving their housing problems with State assistance.

Home ownership policy

95. The housing policy of the Supreme Government is to make Chile a country of responsible home owners, providing subsidies for the neediest families.

Policy of financing housing and housing subsidies

96. Within this context there is a policy of financing housing through systems and machinery that provide opportunities for the various socio-economic sectors; this policy is put into effect by granting housing subsidies. State action in the field of housing primarily consists in granting subsidies covering both housing and urban development through investment programmes in housing, community facilities, sewerage systems for housing developments and urban paving work.

Policy to optimize the efficiency of State-subsidized construction

97. Large-scale State participation has resulted in a constant improvement of systems of contracting and subsidized financing in accordance with demand.

Rural housing policy

98. General housing principles and policies apply and policy has been implemented with a subsidy earmarked for exclusive use in the rural sector.

99. These basic objectives and policies have not changed since 1976.

Article 12: The right to physical and mental health

100. Health is another matter to which the Chilean State has devoted priority attention since the mid-nineteenth century. A proportion of its resources have always been earmarked for this very basic objective.

101. Of course, policies and methods have had to be adapted over the years to match requirements and resources.

102. Health was one of the sectors most directly affected by the earthquake of 3 March 1985, which damaged a great number of hospitals and health centres. A summary of the report on the subject submitted to the Director-General of WHO is appended hereto (see annex 5).

103. With regard to health policies, it must be emphasized that Chile is endeavouring to adapt its policies to the greatest extent possible within its means to the global strategy of WHO, as described below.

104. The Government of Chile, in conformity with its support for the Global Strategy for Health for All by the Year 2000 at the International Conference on Primary Health Care held at Alma Ata in 1978 and with its endorsement of the strategies for the region of the Americas approved by the Pan-American Health Organization, has advanced with determination towards the goal of restructuring its health sector in order to make it more efficient and effective and improve the fairness of its services in the context of the subsidiary role of the State. At the same time, measures have been taken to improve intersectoral relationships with education, public works, labour and social welfare, sports and recreation, etc.

105. The National System of Health Services has been built around the central strategy of primary health care. It gives the Ministry of Health a standard-setting function, as well as the functions of evaluation and

supervision, while responsibility for the implementation of plans and action programmes has been decentralized and conferred on 27 health services, each with legal powers, including ownership of their individual capital assets.

106. In the priority areas of mother and child health, programmes have focused on the family group, laying due stress on prevention - through appropriate education and information - of the problem of teenage pregnancy and the resultant birth of illegitimate children.

107. With regard to immunization, the coverage achieved by Chilean programmes is among the highest in the western hemisphere, poliomyelitis having been eradicated and diseases preventable by vaccination kept in check. The system of epidemiological monitoring is highly developed and supervision of the cold chain is systematic.

108. Acute diarrhoeal and respiratory diseases have been, and continue to be, the subject of constant concern, as shown by infant health indicators. In children under one year of age, diarrhoea-related mortality rates fell between 1979 and 1984 from 2.7 to 0.9 per 1,000 live births, and deaths from bronchial pneumonia fell from 5.4 to 2.4 per 1,000 live births.

109. Concern for mental health has been shown by the incorporation, for more than six years now in the training of general area practitioners, who are basically responsible for primary health care, the necessary knowledge to handle the conditions they recognize as the cause of functional mental-health problems.

110. With regard to dental health, preparations are being made to fluoridate drinking-water in the main cities and a prevention and early-treatment programme has been initiated for schools.

111. Action to control chronic non-transmissible diseases has been incorporated in regular health programmes emphasis being laid on the educational aspects of prevention.

112. In this connection it should be borne in mind that Chile is in a transitional phase, in which health problems of underdevelopment coexist with others characteristic of developed countries. Efforts are being made to prevent the onset of degenerative diseases at early ages, but in any event investments must be made in health establishments specializing in the treatment and rehabilitation of cardiovascular damage, malignant tumours and accidents.

113. The subject under review is of a complex and specialized nature, and for a proper understanding and in order to make the report as comprehensive as possible, the Ministry for Foreign Affairs requested the co-operation of the highest Chilean authorities and bodies in this sector. Their reports are included as part of the section relating to article 11 and they are submitted as written, with the request that they should be incorporated in that section.

114. This material is listed below, and the documents concerned are appended:

- (a) "Nutrition and infant mortality", study conducted by the Institute of Nutrition and Food Technology of the University of Chile, whose director, Professor Fernando Monckeberg, is recognized as a world authority on the subject. This document has a number of annexes; \*/
- (b) Tables showing levels of health care at the tertiary, secondary and primary levels (see annex 6);
- (c) Bill in course of enactment setting up a "System of health benefits". When it enters into force, this legislation will constitute the most advanced step so far been taken in Chile (see annex 7);
- (d) As annexes properly belonging to this section on article 12 of the Covenant, a large amount of material is enclosed; this bears eloquent witness to how much is being done in this area (see annex 8);
- (e) Report issued by the Ministry of Agriculture, referring to rural development policies, agricultural research, policy planning for the forestry and agriculture sector, and statistical data on all these subjects (see annex 9).

115. It should be pointed out that there is a close interrelationship between the subjects covered in articles 11 and 12 of the Covenant, with the result that article 12 is in practice an amplification of article 11. For this reason, the greater part of the material has been included in the previous section.

116. In this section, therefore, reference will be made specifically to article 12 paragraph 2 (b): "The improvement of all aspects of environmental and industrial hygiene".

117. As stated at the beginning of the section dealing with article 11 of the Covenant, in view of the importance of these subjects, they are given constitutional status in Chile.

118. The Constitution states that the inhabitants of Chile have the right to live in a pollution-free environment and goes on to establish the related duty of the State to adopt measures to safeguard this right and ensure that nature is preserved.

119. It is for legislation, a means of establishing regulations relating to constitution, to describe and, as necessary, provide penalties for conduct prejudicial to the legal property which it is proposed to safeguard.

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\*/ Document not yet received.

120. The first expression of this legal protection is the Health Code, a copy of which is appended (see annex 10).

121. The list of its sections gives an idea of the manner in which the various subjects are treated: thus the first book deals with the protection and promotion of health, the second with international health prophylaxis, the third with environmental and occupational hygiene and safety; the fourth with pharmaceutical products, foodstuffs used medicinally, cosmetics and food products; the fifth with the practice of medicine and associated professions; the sixth with laboratories, pharmacies and other establishments; the seventh with the observation and isolation of the mentally ill, alcoholics and drug addicts; the eighth with burials, exhumation and the transfer of corpses; and the ninth with procedures and penalties.

122. Also relating to the same subject, a manual on the "Prevention of risks at school; general basic instruction" is appended. This text was adopted by the Ministry of Education and the Chilean Safety Association, a private body composed of representatives of workers and employers which actively co-operates with the State in these matters (see annex 11).

Annex

REFERENCE DOCUMENTS \*/

1. Act establishing the National Kindergarten Board
2. Legal provisions relating to the grant of family allowances
3. Legislation relating to the care and protection of young persons in irregular situations
4. Rural housing policy and other matters
5. The earthquake of 3 March 1985; health sector. Summary of report submitted to the Director-General of WHO
6. Tables showing levels of health care at the tertiary, secondary and primary levels
7. Text of a bill setting up a "System of health benefits" and various legal texts relating to health
8. System of health services
9. Policies on rural development, agricultural research, policy planning for the forestry and agriculture sector, and statistical data on these subjects
10. Health code
11. Manual on "Prevention of risks at school; general basic instruction" (Ministry of Education)

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\*/ These documents, submitted by the Government of Chile in Spanish, are available to persons wishing to consult them in the archives of the Centre for Human Rights, Secretariat of the United Nations.