



## Convention on the Rights of the Child

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### Committee on the Rights of the Child Forty-fourth session

#### Summary Record of the 1218th Meeting

Held at the Palais Wilson, Geneva, on Friday, 26 January 2007

*Chairperson:* Mr. Doek

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*Third periodic report of Chile on the implementation of the Convention on the Rights of the Child*

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

**Consideration of reports of States parties (item 4 of the agenda) (continued)**

*Third periodic report of Chile on the implementation of the Convention on the Rights of the Child (CRC/C/CHL/3; list of issues to be taken up (CRC/C/CHL/Q/3); written replies by the State party concerning the list of issues (CRC/C/CHL/Q/3/Add.1))*

1. At the invitation of the Chairperson, the members of the delegation of Chile took places at the Committee table.
2. **Ms. Hardy** (Chile) said that the accession of a woman to the office of President was a unique opportunity in a country where the number of women active on the labour market and in political life was among the lowest in the whole of Latin America.
3. Although the country had succeeded in lowering the proportion of its inhabitants living below the poverty threshold from almost 40 per cent in 1990 to 18 per cent in 2003, inequalities were still very marked, especially in relation to the distribution of wealth: the income of the top quintile was 14 times higher than that of the bottom quintile. The challenge set by the new Government was therefore to establish the foundations of a modern social protection system by 2010, even though the per capita income in Chile was only one third or one half the amount in a European country.
4. To that end the new authorities had decided to pursue and extend two of the programmes described at length in the report, namely the “Chile solidario” programme (under which 250,000 families, or 1,000,000 individuals, now benefit) and the Universal Access to Health Care Plan (AUGE) (which now provided care for 40 diseases, including several diseases that affected children). The authorities had also launched an ambitious initiative to provide comprehensive protection during early childhood, the “*Chile Crece Contigo*” (Chile grows up with you) programme, the aim of which was to guarantee free education and health care to young children in families whose incomes were in the first three income quintiles (or 60 per cent of the total child population), children whose mothers worked, were looking for work or in a course of study, and all vulnerable young children, namely children with disabilities, indigenous children or immigrants’ children. To that end Chile had begun to review its now obsolete laws on immigration. The laws in question dated back to 1975 but migratory flows towards Chile had grown sharply since 2000.
5. The Government, which was truly equal as it included ten women ministers, had made a strong commitment to the rights of the child and to promoting responsible motherhood and fatherhood. This enthusiasm was evident in the State budget for 2007, the first approved by the new administration, which was 8.7 per cent higher than the budget of 2006 and included an unprecedented 12 per cent increase in social expenditure.
6. Two major reform bills had been laid before Parliament. The first related to the labour protection system and aimed inter alia to provide a framework for subcontracting to reduce insecurity in employment and improve job security. The aim of the second bill, on the retirement system privatized under the dictatorship, was to strengthen the pay as you go system to guarantee a basic State pension to 60 per cent of adults under the principle of solidarity among generations, while improving the accumulative pensions scheme.
7. The Government intended to reduce the number of sectoral committees, which had been so high that coordination difficulties had arisen and activities had become straddled. To

do so the Government would legislate to establish a Council of Ministers for Social Protection with a broad mandate, to be aided by a Consultative Committee comprising representatives from civil society.

8. A new approach had been taken: while considering that the rights of the child and the promotion of the family were the inalienable responsibility of the State, the new Government intended to involve the population in drawing up policies in that area. Thus the major reforms launched in 2006 on the quality of education, the pension system and child protection were drawn up with due regard to the outcomes of three months of consultations which had allowed members of civil society organizations representing the various stakeholders and a range of political tendencies to express their views via advisory councils entrusted with the task of forwarding those views to the Government. That form of participatory democracy was likely to be extended.

9. **Mr. Liwski** saw the presence of a high-level, multi-sectoral delegation as a strong signal of the Chilean Government's commitment to the rights of the child but it was a matter of regret that its report was difficult to read and that its written responses had been sent in late.

10. As the delegation had noted, Chile was one of the countries where inequalities were most striking. The number of years of study undertaken by indigenous peoples, who represented 4.4 per cent of the total population, was 2.2 years less than the average for non-indigenous peoples and the reduction in investment in bilingual cultural teaching was therefore of concern. The figures for education, health and poverty had, however, improved considerably in recent years even though four out of every ten Chilean children still lived below the poverty threshold.

11. Chile was also to be commended for ratifying almost all the United Nations and Inter-American human rights instruments, but it was to be hoped that it would soon accede to International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples, the Rome Statute of the International Criminal Court and the Optional Protocol to the Convention against Torture.

12. It would be useful to know how and with what result the laws which had recently entered into force were implemented on the ground, such as the Family Courts Act, the Sexual Offences Act (No. 19,617), the Sexual Assault (Reporting) Act No. 19,874, the Adoption Act, the Civil Marriages Act, and the Juvenile Criminal Responsibility Act. The Committee also asked why the bill on the protection of children's and adolescents' rights had not yet been adopted after several years of Parliamentary debate.

13. The delegation might indicate the state of play with the implementation of the National Policy and Integrated Plan of Action in favour of Children and Adolescents 2001-2010, whether the Council of Ministers for Children and Adolescents and its Intersectoral Technical Committee, which were responsible for coordinating activities, intended to work alongside civil society organizations, and whether in the periodic reviews of the plan account had been taken of the Committee's concluding observations of 2002 and of the recommendations of the subregional seminar held in Buenos Aires in 2005.

14. He also wondered whether the rights to freedom of expression, freedom of assembly and freedom of association were respected and whether the many demonstrations by secondary-school pupils in 2006 had had the effect of encouraging dialogue with young people on matters affecting them, such as education policy.

15. The delegation might also supply additional information on the matter of violence attributable to agents of the State.

16. **Mr. Siddiqui** welcomed the increase in health and education expenditure but said that it was not sufficient to improve the situation of the most underprivileged people and that it would therefore be wise to target recipients more effectively by calling on local organizations to help.

17. The process for collecting statistics had undergone considerable improvement yet it still was not possible to use them to determine the situation of the most vulnerable children, including street children, children in conflict with the law, indigenous children and child victims of exploitation.

18. **Ms. Vuckovic-Sahovic** pointed to the absence of an independent body such as a human rights commission or ombudsman. Participation by children seemed to be the least-implemented principle of the Convention; in particular, courts were not required to seek a minor's view, evidently for cultural reasons, but it had to be borne in mind that political or legislative measures were also required to achieve change.

19. The delegation might supply details about the Advisory Committee of Civil Society responsible for monitoring the national policy for children as it was not clear whether it was a Government body, and indicate whether non-governmental organizations (NGOs) received State aid to run their programmes for children.

20. **Ms. Aluoch** asked whether the Convention was directly applicable or had to be transposed into national law and whether the courts invoked its provisions. She was surprised at the slow pace of legislative reform.

21. **Ms. Ortiz** stated that no single body had responsibility for monitoring the implementation of the Convention even though such a body was crucial. The Committee had already recommended that the State party should do more to foster coordination and cooperation among the various agencies involved with children at all levels of government, and between those agencies and civil society. The cross-sector approach adopted by the Government was positive but it was vital to have a mechanism to coordinate the large number of isolated initiatives.

22. It would be interesting to know how the Government intended to work with civil society on a bill providing inter alia for responsibility in matters of child protection to be shared between the community and the State.

23. **Ms. Ouedraogo** welcomed the establishment of personalized registration of births in maternity hospitals and the introduction of a service to assist children born out of wedlock to identify their fathers, but wondered whether the measures in question were applied in practices especially in isolated regions, and whether there was a mechanism for registering people who had not been registered at birth. The delegation might also state whether children whose mother (but not father) was Chilean and children born in Chile to migrant parents were able to obtain Chilean nationality.

24. The State party had not indicated whether the media had been encouraged to broadcast information useful to children, especially on their rights, to have regard to the linguistic needs of indigenous children and to protect children against harmful information (principally violence and pornography). Details would also be welcome on the distribution of children's books in remote areas.

25. Article 234 of the Civil Code had repealed the power parents used to have to punish their children, but only in relative terms. Corporal punishment would have to be expressly abolished as previously recommended by the Committee and parents' awareness of other forms of discipline would have to be raised.

26. There were allegations that minors had been tortured in detention centres and such treatment appeared to be tolerated under article 84 of Act No. 737 and article 44 of Act No. 553. Some explanation on this point would be appreciated. There had also been reports of cases of indigenous children being tortured by the police, particularly in relation to land disputes affecting the Mapuche community. Finally, several individuals who had been victims of torture when they were minors had apparently still not received the compensation awarded to them.

27. **Mr. Pollar** welcomed the 2004 Civil Marriage Act which set the age of consent to marriage at 16 years for boys and girls without distinction, but wondered whether that was incompatible with 12 years of compulsory education and whether it should also be harmonized with the age of sexual consent, which had been raised from 12 to 14. No information had been given on the minimum working age and the age of medical consent.

28. Further details on Act No. 2306 authorizing voluntary enlistment in the armed forces from the age of 16 in "exceptional" circumstances would be welcome, in particular with regard to direct participation in hostilities by such volunteers.

29. **Mr. Zermatten** asked what had been done to promote the Convention, a matter reiterated by the Committee during consideration of the second periodic report. The dissemination of posters and schedules in indigenous languages had been a welcome step but it was inadequate and dated back to 2000. Effective promotion was achieved through school curricula, especially at primary level, and through the media. Awareness-raising among the general public was also necessary in order to bring about a change in attitudes. Furthermore, the Convention had to be an integral part of the training of all professionals working with children, especially teachers and the judiciary.

30. The punishment of consensual sexual relations between young people of the same sex was discriminatory and ignored the fact that the young people concerned were exploring their sexual identities.

31. The delegation was asked to state the circumstances in which a court martial might try persons under the age of 18 and what instructions had been given to the police to prevent repression such as that seen at the student demonstrations in May 2006.

32. **The Chairperson** asked why the National Commission on Political Imprisonment and Torture, which had carried out an inquiry in 2003-2004, had refused to hear individuals who had been minors under the Pinochet regime. He also asked whether Offices for the Protection of the Rights of Children (OPDs) were able to receive complaints in addition to their role as monitor and, if so, how many they had received hitherto and how they had been followed up.

*The meeting was suspended at 11.25 a.m. and resumed at 11.45 a.m.*

33. **Ms. Hardy** (Chile) said that the percentage of children living below the poverty line had in fact fallen from 50 per cent to 27 per cent from 1990 to 2003 and that expenditure on intercultural education had grown, especially for vulnerable groups. Congress was due to adopt a bill in 2007 amending the conditions governing the award of financial aid for the

education of vulnerable children (children who were underprivileged socio-economically, who had disabilities or were from indigenous communities) and doubling the amount of subsidies awarded per pupil to specialist preschool and primary-education establishments.

34. The National Indigenous Development Corporation had been founded in 1992 pursuant to the Indigenous Affairs Act and, during talks with representatives from all the indigenous groups in the country in 2006, indigenous groups were encouraged to bring social and political pressure to bear to encourage Parliament to adopt the bill ratifying ILO Convention No. 169 concerning Indigenous and Tribal Peoples which had been submitted to Congress some nine years previously. The Government intended to distribute the text of that Convention in 2007 in four indigenous languages in cooperation with the ILO, and to enshrine the rights of indigenous peoples in the Constitution. It had also launched important debates to draft a policy to reduce, by 2010, discrimination against indigenous groups in urban areas in matters relating to access to education and employment. Indigenous groups in urban areas accounted for 70 per cent of the total indigenous population, which in turn constituted 5 per cent of the national population.

35. Despite increasing social integration of indigenous groups and the fall in the poverty rate among them, there were still disparities between these groups and the rest of the population. This was a new issue and was comparable to the situation of second-generation immigrants in Europe. Chile therefore had to draw up a new policy on that matter based on the experiences of the Old Continent.

36. Decisions on social expenditure, which was rising and had already led to a reduction in income disparities, were taken on the basis of socio-economic surveys (CASEN) conducted every three years to assess the level of poverty, income distribution and allocation of social expenditure, and to evaluate the effects of expenditure by sector. It was hoped that the results of the last survey at the end of 2006 would show further progress. The results should be available in June 2007 and would be forwarded to the Committee. The Government wanted to improve management of expenditure by decentralizing government and was already working on transferring powers and resources to allow programmes to be implemented locally. It also intended to make coordination mechanisms, which were currently within the discretionary power of local political authorities, part of the institutional fabric.

37. The Council of Ministers for Social Protection would be vested with a mandate to provide coordination and would work with the Ministry of Finance, the body which determined economic policy. The Council would have the task of devising, developing, monitoring and assessing the programmes. The Civil Society Committee would also be established under the Act and its powers strengthened. Currently, the bodies implementing most measures in relation to children were NGOs because of the significant funding they received. Civil society, however, which covered universities, academic establishments and professional associations, was richer and more diverse than the world of the NGOs established in Chile. The implementation of constitutional reforms would take time because it involved going against the grain of the institutional culture. The initiatives had been drawn up by working groups which brought representatives from small and large businesses and NGOs together, the initiatives had then been forwarded to Parliament in the form of proposals for laws.

38. The first half of 2007 would see the establishment by Presidential Decree of the first observatory of the rights of the child, an independent government agency with the task of providing an annual follow-up on the implementation of the Convention on the Rights of the Child and submitting an annual report to Congress and the Executive.

39. Two bills on discrimination were being scrutinized by Parliament: a general framework bill on non-discrimination, which proscribed acts of discrimination of any kind, and a bill on equal opportunities and social integration of persons with disabilities which prohibited discriminatory acts in respect of persons with disabilities and laid down obligations to incorporate them into the school system and the world of work, including quotas for civil service posts and the introduction of sign language in the school system. A budget line had been opened to finance equipment and facilities for young children with disabilities (prostheses, wheelchairs, etc.) and to fit schools and rooms with devices to facilitate access for persons with disabilities.

40. The Committee had received inaccurate information on decisions handed down by the National Commission on Political Imprisonment and Torture.

41. **Ms. Farías** (Chile) stated that the report by that Commission referred to 1,240 children under 18 years of age, including 176 aged under 13, who had given testimony before it and had received reparations for life in the form of monthly pensions, the right to free access to health-care services, housing allowances and to resume education at primary, secondary or higher level. Furthermore, the children of the victims were exempt from military service. The Committee appeared to have been informed only of cases involving child victims who had failed to submit their testimony within the permitted time limits. The Commission had been asked to allow extra time and the Government had asked Congress to examine the possibility of renewing the mandate of the Commission, which had been dissolved after it had presented its report.

42. **Mr. Tagle** (Chile) noted that the Government had not relinquished the idea of pursuing the bill establishing an ombudsman, but that in the meantime there were mechanisms for the defence of citizens' rights within the various public bodies, including a telephone help line and various structures within the Ministry of Education. The Ministry of the Interior was implementing a specific programme on human rights under which it was monitoring court cases on the matter and facilitating cooperation with the countries concerned.

43. **The Chairman** asked for details on the local OPDs and on their role in reporting violations of the rights of the child.

44. **Ms. Fernández** (Chile) said that the 105 OPDs already set up, which covered 170 of the country's 346 municipalities, were promoting and protecting the rights of the child locally and had teams of lawyers, psychologists, educationists and social assistants who received complaints from children or their representatives in the event of a rights violation. They intervened directly to protect vulnerable children or guided them in the direction of specialist programmes such as legal assistance.

45. The data collected in 2006 as part of a survey of 50,000 children aged between 9 and 14 to obtain their views on which of their rights were most and least respected, were being used to inform the activities of the National Service for Minors.

46. **Ms. Hardy** (Chile) said that a guide to social rights had recently been published to inform the population about the social benefits they might be able to claim and how to apply for them. The guide was structured by theme and category of recipient (children, indigenous people, women, persons with disabilities, etc.) so that users could carry out personalized research.

47. The national programme “Chile Crece Contigo” which provided comprehensive protection during early childhood had been launched in 2007 amid extensive coverage in the national and local media. The Youth Parliament formed under a pilot project which was to be extended nationwide by 2010 had the task inter alia of participating in drafting local policies.

48. **Mr. Liwski** asked whether the list of 40 diseases set out in AUGE was likely to be supplemented and whether efforts were made to ensure that services dispensed in rural areas had regard to indigenous culture, particularly by combining modern treatments with traditional medicines.

49. The delegation might supply an estimate of the number of Latin American migrants living in Chile and indicate what administrative and legal measures there were to provide comprehensive protection to their children, in particular access to health-care services for the children of migrant workers who had recently arrived in the country.

50. The delegation might also indicate how the Government intended to reduce the gap that still existed between regions and municipalities with regard to the child mortality rate.

51. In view of the increase in the number of early pregnancies, it would be useful to know how effective the sexual and reproductive health programmes for adolescents had been, what obstacles were preventing the nationwide implementation of the “Towards Responsible Sexuality” programme and whether there were any new initiatives in this field.

52. The Committee also asked about the extent to which the fall in the HIV/AIDS epidemic recorded among young people between 15 and 24 years of age was the result of prevention campaigns and whether the State party intended to step those campaigns up.

53. **Mr. Siddiqui** asked whether Chile intended to combat poverty using methods other than the welfare State, in particular by increasing taxes on the wealthy and on the revenue of multinationals, by adopting land reforms and by involving underprivileged groups in decisions on matters affecting them. More extensive information would be welcomed on the children’s living conditions and development index which had been drawn up by the Ministry of Planning in cooperation with the United Nations Children’s Fund (UNICEF).

54. **Ms. Lee** asked what specific measures had been taken to implement the National Policy and Integrated Plan of Action in favour of Children and Adolescents 2001-2010. It would be useful to know what measures the State party intended to take to provide access to education to the 25,000 or more children with disabilities who did not go to school.

55. Some reports had suggested that Chile was a prime destination for sex tourism and that children between 7 and 13 years of age were prostituting themselves. It would be useful to know the causes of this and the measures taken to curb it.

56. Details would be welcome on the current situation of refugee and stateless children with regard to health care and education and any relevant legal provisions in that regard.

57. **Mr. Krappmann** asked for further information on the preschool system and the teaching methods used to help children who belonged to marginalized groups, especially indigenous children, to keep up with their schoolwork and to correct the high dropout level among them. It would be of particular interest to know whether teacher training had been improved to include means of adapting teaching methods to cater for pupils with learning difficulties. More extensive information would be welcome on the vocational training delivered in teaching establishments and elsewhere.



58. The delegation might also indicate whether a satisfactory solution had been found to the discrimination issues engendered by the policy of selecting the best pupils and the matter of access to education for pregnant teenagers.

59. **Mr. Filali** asked whether the 2005 Juvenile Justice Act had entered into force and whether it contained any provisions to protect the private life of the child, in particular a ban on the media disclosing a minor's identity. The delegation might indicate whether magistrates' training included instruction in the Convention, the maximum length of time that a minor might be held in custody, whether it was possible to substitute the appearance of a minor before a court for a non-judicial measure, whether the judge was the only person empowered to determine whether a minor was capable of discernment, and whether the task of the safeguarding judges was to monitor the application of sentences. It would be useful to have information on the Transit and Distribution Centres, especially on the training of their staff, the financial and human resources available and any problems.

60. It would be useful to know whether as part of the non-custodial strategies to prevent maltreatment there were plans for an ombudsman to assist with communication between victim and perpetrator and whether a mechanism to monitor a strategy of that nature had been established.

61. **Ms. Ouedraogo** asked about the effectiveness of the various programmes to combat the sexual exploitation of children which were conducted from 2001 to 2004 and whether any strategies to rehabilitate and reintegrate victims had been implemented. The delegation was asked comment on reports that minors who prostituted themselves were registered in police files and arrested and to indicate whether any measures had been taken to put an end to these repressive practices.

62. **Ms. Ortiz** asked whether the activities of OPDs had been assessed and, if so, what the conclusions of the assessments were. Comments from the delegation on allegations that lawyers employed as mediators were not always paid would be useful. The delegation might also explain why the number of children placed in institutions was still high despite the efforts made to keep children with their families wherever possible.

63. The Committee asked whether the Adoption Act provided for an age from which consideration had to be given to the view of the child, whether the principle of relative confidentiality meant that a child might be prevented from identifying his or her biological parents and whether unmarried couples and single people had the right to adopt a child.

*The meeting rose at 1 p.m.*

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