

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report –

Universal Periodic Review:

CHILE

I. BACKGROUND AND CURRENT CONDITIONS

In 1972, Chile ratified the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter referred to jointly as the “*1951 Convention*”). In 2010, the Refugee Law No. 20.430 was adopted, which established the National Refugee Commission (*Comisión de Reconocimiento de la Condición de Refugiado*) that is in charge of adjudicating asylum claims and of planning, promoting and coordinating public policies relating to the protection of refugees and asylum-seekers. The National Refugee Commission also contributes to the implementation of durable solutions for refugees. The Refugee Law is further complemented by its regulatory decree N°837 and its internal regulation that came into force in February 2011.

According to UNHCR’s statistical data, a total of 1,695 refugees and 353 asylum-seekers from more than 40 countries currently live in Chile. At present, most of them originate from Colombia. Approximately 48% of the refugees and asylum-seekers are female.

In 1999, the Government of Chile signed an agreement with UNHCR to facilitate the resettlement of refugees from other countries in Latin America to Chile. Since 2004, Chile has been participating in the Regional Solidarity Resettlement Programme, a component of the Mexico Plan of Action, which was adopted in 2004 by 20 Latin American countries with the aim to enhance the protection of refugees and promote durable solutions for them in Latin America. The Regional Solidarity Resettlement Programme is inspired by the principles of solidarity and responsibility sharing, confirming the long and generous tradition in Latin America to welcome refugees. In the framework of this programme, Chile has received various groups of refugees for resettlement in the country: 280 Colombian refugees have been resettled from Ecuador and Costa Rica; 116 Palestinians have been resettled from the Al Tanf refugee camp (formerly located in the border area between Iraq and Syria); and 51 refugees of other nationalities have also found protection in Chile. As of 2009, a women-at-risk programme has been implemented, under which 36 Colombian women and children who had been living in Ecuador and Costa Rica were resettled to Chile.

II. ACHIEVEMENTS AND BEST PRACTICES

1. Legal framework for refugee protection

The Refugee Law, which was adopted in April 2010, contains important provisions that enhance refugee protection. This law covers issues ranging from refugee status determination (RSD) procedure to promoting durable solutions.

The Refugee Law No. 20.430 incorporates the refugee definition contained in the *1951 Convention* relating to the Status of Refugees as well as the broader definition found in the 1984 Cartagena Declaration. The law establishes that its interpretation should conform to international human rights instruments and the *1951 Convention*. In addition to providing protection to asylum-seekers and refugees against *refoulement*, the law guarantees a number of other rights including: the right not to be rejected at border points, the right not to be sanctioned for irregular entry, the right to confidentiality and non-discrimination, the right to the most favourable treatment and the right to family reunification. Article 41 of the Refugee Law also provides protection for those who claim to have been victims of sexual and gender-based violence and further states that these victims should receive psychological and social support from the corresponding institutions. The above mentioned refugee law is complemented by its regulatory decree N°837 that came into force in February 2011.

Within the National Refugee Commission, a working group on durable solutions and public local integration policies was set up to identify public programmes in other ministries that could benefit refugees and asylum-seekers and facilitate their access to these programmes.

2. Integration of Refugees

Since 2006, the Government has actively been contributing to the integration of refugees in Chile. Based on the cooperation agreements signed by the Undersecretary of the Ministry of Interior with UNHCR's implementing partners in Chile, the Social Department of the Ministry of the Interior provides financial and technical support to organizations providing assistance to refugees and asylum-seekers. The Social Department also set up a Working Group on Vulnerable Cases with the participation of refugee-assisting organizations to analyze cases with specific needs and decide on the concrete follow-up to be provided. Such Working Groups have now also been established in locations in the north of the country with a large presence of refugees and asylum-seekers, mainly of Colombian nationality.

At the local level, the municipalities of San Felipe, La Calera and Arica signed Solidarity City Agreements within the Framework of the Mexico Action Plan to promote the integration of refugees. In 2013, the Municipality of Arica inaugurated a "House of Rights", which will provide direct assistance and support to persons in need of international protection. In 2011, the Municipality of Quilicura (in the Metropolitan Region) created an Office for Migrants and Refugees that provides direct orientation and support to refugees and asylum-seekers. In the following year, the Municipality of Santiago followed suit and also set up such an office. These local efforts complement the programmes of the central government to enhance the protection of persons in need of international protection.

3. National Institute on Human Rights

In December 2009, the National Institute on Human Rights was established by Law No. 20.045, and its members took charge in July 2010. The Institute is an autonomous body dedicated to the promotion and protection of human rights in Chile, which has also contributed to the protection of persons of concern to UNHCR.

4. *The adoption of Law No. 20.507 on trafficking in persons*

Chile ratified the Convention against Transnational Organized Crime and both Palermo Protocols in 2004. In April 2011, Law No. 20.507 on trafficking in persons was passed, introducing modifications to the Penal Code, whereby illegal smuggling of migrants and trafficking in persons were penalized.

In 2012, the Ministry of Interior established an Interagency Working Group on Trafficking in Persons (*Mesa Intersectorial sobre Trata de Personas*) in charge of elaborating the National Plan to Prevent and Combat Trafficking in Persons. This group is composed of various ministries, public departments, non-government organizations and international organizations, including UNHCR.

At the beginning of 2013, the Working Group was divided into three Sub-Committees: Prevention, Control and Attention of Victims. UNHCR has been participating in these Sub-groups to ensure that the situation of persons in need of international protection who are victims of trafficking or at risk of being trafficked is taken into consideration and that adequate referral mechanisms are in place.

5. *Anti-discrimination law*

In July 2012, Law No. 20.906 was passed after many years of public discussion and analysis. This establishes a new judicial recourse against arbitrary discrimination acts (*acción de no discriminación arbitraria*) originated both by public officers or privates.

The law defines arbitrary discrimination as every distinction, exclusion or restriction made by State agents or privates which is not reasonable and that disturbs, threatens or impedes the enjoyment of fundamental rights, in particular when the discriminatory act is based on the belonging to a certain ethnic group, nationality, socio-economic background, the language, ideology or political opinion, religion or belief, participating in labor unions, sexual orientation, gender identity, marital status, age, filiation, personal appearance, sickness or disabilities.

Besides the judicial recourse against arbitrary discrimination, the law introduces in the Penal Code (Art. 12.21°) a new aggravating circumstance: when the person committed the crime or participated in its commission motivated by the ideology, political opinion, religion or beliefs of the victim, the nationality, ethnicity or social group to which the victims belongs, its sex, sexual orientation, gender identity, age, filiation, physical appearance, sickness or disability that affects him or her.

This law can benefit UNHCR's people of concern that have been victims of arbitrary discrimination or of the commission of a crime on the above mentioned grounds. UNHCR's partners provide legal assistance to ICs on the protection mechanisms they can resort to when having suffered an incident of discrimination.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Implementation of the new refugee law

The Enactment of the 2010 Refugee Law, its regulatory 2011 decree N°837 and establishment of the National Refugee Commission have brought about new procedures and changes to the national refugee protection system. UNHCR is concerned about some restrictive practices regarding access to the territory and to the RSD procedure, which have been reported by different institutions and organizations since 2009/2010.¹ There is also a need to apply a more age- and gender-sensitive approach in the RSD procedures to ensure that asylum claims submitted by women and children are examined in a manner that responds to their specific protection needs.

Despite some progress, there are not yet any specific mechanisms in place to address the needs of victims of sexual or gender-based violence. As indicated in UNHCR's Guidelines on gender-related persecution, "persons raising gender-related refugee claims, and survivors of torture or trauma in particular, require a supportive environment where they can be reassured of the confidentiality of their claim. Some claimants, because of the shame they feel over what has happened to them, or due to trauma, may be reluctant to identify the true extent of the persecution suffered or feared. They may continue to fear persons in authority, or they may fear rejection and/or reprisals from their family and/or community."² The guidelines set out a number of measures to ensure that gender-related claims, of women in particular, are properly considered in the RSD process, *inter alia*, ensuring individual interviews of female claimants and access to a female interviewer and interpreter.

RSD procedures should also incorporate child-sensitive elements; special attention should be given to unaccompanied and separated children. UNHCR's Guidelines on child asylum claims offer substantive and procedural guidance on conducting RSD in a child-sensitive manner.³

It would now be timely for the Government to undertake a comprehensive analysis to assess the situation of persons in need of international protection in the country. This

¹ National Institute on Human Rights, Annual Report 2010, Page 148, available at: http://www.indh.cl/wp-content/uploads/2010/12/Informe_Final_Corregido1.pdf; National Institute on Human Rights, Annual Report 2011, Page 274, available at: <http://www.indh.cl/wp-content/uploads/2011/12/27555-Informe-Anual-2011-BAJA1.pdf>; Courtis, C., Niños, niñas y adolescentes refugiados/as en Chile: un cuadro de situación, en: Los derechos de los niños, niñas y adolescentes migrantes, refugiados y víctimas de trata internacional en Chile. Avances y desafíos, ACNUR, OIM y UNICEF compiladores. Pages 163, 173 and 187, available at: http://www.unicef.cl/unicef/public/archivos_documento/378/NINOS%20MIGRANTES%20baja.pdf; Diego Portales University, Centre for Human Rights, Annual Report 2012, Chapter on Refugees in Chile, Pg. 109 and ss., available at: <http://www.derechoshumanos.udp.cl/informe-anual-2012>

² UN High Commissioner for Refugees, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/01, available at: <http://www.unhcr.org/refworld/docid/3d36f1c64.html>

³ UN High Commissioner for Refugees, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08, available at: <http://www.unhcr.org/refworld/docid/4b2f4f6d2.html>.

analysis would allow identifying remaining protection gaps, on the basis of which further adjustments can be made to bring RSD procedures and eligibility practices fully in line with international refugee law standards.

Recommendations:

- Carry out a comprehensive analysis of the new refugee protection system and its impact on refugees and asylum-seekers;
- Identify remaining protection gaps to ensure full compliance with international refugee law standards;
- Ensure that all people who claim to be in need of international protection can effectively access the territory and the RSD procedure;
- Incorporate gender and child-sensitive elements into the RSD procedure;
- Establish and implement Standard Operating Procedures for Prevention and Response to Sexual Gender Based Violence and for cases of unaccompanied or separated children with international protection needs.

Issue 2: Resettlement Programme

Since 1999, Chile has received a total of 447 persons in the framework of the Regional Solidarity Resettlement Programme. Resettlement in Chile has proven to be an effective protection tool and a durable solution for persons in need of international protection both in the region (Colombians living in Ecuador or in Costa Rica), as well as from outside of the region (Palestinians from Al Tanf refugee camp). In view of the positive results in the resettlement of these groups of refugees, as well as those resettled as part of the women-at-risk programme, the Government of Chile should be encouraged to reactivate its resettlement programme, as no refugees have been resettled to Chile in the past years.

Recommendation:

- Reactivate the resettlement programme to enable more refugees with specific protection needs to resettle in Chile.

Issue 3: New migration law

Chile is a country with a growing number of migrants arriving every year, mostly coming from other countries in the region. Notwithstanding the *Presidential Guidelines on National Migration Policy* that were adopted in 2008, migration issues are still regulated by decree N°1094 which dates back from 1975 and no longer responds adequately to the current dynamics. In the context of the mixed migration phenomenon, there is a need for the Government of Chile to establish protection-sensitive entry systems with differentiated processes, reception arrangements as well as mechanisms for profiling and referral of persons in need of international protection.

In October 2011, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families in its Concluding Observations, invited Chile “[...] to ensure that the draft law is passed into law and that it fully complies with international

*standards protecting the rights of migrant workers and members of their families and, in particular, with the provisions of the Convention.”*⁴

Whereas the Ministry of the Interior has been drafting a new Migration Law in recent years, it has not yet been presented to Congress. UNHCR has offered its full support and technical advice to the Government to ensure that the new law incorporates special provisions regarding the protection of persons of concern to UNHCR.

Recommendation:

- Adopt a new Migration Law with special provisions to ensure the protection of persons of concern.

Issue 4: Protection for survivors of human trafficking and identification of victims who may be in need of international protection

UNHCR welcomes the adoption of Law No. 20.507 enacted on 1 April 2011 regarding trafficking in persons, which penalizes human trafficking. UNHCR however remains concerned about the adequate protection for trafficking victims.

The Committee on the Elimination of Discrimination against Women, in its Concluding Observations on Chile in 2012, expressed “[...] *its deep concern at the reported lack of preventive measures to address the root causes of trafficking, as well as at the lack of a victim identification mechanism to facilitate the enforcement of the new law, rehabilitation, protection and provision of temporary shelters for women and girls victims of trafficking.*”⁵ The Committee also expressed its concern about the insufficient information about the extent of trafficking in women and girls, and about the lack of information on the phenomenon of exploitation of prostitution in the State party.⁶

The Interagency Working Group on Trafficking in Persons set up by the Government should consider establishing mechanisms to promptly identify victims of trafficking and ensure their referral to the asylum system, when appropriate. A proper referral system to the refugee status determination procedure and specific standard operating procedures are needed to ensure the victim’s right to seek and be granted asylum, in line with international standards. Measures should also be adopted to ensure that refugees, asylum-seekers and other persons of concern to UNHCR, in particular women and girls, do not fall victim to human trafficking or migrant smuggling.

Additionally, specialized programmes and policies should be adopted to protect and support victims who cannot return to their countries of origin. The Government should take into account the fact that victims or potential victims of human trafficking may

⁴ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families; CMW/C/CHL/CO/1; 15th Session; 19 October 2011; Para. 9; available at:

http://www2.ohchr.org/english/bodies/cmw/docs/CMW.C.CHL.CO.1_en.pdf

⁵ Committee on the Elimination of Discrimination against Women; CEDAW/C/CHL/CO/5-6; 53rd Session; 12 November 2012; Para. 22; available at:

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/474/84/PDF/G1247484.pdf?OpenElement>

⁶*Id.*

qualify as refugees within the meaning of the 1951 Convention relating to the Status of Refugees.⁷

Recommendations:

- Develop a standard operating procedure for the identification of victims of trafficking and those who may be in need of international protection;
- Complement the current trafficking law, No. 20.507, by establishing a referral mechanism to enable victims in need of international protection to apply for asylum whenever appropriate, in particular women and girls;
- Adopt measures to ensure that refugees, asylum-seekers and other persons of concern to UNHCR, in particular women and girls, do not fall victim to human trafficking or migrant smuggling;
- Collect disaggregated data on trafficking in persons in the country.

Issue 5: Prevention of Statelessness and Protection of Stateless Persons

Chile is neither a State party to the *1954 Convention relating to the Status of Stateless Persons* nor to the *1961 Convention on the Reduction of Statelessness*. There is no information available on the stateless population in the country and no mechanism exists to identify stateless persons. Accession to the Statelessness Conventions would establish a stronger framework to prevent and reduce statelessness and avoid the detrimental effects of statelessness on individuals and society by ensuring minimum standards of treatment for stateless persons.

The *1954 Convention relating to the Status of Stateless Persons* ensures minimum standards of treatment for stateless persons in respect to a number of fundamental rights. These include, but are not limited to, the right to education, employment, housing and public relief. Importantly, the 1954 Convention also guarantees stateless persons a right to identity and travel documents and to administrative assistance.

The *1961 Convention on the Reduction of Statelessness* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. This treaty is therefore complementary to standards contained in other human rights treaties that address the right to a nationality. An increase in the number of State parties to the two Statelessness Conventions is essential to strengthening international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights.

The Constitution establishes the *jus sanguinis* and *jus soli* principles for the acquisition of Chilean nationality, but excludes from its *jus soli* provisions children born on the territory to foreigners in transit (*hijos de extranjeros transeúntes*). According to this exception, the children of migrant parents in transit are unable to acquire Chilean nationality at birth and as a result are left stateless, if they are unable to acquire nationality of their parents under the nationality law of their state. Chilean legislation also lacks a safeguard granting nationality to foundlings, leaving them stateless.

⁷ UNHCR Guidelines on International Protection No.7: “The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked”, 7 April 2006, available at: <http://www.unhcr.org/443b626b2.html>

In October 2012, the Committee on the Elimination of Discrimination against Women (CEDAW) in its Concluding Observations on Chile, noted its concern “[...] *that the exception to the jus soli principle relating to foreigners in transit is systematically applied to migrant women in an irregular situation, irrespective of the length of their stay in the State party, and that, as a result, their children cannot receive Chilean nationality at birth and can only opt for Chilean nationality within a period of one year immediately following their twenty-first birthday.*”⁸

Similarly, in September 2011, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families in its Concluding Observations on Chile, also expressed its concern and encouraged “[...] *the State Party to grant nationality to children who are born in Chile whose parents are in an irregular situation, whenever parents are unable to transfer their nationality to the children.*”⁹

The Committee on the Elimination of Discrimination against Women, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Committee on the Rights of the Child all encouraged Chile in recent years to accede to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness.¹⁰

Recommendations:

- Revise its nationality legislation to ensure that children born on the territory of Chile are adequately protected against statelessness.
- Accede to the *1954 Convention relating to the Status of Stateless Persons* and to the *1961 Convention on the Reduction of Statelessness*.

**Human Rights Liaison Unit
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⁸ Committee on the Elimination of Discrimination against Women; CEDAW/C/CHL/CO/5-6; 53rd Session; 12 November 2012; para. 26; available at:

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/474/84/PDF/G1247484.pdf?OpenElement>.

⁹ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families; CMW/C/CHL/CO/1; 15th Session; 19 October 2011; para. 33; available at:

http://www2.ohchr.org/english/bodies/cmw/docs/CMW.C.CHL.CO.1_en.pdf

¹⁰ Committee on the Elimination of Discrimination against Women, CEDAW/C/CHL/CO/5-6, 53rd Session, 12 November 2012, Para. 27b; Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families; CMW/C/CHL/CO/1, 15th Session, 19 October 2011, para. 33; Committee on the Rights of the Child, CRC/C/OPSC/CHL/CO/1, 47th Session, 1 February 2008, para 35, and CRC/C/OPAC/CHL/CO/1, 47th Session, para 25.

ANNEX

Excerpts of Concluding Observations and Recommendations from UN Treaty Monitoring Bodies

Universal Periodic Review:

Chile

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations relating to issues of interest and persons of concern to UNHCR with regards to Chile.

Committee on the Elimination of Discrimination against Women

CEDAW/C/CHL/CO/5-6, 53rd Session

24 October 2012

Positive aspects

4. The Committee welcomes the progress achieved since the consideration of the State party's fourth periodic report in 2006 (CEDAW/C/CHI/4) in undertaking legislative reform, in particular the adoption of the following:

- (a) Acts No. 20.255 (2009) and 20.336 (2009) to protect domestic workers;
- (b) Act No. 20.480 (2010) amending the penal code to include femicide;
- (c) Act No. 20.418 (2010) on sexual and reproductive health;
- (d) Act No. 20507 (2011) on human trafficking, which includes definitions of the offences of trafficking and smuggling of migrants;
- (e) Act No. 20.430 (2011) to protect the rights of refugees;
- (f) Act No. 20.609 (2012) against discrimination.

Trafficking and exploitation of prostitution

22. While noting with satisfaction the State party's legislative and institutional initiatives to combat trafficking in women and girls, the Committee expresses its deep concern at the reported lack of preventive measures to address the root causes of trafficking, as well as at the lack of victim identification mechanism to facilitate the enforcement of the new law, rehabilitation, protection and provision of temporary shelters for women and girls victims of trafficking. Further, the Committee is concerned about the insufficient information about the extent of trafficking in women and girls, in particular internal trafficking from rural to urban areas, and about the lack of information on the phenomenon of exploitation of prostitution in the State party.

23. The Committee recommends the State party to:

- (a) Increase its efforts to implement the new legislation on trafficking, in particular with regard to the investigation, prosecution and punishment of traffickers and provide information thereof in its next periodic report;**
- (b) Ensure systematic monitoring and periodic evaluation of the implementation of the new law, including the collection and analysis of data on both internal and cross-border trafficking, as well as the exploitation of women in prostitution, and include such data in its next periodic report;**
- (c) Adopt effective referral and identification mechanisms for victims of trafficking;**

(d) Provide systematic training to the judiciary, law enforcement and border officials, as well as social workers to ensure strict application of the new relevant criminal provisions, prosecution and punishment of perpetrators of acts of trafficking, and systematically inform victims of their rights during legal proceedings;

(e) Increase the number of State-run temporary shelters for women and girls victims of trafficking and provide them with adequate protection and assistance, including through social rehabilitation and reintegration programmes;

(f) Increase its efforts in international, regional and bilateral cooperation with countries of origin, transit and destination of trafficking to prevent trafficking through information exchange and to harmonize legal procedures aiming at the prosecution and punishment of traffickers.

Nationality

26. The Committee is concerned that the exception to the jus soli principle relating to foreigners in transit is systematically applied to migrant women in irregular situation, irrespective of the length of their stay in the State party, and that, as a result, their children cannot receive Chilean nationality at birth and can only opt for Chilean nationality within a period of one year immediately following their twenty-first birthday.

27. The Committee encourages the State party to:

(a) Review and amend its legislation to ensure that children of migrant women in irregular situation, who are born in the State party, can acquire Chilean nationality at birth, whenever they are unable to transfer their nationality to the children, as recommended by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/CHL/CO/1, para. 33);

(b) Consider acceding to the international instruments addressing the situation of stateless persons, namely the Convention on the reduction of statelessness (1961) and the Convention relating to the status of stateless persons (1954).

Disadvantaged groups of women

40. The Committee is concerned about the social exclusion and vulnerability of migrant women, as well as obstacles preventing them from enjoying basic rights, such as access to social benefits and healthcare services, in particular for pregnant women.

41. The Committee recommends that State party:

(a) Take all the necessary measures to improve the economic situation of migrant women, thereby eliminating their vulnerability to exploitation and traffickers and their access to social benefits and healthcare services, irrespective of their status, in particular for pregnant women;

(b) Establish mechanisms to monitor regularly the impact of social and economic policies on migrant women and inform the Committee thereon in its next periodic report.

42. The Committee regrets the lack of detailed information in relation to disadvantaged groups of women, such as migrant women, rural women, indigenous women and other women facing multiple forms of discrimination.

43. The State party is invited to provide comprehensive information and statistical data, in its next periodic report, on the situation of disadvantaged groups of women, in particular migrant women, rural women and indigenous women.

Committee on the Protection of the Rights of Migrant Workers and Members of Their Families

CMW/C/CHL/CO/1, 15th Session

21 September 2011

32. The Committee notes that children of parents in an irregular situation are recorded in the official register under the mention “children of foreign nationals in transit” and can opt for Chilean nationality within a period of one year immediately following their twenty-first birthday. However, the Committee is concerned about cases of children of parents in an irregular situation who can find themselves on the Chilean territory without a nationality.

33. The Committee encourages the State party to grant nationality to children who are born in Chile and whose parents are in an irregular situation, whenever parents are unable to transfer their nationality to the children. The Committee also encourages the State party to accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

46. While welcoming the adoption of Law No. 20.507 on trafficking in persons of 1 April 2011 and other measures taken to combat trafficking, the Committee notes that there are still cases of human trafficking in the State party.

47. The Committee recommends that the State:

- (a) Systematically collect disaggregated data on trafficking in persons;**
- (b) Ensure the enforcement of the Law on trafficking in persons, including by allocating sufficient financial and human resources, and establishing a monitoring mechanism for the implementation of the Law;**
- (c) Continue its campaigns for the prevention of trafficking in persons;**
- (d) Continue to provide systematic training for the police, law enforcement officers, judges, prosecutors, labour inspectors, teachers, health professionals and officials of Chilean embassies and consulates;**
- (e) Ensure that traffickers are tried and appropriately punished; and**
- (f) Continue to provide protection as well as legal and medical assistance to all victims of trafficking, including temporary residence permits, protection shelters and development of projects to help victims of trafficking rebuild their lives.**

Committee against Torture

CAT/C/CHL/CO/5, 42nd Session

23 June 2009

Records of complaints

15. While the Committee takes note of the system used in the Public Prosecutor’s Office for recording reports and procedures relating to crimes of torture, the Committee is concerned that the system does not contain disaggregated information on victims and that it is therefore not possible to arrive at a determination regarding reports of and convictions for torture of women (art. 13).

The Committee recommends that the State party develop a record-keeping system that provides information on crimes of torture that is disaggregated by, inter alia, the victim’s sex and age.

Conditions of detention

21. The Committee notes the efforts made by the State party to improve conditions in prisons, especially in respect of infrastructure, including the construction of new facilities. The Committee is, however, concerned about reports it has received regarding the persistence of shortcomings in the prisons, particularly with regard to material conditions, overcrowding, and mistreatment and the use of unjustified punishments in enforcing the disciplinary regime (art. 16).

The State party should:

(a) Adopt effective measures to improve material conditions in the prisons, reduce the current overcrowding and properly meet the basic needs of all persons deprived of their liberty;

(b) Establish a national prevention mechanism that is authorized to carry out periodic visits to detention centres in order to fully implement the Optional Protocol to the Convention against Torture;

(c) Establish security measures that are in keeping with respect for the dignity of persons deprived of their liberty, which entails doing away with isolation cells.

Indigenous peoples

23. The Committee takes note of the text of the constitutional amendment now before Congress which accords recognition to indigenous peoples. The Committee also welcomes the establishment of an ombudsman's office for indigenous peoples specializing in criminal matters. Nevertheless, the Committee is concerned by the many reports that it has received regarding the continuing commission of abusive acts by police officers against members of indigenous peoples, especially members of the Mapuche people. The Committee is particularly concerned by the fact that the victims of these acts include women, children and older persons. The Committee also notes with concern that the State party has on occasion applied the Counter-Terrorism Act to members of indigenous peoples in connection with acts of social protest (art. 16).

The State party should:

(a) Take all necessary steps to carry out prompt and effective investigations into abuses committed against members of indigenous peoples and to bring to trial and punish any police officers who commit such abuses;

(b) Provide detailed statistics, with breakdowns by age, sex and geographical location, on all complaints of acts of torture or ill-treatment committed by law enforcement officers against members of indigenous peoples, as well as on the corresponding investigations, trials and convictions;

(c) Provide detailed data on the cases involving indigenous persons in which the Counter-Terrorism Act has been applied.

24. The Committee is concerned about reports indicating that a number of people who were imprisoned during the dictatorship, tortured, and later forced to leave the country continue to be deprived of the possibility to return (art. 16).

The Committee recommends that the State party reconsider the status of these people and give serious consideration to the possibility of permitting them to return to Chile.

Committee on the Rights of the Child

Optional Protocol to the Convention of the Rights of the Child on the involvement of children in armed conflict

CRC/C/OPAC/CHL/CO/1, 47th Session

1 February 2008

21. The Committee welcomes the information that the State party has implemented a resettlement programme as a tool to ensure protection to Colombian refugees, as well as its commitment to receive Palestinian refugees coming from Iraq, including children affected by armed conflict. It also notes with appreciation the projects aiming at the regularization of all children entering into the State party's territory, irrespective of the migratory status of their parents, in order to guarantee access to education and health to them on an equal footing as Chilean nationals. However, the Committee notes that no specific measures have been taken to identify children who may have been recruited or used in hostilities abroad and that no specific programmes are available for their recovery and reintegration.

22. The Committee recommends that the State party identify and assess the situation of children entering Chile who may have been recruited or used in hostilities abroad, and provide them with immediate, culturally sensitive and multidisciplinary assistance for their physical and psychological recovery and their social reintegration in accordance with article 6 (3) of the Protocol.

25. The Committee further wishes to reiterate its recommendation to ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

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

CRC/C/OPSC/CHL/CO/1, 47th Session

1 February 2008

35. The Committee further wishes to reiterate in this respect its recommendation to ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.