



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues in relation to the sixth periodic report of Chile (CCPR/C/CHL/6)*

Constitutional and legal framework (arts. 1 and 2)

1. Please provide information about cases in which the Covenant's provisions have been invoked and applied by the Chilean courts. Please describe the current procedure for implementing the Views adopted by the Committee pursuant to the Optional Protocol. Also please indicate whether the State plans to withdraw the declaration it made at the time that it ratified the Optional Protocol, which limits the competence of the Committee to consider individual communications.
2. Please provide information on the funding of the National Human Rights Institute and the measures taken to ensure its independence, transparency and compliance with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles), appended to General Assembly resolution 48/134 of 20 December 1993.
3. Please provide information about the stage reached by parliament in its consideration of the constitutional amendment that would recognize indigenous peoples and their right to self-determination and about the bill that would establish an indigenous peoples' council. Please also provide information about the measures taken to uphold the right of indigenous peoples to their ancestral lands and, more specifically, about the mechanisms in place to provide redress and compensation as part of the land restitution process.
4. Please provide updated information about the status of the preparatory consultation process begun with indigenous peoples in 2012 (paragraphs 144–145 of the State party's report) and indicate whether Decree No. 124 has been adjusted, modified or replaced in order to bring the process into line with the standards regarding indigenous consultation, which call for free, prior and informed consent.

* Adopted by the Committee at its 108th session (8–26 July 2013).

Non-discrimination, equal rights between men and women, and violence against women (arts. 2, 3, 7 and 26)

5. Please describe in detail the specific protection measures and compensation mechanisms provided for in the Anti-Discrimination Act (Act No. 20.609 of 12 July 2012). In particular, please indicate whether there are any plans to shift the burden of proof to the other party in judicial proceedings involving alleged victims of discrimination and whether the Act expressly incorporates the principle of equality between women and men, identifies gender as an attribute that may give rise to discrimination and sets forth a specific definition of racial discrimination.

6. Please provide clarification regarding the contents of article 373 of the Criminal Code, which establishes penalties for individuals who “offend public morals or decency”. Please also provide information on the number of arrests made, prosecutions brought, and convictions obtained under this article on the basis of a person’s sexual orientation or gender identity, as well as the penalties imposed, if any.

7. Please provide updated information on the stage reached by parliament in its consideration of the bill mentioned in paragraph 27 of the State party’s report, which would amend the community property regime (Bulletin No. 7567-07) so that wives would be granted the same power as their husbands to administer their joint property.

8. Please describe the measures taken to amend the relevant laws so as to effectively implement exceptions to the prohibition and criminalization of abortion in such cases as when pregnancy is the result of rape or incest and to permit therapeutic abortions in cases where the mother’s life is in danger, in accordance with the Committee’s previous recommendations. Please also provide data on the number of cases in the past seven years in which abortions have given rise to criminal prosecution under articles 342 et seq. of the Criminal Code, as well as the criminal sanctions imposed, if any. Please also describe the measures taken to inform women about contraception methods, to prevent unwanted pregnancies and to promote sexual and reproductive health education for young people.

9. Please provide a detailed description of the steps taken to adopt a law on violence against women that covers psychological as well as physical violence in both the public and the private spheres and that does not establish “habitual ill-treatment” as a condition for a finding that psychological violence has been committed. Please describe the steps taken to classify sexual harassment as an offence in all circumstances and not just when it occurs in the workplace or when a minor is the target. Also please specify what measures have been taken to ensure that all women, and especially indigenous women, have access to suitable and effective judicial remedies through which they can report cases of domestic violence.

10. Please provide disaggregated information on the types of work that women perform and describe their working conditions with regard to job security, access to employment contracts and other benefits. Please also provide information about the actual impact of Act No. 20.348, which establishes the principle of equal pay for men and women who perform the same work, and about the wage gap existing between men and women.

Right to life, prohibition of torture and other cruel, inhuman or degrading treatment, and the fight against impunity (arts. 2, 6 and 7)

11. Please provide information on the measures that have been taken and the proposed legislation that has been drafted for the purpose of repealing Amnesty Decree-Law No. 2.191, in compliance with the Committee’s previous recommendations.

12. Please provide information on:

- (a) The steps taken to expedite the prosecution of human rights violations;
- (b) The number of State officials convicted of human rights violations and/or crimes against humanity during the period 1973–1990 who are currently serving custodial sentences, the number who have had their sentences reduced and have received prison privileges, and the number who have been given accessory penalties in the form of disqualification from public office or duties;
- (c) The change in Supreme Court case law mentioned in paragraph 3 of the second addendum to the State party's report, dated 25 August 2010, according to which a partial statute of limitations has begun to be applied to crimes against humanity; and
- (d) The fact that a statute of limitations of 10 years continues to apply to offences of torture.

13. Please provide statistics on:

(a) Complaints received of torture or inhuman and degrading treatment inflicted by members of the Carabineros (police), the Investigative Police and the Prison Service and by correctional officers in prisons and police stations. Please indicate what measures have been taken to curb the practice and prosecute those responsible. Please also provide information about the redress provided to victims of violence inflicted by State officials in cases of assault, unlawful coercion and ill-treatment of prisoners in the prisons mentioned in paragraphs 61 and 62 of the State party's report; and

(b) Complaints received of torture, unlawful coercion or maltreatment inflicted upon persons in the course of arrests made during protest demonstrations. Please detail, in particular, any cases involving police abuse of women, young people, children or indigenous persons. Please also provide information about the prosecution of those responsible and the penalties imposed and about measures of redress for victims.

14. Please provide information about the mechanisms established to protect Covenant rights in the private security sector and, in particular, about human rights violations and abuses committed by employees of private security companies against indigenous communities.

15. Please provide information about the national institution that conducts periodic visits to detention centres, its structure, powers, the visits it has conducted thus far, the results of those visits, the recommendations it has made and their implementation.

Elimination of slavery, servitude and forced labour, and measures to protect children (arts. 8 and 24)

16. Please provide detailed information about the implementation of Act No. 20.507 of 1 April 2011 on the smuggling of migrants and trafficking in persons and about the budget allocated for its enforcement. In particular, please specify what mechanisms are used for data collection and for victim referral and identification. Lastly, please specify what measures have been taken to prevent trafficking and to protect and assist victims.

Right to liberty and security of person and the rights of persons deprived of their liberty (arts. 9 and 10)

17. Please provide statistics on the number of cases in which the disciplinary measure known as solitary confinement, referred to in paragraph 70 of the State party's report, has been imposed in Chilean prisons in the past seven years and indicate, in particular, the

duration of the confinement. Please also provide statistics on the mortality rate in Chilean detention centres in the past seven years.

18. Please indicate what measures have been taken to reduce overcrowding and improve conditions in detention centres. Please also indicate whether alternatives to detention are used (such as diversion programmes, probation, community service or suspended sentences) and, if so, how often. Please also provide updated information on the construction of four new prisons, on the stage reached by parliament in its consideration of the bill on pardons (Bulletin No. 7533-07) referred to in paragraph 70 of the State party's report, on the types of circumstances under which such pardons could be granted and on their practical and legal implications.

19. Please provide information about the legal provisions governing the procedures to be followed by the Carabineros, including those relating to the right to be assisted by a lawyer of one's own choosing and to the amount of time that may elapse between a person's arrest and that person's appearance before a judge. Please clarify the scope of the offence of disorderly conduct as set out in article 269 of the Criminal Code and provide statistics on the number of arrests made in *flagrante delicto* on the basis of that article. Please also provide statistics on the number of complaints received and the penalties imposed in cases where Carabineros have invoked article 85 of the Code of Criminal Procedure in cases of what proved to be illegal detention. Lastly, please indicate what measures have been taken to prevent people from being subjected to torture or inhuman and degrading treatment while inside official police vehicles or buses.

20. According to information before the Committee, in recent years there have been a significant number of reports of Carabineros using violence against civilians during public protests, especially during student demonstrations and protests by indigenous persons demanding restitution of their land, with some minors sustaining injuries as a result. Please comment on this information and indicate what measures have been taken to prevent, prosecute and put a stop to such cases of police violence and to punish the perpetrators. Also please indicate what disciplinary and/or criminal sanctions have been imposed on those responsible. Please also indicate what measures have been taken to ensure that the use of deterrent measures is governed by the principles of progressive escalation, necessity and proportionality.

Liberty of movement (art. 12)

21. Please provide updated information on the content of the bill on migration mentioned in paragraph 80 of the State party's report and on the stage reached by parliament in its consideration of that bill. Please provide information on the number of migrants detained for violating migration laws and on the length and conditions of their detention, as well as information on the statutory regime governing migrant holding centres and the measures taken to ensure that conditions in these centres meet international standards. Also please explain the nature of the provision in the Aliens Act which authorizes the confiscation of migrant workers' identity documents if they violate migration laws and indicate what guidelines are followed in such cases and how this measure fits in with article 12, paragraph 3, of the Covenant.

Fair trial and procedural guarantees (art. 14)

22. Please provide statistics on the number of cases in which Counter-Terrorism Act No. 18.314 has been applied to members of the Mapuche indigenous community and specify the type of offence that they were charged with and the penalty imposed. Please also

provide information about the measures taken to ensure that the Act is not applied in a discriminatory manner to members of the Mapuche community or on the basis of political, religious or ideological grounds. Lastly, please provide information about the measures taken to comply with the Committee's previous recommendations concerning the adoption of a specific definition of terrorism that is limited to offences whose effects can justifiably be equated with the grave consequences of terrorism and that upholds the procedural guarantees established in the Covenant.

23. Please clarify how the courts interpret the concept of a "military offence" as set forth in the Code of Military Justice. Please provide statistics, disaggregated by military rank, on the number of times since the 2005 reform of the military justice system that military courts have heard cases in which the victims have been civilians and the number of cases in which military personnel have committed offences under ordinary law. Please also provide information about the measures taken by military courts in cases involving civilians and the scope of their jurisdiction in such cases.

24. Please inform the Committee about the measures that have been taken to strengthen the administration of juvenile justice and, in particular, about the appointment of judges and prosecutors who specialize in this field. Please provide information about the measures that have been taken to build and put into operation specialized centres for juvenile offenders deprived of their liberty.

Freedom of thought, conscience and religion (arts. 18 and 26)

25. Please explain what measures the State has taken to fully recognize the right to conscientious objection to military service, as recommended by the Committee in previous concluding observations.

Freedom of opinion, expression and peaceful assembly (arts. 19, 20 and 21)

26. Please inform the Committee about the strategy used to protect human rights in the course of the heated protests seen in recent years. Please explain how the courts have been interpreting the offence of disorderly conduct as set out in the Criminal Code and provide information about the contents of the bill on public order and the stage reached by parliament in its consideration of that bill. In particular, please specify how current regulations and the bill reconcile the need to maintain public order with freedom of opinion, expression and peaceful assembly.

Dissemination of information about the Covenant and its optional protocols (art. 2)

27. Please describe the measures taken to disseminate information about the Covenant and its optional protocols, the submission of the State party's report and the Committee's upcoming consideration of the report. Please also provide more detailed information about the participation of representatives of ethnic and minority groups, civil society, NGOs and the National Human Rights Institute in the process of preparing the report.