



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**Forty-fourth session**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION**

**Concluding observations: Chile**

1. The Committee considered the third periodic report of Chile (CRC/C/CHL/3) at its 1218th and 1219th meetings (see CRC/C/SR.1218 and CRC/C/SR.1219), held on 26 January 2007, and adopted at the 1228th meeting, held on 2 February 2007, the following concluding observations.

**A. Introduction**

2. The Committee welcomes the submission of the State party's third periodic report, the detailed written replies to its list of issues (CRC/C/CHL/Q/3) and the frank and open dialogue with a high-level, cross-sectoral delegation which enabled the Committee to have a clear understanding of the situation of children in the State party.

**B. Follow-up measures undertaken and progress achieved by the State Party**

3. The Committee notes with appreciation the adoption of many legislative and programmatic measures taken with a view to implementing the Convention, including:

- (a) The Constitutional reform of 2003 extending compulsory schooling to a minimum of 12 years;
- (b) The establishment and coverage of the Plan for Universal Access and Explicit Guarantees (the AUGÉ health plan);
- (c) The creation of family courts by act no. 19.968 of 2004;
- (d) The establishment of offices for the protection of the rights of children (OPDs);
- (e) The reorganization of the National Service for the Protection of Minors (SENAME) through act no. 20.032.

4. The Committee also wishes to welcome the ratification of or accession to:

(a) The Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities on 26 February 2002;

(b) The Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict on 21 July 2003 and on the sale of children, child prostitution and child pornography on 6 February 2003;

(c) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and Protocol against the Smuggling of Migrants by Land, Sea and Air, both supplementing the United Nations Convention against Transnational Organized Crime on 29 November 2004;

(d) The Convention on the Protection of the Rights of All Migrant Workers and Members of their Families on 21 March 2005.

### **C. Main subjects of concern and recommendations**

#### **1. General Measures of Implementation (arts. 4, 42 and 44 (para. 6) of the Convention)**

##### **Committee's previous recommendations**

5. The Committee appreciates that several concerns and recommendations (CRC/C/15/Add.173 of 3 April 2002) made upon the consideration of the State party's second periodic report (CRC/C/65/Add.13) have been addressed. However, it regrets that other concerns and recommendations have been insufficiently or only partly addressed, including those related to legislation, coordination, independent monitoring, non-discrimination, physical and sexual abuse of children within and outside the family, regional disparities in access to health care, reproductive health, refugee children, sexual exploitation and trafficking and juvenile justice.

6. The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the second periodic report that have not yet or not sufficiently been implemented and to provide adequate follow-up to the recommendations contained in the present concluding observations on the third periodic report. The Committee recommends that the State party take into account the recommendations of the sub-regional workshop on the implementation of the concluding observations of the Committee on the Rights of the Child held in Buenos Aires from 28 to 30 November 2005.

##### **Legislation and implementation**

7. The Committee welcomes the incorporation of numerous articles on child rights in the Constitution and numerous legislative amendments. The Committee however regrets that the reform of the Juvenile Act no. 16.618 of 1967 with a view to adopting a comprehensive act for the protection of children has not been completed, as recommended by the Committee in its previous concluding observations of 2002 (CRC/C/15/Add.173).

8. **The Committee reiterates its concern in this regard and recommends that the State party promptly complete the process of the reform of the Juvenile Act of 1967 in order to provide comprehensive protection for all children. The Committee also recommends that a clear distinction between children in need of protection and children in conflict with the law, in procedural and other actions, be established.**

9. **The Committee also recommends the State party to ensure, through adequate legal provisions and regulations, that all children victims and or witnesses of crimes e.g. child victims of abuse, domestic violence, sexual and economic exploitation, abduction and trafficking, and witnesses of such crimes, are provided with the protection required by the Convention and to take fully into account the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20 of 22 July 2005).**

#### **National Plan of Action**

10. The Committee welcomes the National Policy and Integrated Plan of Action in favour of Children and Adolescents 2001-2010, however it is concerned that the Plan has been insufficiently implemented and disseminated among stake holders and regrets that the State party has not submitted information regarding the evaluation of the results so far of the implementation of this Plan.

11. **The Committee encourages the State party to further disseminate and conduct an evaluation of the National Policy and Plan of Action in consultation with civil society and all sectors involved in the promotion and protection of children's rights, with the aim of refining its implementation, while taking into account the principles and provisions of the Convention and the plan of action entitled "A world fit for children", adopted at the twenty-seventh special session of the General Assembly in May 2002.**

#### **Coordination**

12. The Committee recognises the efforts undertaken by the Council of Ministers for Children and Adolescents under the authority of the Ministry of Planning, however is concerned that institutional arrangements are still lacking in order to guarantee effective and consistent coordination at the national level.

13. **The Committee recommends the State party to ensure that the Council of Ministers for Children and Adolescents enjoys a stable institutional framework and adequate financial and human resources to provide effective and comprehensive coordination of the implementation of children's rights at the national level.**

#### **Independent Monitoring**

14. The Committee, while noting the draft law presented to parliament in 2003, reiterates with reference to previous concluding observations, its concern over the absence of an independent national human rights institution (NHRI) in order to provide an accessible complaint and redress mechanism for children.

15. **The Committee reiterates its recommendation that the State party establish an independent national human rights institution and, in light of its general comment No. 2 on the role of independent national human rights institutions in the promotion and protection of the rights of the child (CRC/GC/2002/2) and the Paris Principles (General Assembly resolution 48/134, annex), extend its presence nationwide including to the most vulnerable areas, in order to ensure that all children have easy access to this independent complaints mechanism in case of violations of their rights; and provide it with well-trained staff capable of dealing with these complaints in a child-sensitive manner.**

#### **Allocation of resources**

16. The Committee welcomes the increased allocation for social expenditure, in particular in the areas of education and health, however remains concerned that unequal distribution of State funds continues to have a negative impact on the well-being of children, in particular affecting those from more vulnerable sectors of society, such as indigenous peoples and female headed households.

17. **The Committee strongly recommends that the State party, in accordance with article 4 of the Convention, further increase budget allocations for the implementation of the rights recognised in the Convention, to ensure a more balanced distribution of resources throughout the country. The Committee urges prioritization of children's economic, social and cultural rights, especially for marginalised children, and adequate budget allocations with a view to alleviating disparities. The Committee encourages the State party to start budget tracking from a child rights perspective with a view to monitoring budget allocations for children and to seek technical assistance for this purpose from inter alia the United Nations Children's Fund (UNICEF).**

#### **International cooperation**

18. The Committee welcomes the State party's participation in the project Niñ@sur within Mercosur, however it notes that inadequate resources have been devoted to cross-border issues relating to the rights of children.

19. **The Committee encourages the state party to dedicate further resources to regional cooperation on issues relating to children, in particular through Niñ@sur.**

#### **Data collection**

20. The Committee welcomes the progress made in the compilation of statistical data and information, in particular through the Index de infancia, however it is concerned over the lack of disaggregated data, in particular regarding vulnerable groups and disparities between urban and rural areas.

21. **The Committee recommends that the State party continue and strengthen its efforts to develop a comprehensive system of collection of data on the implementation of the Convention. The data should cover all children below the age of 18 years and be disaggregated by sex and those groups of children who are in need of special protection. The Committee encourages the State party to further its cooperation with UNICEF in this regard.**

### **Training and dissemination of the Convention**

22. The Committee recognises measures undertaken to disseminate information about the content of the Convention to relevant professional categories, the general public and in particular to children themselves. However the Committee is concerned over the lack of systematic teaching on human rights, and in particular children's rights, as part of the curricula at all educational levels, and that the level of awareness of the Convention is low, particularly in rural areas.

23. **The Committee recommends that the State party strengthen its efforts to disseminate knowledge of the Convention throughout the country and to raise public awareness of its principles and provisions, in particular among children themselves and parents. The Committee recommends that attention be given to the systematic inclusion of teaching on human rights, and in particular children's rights, in the curricula at all educational levels. Cooperation with civil society organizations, academic centres, media and non-governmental organizations (NGOs) should be developed for the above purpose.**

24. **Furthermore, the Committee encourages the State party to strengthen its efforts to provide adequate and systematic training and/or sensitization on children's rights to professional groups working with and for children, in particular law enforcement officials, members of the armed forces, parliamentarians, judges, lawyers, health personnel, teachers, school administrators, academics, social workers and others as required. The Committee encourages the State party to seek technical assistance from UNICEF and the Inter-American Children's Institute for the training of professionals.**

### **Cooperation with civil society**

25. The Committee welcomes the initiative establishing an advisory committee of civil society for children and adolescents in 2003, however regrets that cooperation with civil society is still limited.

26. **The Committee recommends that the State party encourage the active and systematic involvement of civil society, including NGOs and associations of children in the promotion and implementation of children's rights, including, inter alia, their participation in the preparation phase of the drafting of periodic reports and the follow-up to the concluding observations of the Committee.**

## **2. Definition of the child (article 1 of the Convention)**

27. The Committee welcomes the fact that the minimum age for marriage has been raised to 16 for both boys and girls.

28. **The Committee recommends that the State party further review legislation with a view to establishing the minimum age for marriage at 18 years of age, equally applicable for both boys and girls.**

## **3. General Principles (arts. 2, 3, 6 and 12 of the Convention)**

### **Non-discrimination**

29. The Committee recognises the policy measures undertaken to advance the implementation of the principle of non-discrimination, in particular in the area of health services, however remains concerned that certain vulnerable groups, including indigenous, migrant and refugee children, children with disabilities, as well as children from disadvantaged socio-economic backgrounds and those living in rural areas, continue to be victims of discrimination, particularly in their reduced access to education. The Committee further notes the prevalence of gender based discrimination and that pregnancy continues to result in the exclusion of girls from educational establishments, despite an explicit prohibition of discrimination on this ground. Furthermore, the Committee is concerned that homosexual relations, including those of persons under 18 years old, continue to be criminalised, indicating discrimination on the basis of sexual orientation.

**30. The Committee recommends that the State party increase its efforts to review, monitor and ensure implementation of legislation guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and adopt a proactive and comprehensive strategy to eliminate discrimination on gender, ethnic, religious or any other grounds and against all vulnerable groups throughout the country.**

**31. The Committee also request that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party, to provide special protection to vulnerable groups and to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, also taking into account General Comment No. 1 on article 29, paragraph 1 of the Convention (aims of education).**

#### **Best interests of the child**

32. The Committee is concerned that current legislation and policy fail to take into account the principle of the best interests of the child. It further notes that paternalistic attitudes towards children affect the ability of children to enjoy the rights enshrined in the Convention.

**33. The Committee recommends that the State party fully incorporate the principle of the best interests of the child in all programmes, policies, judicial and administrative procedures, and in particular in the reform of the Juvenile Act and the implementation of the National Policy and Plan of Action. Furthermore, the Committee recommends that the State party undertake measure to raise awareness of the principle of the best interests of the child.**

#### **Respect for the views of the child**

34. The Committee recognises as positive the increased participation of children and adolescents in student organizations, in the framework of article 15 of the Convention. However, the Committee notes that the views of children are inadequately taken into account when designing policies relating to e.g. family and criminal justice.

**35. The Committee recommends that the State party promote, facilitate and implement within the family, schools, the community and in institutions, as well as in judicial and administrative procedures, the principle of respect for the views of children and their**

**participation in all matters affecting them, in accordance with article 12 of the Convention, while taking into account the recommendations adopted by the Committee after the day of general discussion in 2006 on the right of the child to be heard.**

#### **4. Civil Rights and Freedoms (arts. 7, 8, 113-17 and 37(a) of the Convention)**

##### **Torture**

36. The Committee welcomes the inquiry in 2003-2004 by the National Commission on Political Imprisonment and Torture into violations committed during the military rule. Furthermore, the Committee notes as positive the State party's intention to provide reparations to victims identified by the Commission and to continue to receive testimonies from persons who claim to have suffered abuse as children during the military rule, in order to provide comprehensive redress for victims of human rights violations.

**37. The Committee urges the State party to continue to support the National Commission on Political Imprisonment and Torture in order to ensure that all cases of abuse of persons during the military rule, including of those who were children at the time, are fully investigated and that victims are provided with adequate and comprehensive reparations. The Committee encourages the State party to ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Statute of the International Criminal Court.**

38. The Committee is concerned that children continue to be submitted to cruel, inhuman and degrading treatment by law enforcement officials, including in detention facilities. Furthermore, the Committee, while acknowledging that certain officials have been sanctioned for abuses against students, is concerned over reports indicating excessive use of force and arbitrary detentions by police during student demonstrations in 2006.

**39. The Committee urges the State party to take effective measures to protect children from cruel, inhuman or degrading treatment. The Committee urges the State party to ensure that accessible complaints mechanisms are available and that independent investigation are carried out into all reported allegations of violations of the rights of the child enshrined in article 37 (a) of the Convention by law enforcement officials or any person acting in an official capacity. Furthermore, the Committee encourages the State party to ensure that members of all relevant professional categories are adequately trained on the obligations contained in the Convention. Finally, the Committee recommends that the State party ensure that all child victims of cruel, inhuman and degrading treatment are provided access to comprehensive reparations measures including physical and psychological recovery and social reintegration.**

##### **Corporal punishment**

40. The Committee reiterates its previous concern (CRC/C/15/Add.173 paras. 31-32) and regrets that article 234 of the Civil Code appears to authorise corporal punishment in the home. Furthermore the Committee notes the lack of statistical data on the number of reported cases and is concerned that corporal punishment continues to occur in the home, as well as in schools and institutions.

41. **The Committee recommends that the State party, while taking due account of general comment No. 8 of the Committee on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (2006), amend article 234 of the Civil Code and enforce legislation explicitly prohibiting all forms of corporal punishment of children in all settings, including the home. The State party should also conduct awareness raising and public education campaigns against corporal punishment and promote non-violent, participatory methods of childrearing and education.**

**5. Family Environment and Alternative Care  
(arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)**

**Family Support**

42. The Committee, while welcoming the initiatives taken to focus on the family as part of social policy, in particular as part of the Chile Solidario programme, notes that resources and support for vulnerable children and their families need to be further strengthened.

43. **The Committee recommends that the State party provide further support to families in order to prevent separation of children, e.g. in the form of counselling, parenting and financial allowances.**

**Alternative care**

44. The Committee, while noting efforts to improve foster care and the slight reduction in the number of children placed in institutions, is concerned that this number is still very high.

45. **The Committee recommends that the State party continue to promote foster care as a form of alternative care and suggests that institutionalization be used only as a measure of last resort, taking into account the best interests of the child. As regards indigenous children, the Committee supports the recommendation of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people that the State party increase coordination efforts to reduce the number of indigenous children in institutional care and provide support to enable them to stay with their families. Furthermore, the Committee recommends adequate resource allocation, functioning and monitoring of the care institutions, including those run by NGOs, and the promotion and support of foster care as well as a periodic review of placement, in conformity with article 25 of the Convention, while taking into account the recommendations issued after the general day of discussion in 2005 on children without parental care.**

**Adoption**

46. The Committee welcomes certain legal amendments to improve the legal provision on adoption and the ratification of the 1993 Hague Convention No. 33 on Protection of Children and Co-operation in Respect of Intercountry Adoption and the appointment of SENAME to act as the central authority. However, the Committee is concerned that the age of consent for adoption does not apply equally for boys and girls and that adoption is limited to married couples.

47. **The Committee recommends that the State party take all legislative and administrative measures to ensure that domestic and intercountry adoptions comply with**

**article 21 of the Convention and the provisions of the 1993 Hague Convention No. 33 on Protection of Children and Co-operation in Respect of Intercountry Adoption, inter alia by establishing an age of consent for adoption equally applicable for both boys and girls. Taking into account the best interests of the child, and given the high number of children in institutions, the Committee recommends that the State party increase the possibility of domestic adoption, e. g. by considering the introduction of rules allowing unmarried couples to adopt a child.**

#### **Violence, abuse, neglect and maltreatment**

48. The Committee, while welcoming the provision in the new Criminal Procedure that children themselves may report offences, remains concerned that, despite government efforts to counter intra-family violence such as the National Committee for the Prevention of Maltreatment of Children, the incidence of violence and sexual abuse against children is rising. The Committee regrets the lack of updated statistics on victims of reported cases of violence, especially sexual and intra-family, the limited number of investigations and sanctions in relation to such cases and the lack of available physical and psychological recovery and social reintegration measures.

49. **The Committee urges the State party to;**

**(a) Reinforce mechanisms for monitoring the number of cases and the extent of violence, sexual abuse, neglect, maltreatment or exploitation covered by article 19, including within the family, in schools and in institutional or other care;**

**(b) Ensure that professionals working with children (including teachers, social workers, medical professionals, members of the police and the judiciary) receive training on their obligation to report and take appropriate action in suspected cases of domestic violence affecting children;**

**(c) Strengthen support for victims of violence, abuse, neglect and maltreatment in order to ensure their access to adequate services for recovery, counselling and other forms of reintegration;**

**(d) Support national coverage of a 24-hour three digit toll-free child helpline service, in order to be able to reach out to children in remote areas throughout the country.**

50. **With reference to the Secretary-General's Study on Violence against Children, the Committee recommends the State party to:**

**(a) Take all necessary measures for the implementation of the overarching and setting-specific recommendations contained in the report of the independent expert of the United Nations study on violence against children (A/61/299) while taking into account the outcome and recommendations of the regional consultation for Latin America held in Argentina between 30 May and 1 June 2005.**

**(b) Use these recommendations as a tool for action in partnership with civil society and in particular with the involvement of children, to ensure that every child is protected from all forms of physical, sexual and mental violence and to gain momentum for**

**concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.**

**(c) Seek technical assistance from UNICEF, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the World Health Organization (WHO) for the above mentioned purposes.**

**6. Basic Health and Welfare  
(arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) of the Convention)**

**Children with disabilities**

51. The Committee is concerned that /the resources available for children with disabilities are inadequate, in particular in order to guarantee their right to education.

**52. The Committee recommends that the State party, taking into account general comment No. 9 (2006) on the rights of children with disabilities (CRC/C/GC/9):**

**(a) Ensure implementation of the Standard Rules for Equalizing the Possibilities for Persons with Disabilities, adopted by the United Nations General Assembly on 23 December 1993;**

**(b) Sign and ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol once open for ratification;**

**(c) Pursue efforts to ensure that children with disabilities may exercise their right to education to the maximum extent possible;**

**(d) Undertake greater efforts to make available the necessary professional (i.e. disability specialists) and financial resources, especially at the local level, and to promote and expand community-based rehabilitation programmes, including parent support groups.**

**Health and medical services**

53. The Committee welcomes the substantially increased budget allocations in the public expenditure for health through the AUGE system and the attempts that have been made to improve access for low-income families by providing guaranteed medical treatment for several conditions relating specifically to the health of children. The Committee also notes the advances made in reducing infant mortality and the high vaccination rates among children. The Committee however notes that further efforts need to be undertaken in order to ensure access to health services in practice among indigenous peoples, low-income and rural population. Finally, the Committee is concerned about nutritional problems leading to obesity.

**54. The Committee recommends that the State party continue and provide further resources for the AUGE health system and enhance the access to medical services in rural areas, among low-income families and indigenous peoples. The Committee recommends that the State party increase and strengthen strategies to promote the use of indigenous**

**traditional medicine. Finally the Committee recommends the State party to take necessary measures to reduce and prevent the incidence of obesity among children.**

### **Adolescent health**

55. The Committee, while noting certain progress in the area of sexual education in schools, is concerned over the high rate of teenage pregnancies, the criminalization of the termination of pregnancies in all circumstances and the lack of adequate sex education and accessible reproductive health services. These factors all contribute to the elevated incidence of maternal mortality among adolescent girls.

**56. The Committee recommends that the State party promote and ensure access to sexual and reproductive health services for all adolescents, including sex and reproductive health education in schools, as well as youth-sensitive and confidential counselling and health care services, taking into account the Committee's general comment No. 4. on adolescent health and development in the context of the Convention (CRC/GC/2003/4). The Committee urges the State party to review its criminalization of the termination of pregnancies in all circumstances, including in cases of rape, incest and situations where the life of the mother is at risk. Furthermore, the Committee recommends that an appropriate strategy dedicate adequate resources to awareness raising, counselling services and other measures in order to prevent adolescent suicides.**

### **HIV/AIDS**

57. The Committee welcomes the legal guarantee to freely access antiretroviral treatment introduced in 2004, and the reduction in the incidence of HIV/AIDS, however it recommends that the State party undertake further awareness raising campaigns in order to counteract discrimination against children living with HIV/AIDS.

**58. The Committee recommends that the State party:**

**(a) Conduct awareness raising campaigns among adolescents, in particular among those belonging to vulnerable groups, such as street children;**

**(b) Provide adequate financial and human resources for prevention measures and information campaigns to combat discrimination against infected children, while taking into account the Committee's general comment No. 3 on HIV/AIDS and the rights of the child and the Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37, annex I);**

**(c) Seek technical assistance from, inter alia, the United Nations Joint Programme on HIV/AIDS (UNAIDS) and UNICEF.**

### **Standard of living**

59. The Committee, while recognising the overall reduction of poverty, is concerned over the discrepancies in the standard of living and the number of children living in poverty or extreme poverty, as it presents serious obstacles to enjoyment of the rights of the Convention. The

Committee is concerned at the high percentage of the population that lacks access to basic services and is particularly concerned over the vast discrepancy in the coverage of clean and running water, as well as sewage systems, in urban compared to rural areas. The Committee notes that poverty levels are disproportionately high among female headed households and indigenous peoples.

**60. The Committee recommends that the State party prioritize and allocate sufficient funds in order to counteract the increasing inequality and effectively reduce the discrepancies in the standard of living, inter alia, between urban and rural areas. The Committee highlights the need to strengthen the capacity of departmental and municipal authorities to provide basic services. In particular, increased access to clean drinking water and sewage disposal should be a priority in rural areas.**

#### **7. Education, Leisure and Cultural Activities (arts. 28, 29 and 31 of the Convention)**

61. The Committee welcomes the increase in the enrolment at all levels in the educational system, the considerable budget allocations for education and that free education during twelve years in school is enshrined as a constitutional right since 2003. The Committee also welcomes the priority given to education in the preschool years. The Committee recognises the measures taken to improve the quality of education in order to prepare children for their role in a productive and democratic society and notes the affirmative action undertaken to improve equal access to education, however it is concerned that access for children belonging to vulnerable groups, such as indigenous peoples, refugees and children living in poverty and rural areas is still inadequate.

**62. The Committee recommends that the State party:**

- (a) Continue to increase budget allocations to the educational sector;**
- (b) Focus on an overall improvement in the quality of education provided, in particular in rural areas;**
- (c) Ensure the expansion of the bilingual intercultural programme for indigenous peoples and maintain consultations with indigenous communities in order to evaluate the programme;**
- (d) Compile statistics disaggregated by urban/rural areas, ethnicity and sex in order to monitor the impact of anti-discrimination measures;**
- (e) Invest further resources in incorporating human rights education in school curricula.**

#### **7. Special Protection Measures (arts. 22, 30, 38, 39, 40, 37 (b)-(d), and 32-36 of the Convention)**

##### **Migrant and refugee children**

63. The Committee welcomes the amendments to the Constitution which seek to eliminate statelessness for children born to Chileans abroad, however remains concerned that children of

foreigners without legal residence in Chile may remain exposed to statelessness. Furthermore, the Committee regrets that the State party has still not adopted adequate legislation in accordance with international obligations for refugee protection. The Committee is also concerned that refugee, asylum-seeking and migrant children lack adequate access to health services while their applications to the national registry system are being processed, and that they face de facto discrimination in exercising their right to education. Furthermore, the Committee regrets the paucity of information on the situation of refugee, asylum-seeking and migrant children in the State party report and the State party reply to the list of issues.

**64. The Committee recommends that the State party:**

**(a) Ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;**

**(b) Ensure prompt adoption and implementation of adequate legislation in accordance with international obligations for refugee protection;**

**(c) Ensure that refugee, asylum-seeking and migrant children are guaranteed speedy processing of their registration and identity documents and that they not be denied access to health services and education during this period;**

**(d) Take all measures to guarantee protection of refugee children in line with international human rights and refugee law, while taking into account the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin;**

**(e) Provide adequate information on the situation of refugee, asylum-seeking and migrant children in its next periodic report under the Convention;**

**(f) Seek the advisory services of the Office of the United Nations High Commissioner for Refugees (UNHCR).**

#### **Economic exploitation, including child labour**

65. The Committee, while welcoming initiatives of the State party to combat economic exploitation with technical support from the International Labour Office/the International Programme on the Elimination of Child Labour (ILO/IPEC), expresses concern over the high number of children who are victims of economic exploitation. In particular, the Committee is alarmed over the high number of children exposed to dangerous and/or degrading work.

**66. The Committee recommends that the State party continue and reinforce the efforts, including by adequate budget allocations, to prevent and combat economic exploitation through the effective implementation of the National Action Plan, in collaboration with ILO/IPEC and UNICEF.**

### **Street children**

67. The Committee, while noting the measures taken by the programme Chile Solidario, is concerned over the high number of street children, the lack of available social services and reintegration measures and the stigma they continue to suffer.

68. **The Committee recommends that the State party:**

**(a) Carry out a comprehensive study to assess the scope, nature and root causes of the presence of street children and youth gangs in the country in order to develop a policy for prevention;**

**(b) Provide street children with recovery and social reintegration services, taking into account their views in accordance with article 12 of the Convention, taking due account of gender and ethnic aspects, and provide them with adequate nutrition, housing, and necessary health-care and educational opportunities;**

**(c) Develop a policy for family reunification, where possible and in the best interests of the child;**

**(d) Conduct public awareness campaigns to address the stigma attached to street children;**

**(e) Collaborate with NGOs and seek technical assistance from, inter alia, UNICEF;**

**(f) Provide the Committee with further information on the situation of street children in the next periodic State party report.**

### **Sexual exploitation and sale of children**

69. The Committee welcomes the legislative changes in 2004 that criminalize child pornography, however regrets that the State party has not yet amended its Criminal Code in order to bring it in line with the provisions of the Convention and the Optional Protocol on the sale of children, child prostitution and child pornography. The Committee notes as positive the resources assigned to reintegration programmes for child victims of sexual exploitation and sale of children, however regrets that prevention measures are inadequate, that sexual tourism is a concern and that law enforcement lacks effective implementation.

70. **The Committee recommends that the State party:**

**(a) Bring legislation fully into compliance with its international obligations under the Convention and the Optional Protocol on the sale of children, child prostitution and child pornography;**

**(b) Undertake further in-depth studies on the sexual exploitation of children and sexual tourism in order to assess its scope and root causes and enable effective monitoring and measures to prevent, combat and eliminate it;**

**(c) Implement a coordinated national plan of action against sexual exploitation and trafficking of children, taking into account the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children;**

**(d) Dedicate further resources to prevention and awareness raising;**

**(e) Continue to provide assistance and reintegration programmes for sexually exploited and/or trafficked children;**

**(f) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute cases, in a child-sensitive manner that respects the privacy of the victim;**

**(g) Ensure enforcement of the law to avoid impunity;**

**(h) Seek further technical assistance from among others, UNICEF and ILO/IPEC.**

#### **Administration of juvenile justice**

71. The Committee reiterates its previous concerns over the high number of children prosecuted in the adult criminal justice system. The Committee is concerned about the new legislation regarding juvenile justice that allows for deprivation of liberty for up to 5 years for adolescents between 14 and 16 and the application of penal responses for children under 14 in certain circumstances. It is also concerned at the lack of sufficient socio-educational measures for dealing with children in conflict with the law without resorting to criminal procedures and for limiting the use of deprivation of liberty. Furthermore, the Committee notes the lack of recovery and social reintegration programmes for children.

72. **The Committee reiterates its previous recommendation that the State party bring the system of juvenile justice, and in particular the new legislation before it enters into force, fully in line with the Convention, in particular articles 37, 40 and 39. It should also be in line with other United Nations standards in the field of juvenile justice, including: the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules); the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines); the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (the Havana Rules); the Vienna Guidelines for Action on Children in the Criminal Justice System; and the recommendations of the Committee's general comment No. 10 (CRC/C/GC/10) on children's rights in juvenile justice. In this regard, the Committee recommends that the State party in particular;**

**(a) Provide the necessary human and financial resources for the implementation of the new law and establish a system of socio-educational measures with a view to facilitating its application, as well as providing a tool for periodic evaluation of its functioning;**

**(b) Ensure that deprivation of liberty is used only as a measure of last resort. When used as a last resort the facilities should comply with international standards;**

**(c) Take all necessary measures to ensure that every person below 18 deprived of his/her liberty be separated from adults, in accordance with article 37 (c) of the Convention;**

**(d) Provide the child with free legal assistance;**

**(e) Establish an independent child-sensitive and accessible system for the reception and processing of complaints by children and investigate, prosecute and punish cases of violations committed by law-enforcement personnel and prison guards;**

**(f) Ensure that children deprived of their liberty remain in regular contact with their families while in the juvenile justice system, notably by informing parents when their child is detained;**

**(g) Provide training for law enforcement officials, penitentiary staff, judges, lawyers, prosecutors, public defenders, health personnel, social workers and others as required, on children's rights and special needs;**

**(h) Request further technical assistance in the area of juvenile justice and police training from the United Nations Interagency Panel on Juvenile Justice, with the participation of United Nations Office on Drugs and Crime (UNODC), UNICEF, OHCHR and NGOs etc.**

#### **Indigenous children**

73. The Committee regrets that the Constitution still does not contain specific provisions recognising indigenous peoples and their rights. The Committee is concerned over the high level of correlation between poverty and indigenous origins and the de facto discrimination indigenous children continue to face, in particular in the areas of education and health. The Committee welcomes the positive steps taken to establish a bilingual education programme, however it notes that the coverage and resources are limited and that dropout rates remain high. The Committee is concerned over reports that indigenous youth have been victims of police brutality. Finally, the Committee regrets the lack of detailed information on indigenous children in the State party report.

74. **The Committee recommends the State party;**

**(a) Incorporate recognition of indigenous peoples and their rights in the Constitution;**

**(b) Ratify ILO Convention 169 on indigenous and tribal peoples in independent countries;**

**(c) Take affirmative measures to ensure that indigenous children gain de facto enjoyment of their rights, in particular in the area of education and health;**

**(d) Ensure that indigenous youth are not victims of police brutality and take both preventive and corrective action when abuse is suspected;**

(e) Take due account of the recommendations adopted by the Committee after its day of general discussion in September 2003 on the rights of indigenous children and pay particular attention to the recommendations presented in the report of the 2003 mission to Chile of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (E/CN.4/2004/80/Add.3);

(f) Provide further detailed information on the implementation of article 30 in the next periodic State party report.

## 9. Optional Protocols to the Convention on the Rights of the Child

75. The Committee welcomes the submission of the initial reports under both Optional Protocols in January 2007.

## 10. Follow-up and dissemination

### Follow-up

76. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to members of the Congress, relevant ministries, departmental governments and the judiciary, for appropriate consideration and further action.

### Dissemination

77. The Committee further recommends that the third periodic report and written replies submitted by the State party and related recommendations (concluding observations) it has adopted be made widely available in the relevant languages (such as those of indigenous peoples), including (but not exclusively) through internet, to the public at large, the press, civil society organizations, youth groups, and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

## 11. Next report

78. The Committee invites the State party to submit a consolidated 4th and 5th report, by 12 September 2012 (the due date of the 5th report). This report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.

79. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, approved by the fifth inter-committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).

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