



**COMMENTS AND CONTRIBUTIONS FROM CIVIL SOCIETY  
FOR THE LIST OF ISSUES AND QUESTIONS RELATED TO THE EXAMINATION  
OF THE STATE OF CHILE BEFORE THE COMMITTEE FOR THE ELIMINATION OF  
ALL FORMS OF DISCRIMINATION AGAINST WOMEN AT ITS 80TH SESSION  
(1-5 MARCH 2021)**

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## General

The social unrest that began in October 2019 revealed broad popular frustration with the precariousness of living conditions and inequality. The response to this was marked, as confirmed by various national and international human rights agencies, such as the National Institute of Human Rights (INDH), the Inter-American Commission on Human Rights (IACHR) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), by the commission of serious, repeated and massive human rights violations, including cases of extrajudicial executions, torture, sexual violence, serious eye injury and excessive and indiscriminate use of force by State security forces.<sup>123</sup>

The number of victims referenced in INDH legal actions is 2825, of which 721 are women. They have reported multiple cases of sexual political violence by state agents, especially against adolescent students and women, allegations that are recorded by various human rights agencies. In the face of these, there have been no processes to ensure justice and reparation for the persons concerned, nor clear measures that sanction those responsible.

### **The Committee is requested to consult the State:**

- **What measures it has taken and what control mechanisms have been taken to ensure unrestricted respect for human rights by state actors.**
- **What steps it has taken to ensure reparations for victims.**
- **What measures it has taken to protect women human rights defenders, especially those affected by sexual violence in the context of demonstrations.**

## ARTICLES 1 to 4: EQUALITY AND NON-DISCRIMINATION

### Violence

Violence against women remains a major problem in the country. Since 2017, the bill for women's right to a life free of violence has been under discussion (Legislative Bulletin No. 11.077-07). While it is a step forward with respect to current legislation, it still has shortcomings, mainly with regard to: obligations of the State to combat violence against the wide diversity of women and girls; establishment of concrete and binding mandates; incorporation of the different sectors of the State in the field of prevention; and in the area of education: ensuring the resources and tools to implement comprehensive non-sexist and sexual education, as well as the implementation of permanent public campaigns on women's and girls' rights; ongoing training of civil servants, with special attention to justice officers and police forces; and adequate resources for the scale of the task.

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<sup>1</sup> See <https://bibliotecadigital.indh.cl/bitstream/handle/123456789/1701/Informe%20Final-2019.pdf?sequence=1&isAllowed=y>

<sup>2</sup> See <http://www.oas.org/es/cidh/prensa/comunicados/2019/317.asp>

<sup>2</sup> See <http://www.oas.org/es/cidh/prensa/comunicados/2019/317.asp>

<sup>3</sup> See <https://acnudh.org/chile-informe-describe-multiples-violaciones-de-derechos-humanos-y-llama-a-reformas/>

The Cspins Network Against Gender Violence registry reveals that the highest incidence of such violence is among migrant and Afro-descendant women. However, the State has not implemented regulations that facilitate migration regularization, access to public policies, the incorporation of intercultural approaches in a cross-cutting manner, especially in police, judicial systems and programs that prevent or address violence.

The survey conducted by the Observatory against Harassment Chile (OCAC) reveals that women are sexually harassed in various areas of life, whether in educational, labor, public and digital spheres; 45.7% of women who participated in the study experienced some form of sexual harassment.<sup>4</sup>

Parliamentary motions have emerged from bills that sanction these acts, but these have been processed slowly and with little support from the Executive Branch.

In December 2020, with the collaboration of civil society organizations, a bill was presented to Congress that outlaws, defines and sanctions digital violence in various forms and grants protection to victims (Newsletter No. 13.928-07), which is in the first constitutional process in the Chamber of Deputies with little progress.

In academia, 41.4% of young women surveyed in the X-ray study of sexual harassment in Chile admit to having experienced at least one such situation of harassment.<sup>5</sup>

During 2018 a broad feminist movement emerged in the universities of the country that made this problem visible and generated the presentation of bills on sexual harassment in academia (Legislative Bulletins No. 11.750-04, 11.797-04 and 11.845-04, consolidated), which are in the third constitutional process.

The sexual violence of which women with disabilities have been victimized by staff in detention centres has been documented and systematized by the National Institute of Human Rights.<sup>6</sup>

#### **The Committee is requested to consult the State:**

- **What plans and programmes it has implemented for the prevention of violence against girls and women and how they have been strengthened in the context of the pandemic.**
- **How many training programmes it has conducted with police and judicial forces on gender-based violence and what has been the impact of them. Has it considered training-related information for people from vulnerable groups such as migrant, Afro-descendant or special needs women.**

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<sup>4</sup> Observatory against Harassment Chile (OCAC). X-ray of sexual harassment in Chile: First national survey on street sexual harassment, work, educational context and Cyberbullying, 2020. p. 11. Online: <https://www.ocac.cl/wp-content/uploads/2020/07/Informe-encuesta-OCAC-2020.-Radiograf%C3%ADa-of-sexual-harassment-in-Chile.pdf>

<sup>5</sup> Ibid. p.44.

<sup>6</sup> Annual Report situation of human rights in Chile 2017 - National Institute of Human Rights – INDH <https://www.indh.cl/destacados/informe-anual>

- **What measures it has taken in relation to efficient criminal prosecution in matters of femicides and violence against women and what has been the impact on perpetrators in terms of sanctions.**
- **How much human and financial resources have increased for the prevention, investigation and sanction of violence against women and girls, as well as for the protection, comprehensive care and reparation for victims.**
- **What actions it has taken to create conditions for the pursuit of justice, and reparation for adolescent students and women victims of sexual political violence, institutional violence and to punish those responsible**
- **What measures it has implemented to address the particular vulnerability to violence of migrant, Afro-descendant or special needs women and how they have been reinforced in the context of the pandemic.**
- **What measures were taken to ensure the eradication of violence against women and girls with disabilities in care and detention centres, to enable reporting in the event of an occurrence and what audits were carried out to ensure its effectiveness.**
- **What are the protocols for care and containment of people with disabilities, how they ensure the avoidance of situations of violence and abuse in institutions, and what are the control mechanisms.**
- **What are the figures for people with disabilities who died in detention centres and victims of violence, disaggregated by sex, age, and cause of death.**
- **What reasonable adjustments have been made to ensure access to justice for women and girls with disabilities who are victims of violence.**

The absence of anti-discrimination legislation has long been evident in Chile, particularly in the omission of objectives aimed at ensuring the prevention, sanctioning, eradication and reparation of the consequences of discrimination. Hence, the National Congress is debating a bill amending and strengthening Law No. 20.609 establishing anti-discrimination measures, which is in the first constitutional process before the Senate and has not been supported by official legislators (Legislative Gazette No. 12.748-07).

**The Committee is requested to consult the State:**

- **What legislative initiatives it has pushed to reform Law 20.609 to comply with the Recommendation made by the Committee in 2019, concerning establishing a broad definition of discrimination against women and effective judicial guarantees.**
- **What measures it has taken to protect lesbian and trans women from acts of discrimination, particularly against crimes committed against them.**

### **Migrant Women**

Racism has risen amid an adverse context due to the hardening of migration policies and the increase in public discourse that has instilled and reinforced prejudice and stigmatization of the migrant population, linking it to crime, the pandemic and unemployment.

At the level of social protection, the social register of households excludes migrants who are in irregular immigration status, an exclusion that also encompasses Chilean children who are the children of irregular migrants. This mainly affects women at work or heads of household and their sons and daughters, as it excludes them from state protections. This was exacerbated by the pandemic as these women were left out of economic crisis containment measures, and their sons and daughters from student school feeding programs, TICs (Junaeb) scholarships, among others.

Complaints by Afro-descendant migrant women in court proceedings concern protection measures for their sons or daughters resulting from complaints from both third parties and health or education officials prosecuting family poverty or questioning their parenting styles. In other cases these complaints reflect the interests of third parties in trying to obtain custody of these children by judicially invalidating their parents. Cases exist where justice has not been able to guarantee basic rights such as information, especially for non-Spanish speakers or with regard to the right to identity and the right to maintain cultural traditions.

During 2020, an immigration bill was passed by the Executive that does not meet human rights standards. The Constitutional Court even determined that 6 of its articles did not conform to the current Constitution. The law handed over to regulatory authorities power over the issuance of visas to women independently of their husbands.<sup>7</sup>

#### **The Committee is requested to consult the State:**

- **What adaptations, plans or programmes have been implemented to strengthen the human rights perspective and intersectional approach (especially gender and interculturality) in the various legal and public policy areas aimed at migrant women, as well as for monitoring the performance of public authorities.**
- **What steps it has taken to address the exclusion of migrant women on a pending or overdue visa so that they and their sons and daughters can access all appropriate social protection systems.**
- **What are the specific programmes aimed at migrant women and interculturality implemented by the ministries of Women and Gender Equity, Labour, Social Development and Justice and Human Rights and what have been the results.**
- **What guarantees have been considered in the new migration law and its future regulation, to safeguard the rights of migrant women and non-discrimination, especially in terms of their autonomy in regard to their regular migration and equal access to public policies.**

#### **Women Deprived of Freedom**

By Exempt Resolution No.11 of January 2, 2019, the "Internal Procedure for the Processing of Allegations of Abuse, Labour Harassment and Sexual Harassment" was approved within the Gendarmerie de Chile, the institution responsible for the management of penitentiaries.

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<sup>7</sup> See <https://www.latercera.com/nacional/noticia/tc-declara-inconstitucional-seis-articulos-de-la-nueva-ley-de-migraciones-del-gobierno/T6P6RO2SCFHCBMMZG4ERZLM4WA/>

In the context of the pandemic, visits to prisons have been restricted, which has made it difficult for detained women and their families, particularly their sons and daughters, to maintain their relationships.

**The Committee is requested to consult the State:**

- **How has the Internal Procedure for the handling of allegations of abuse, harassment and sexual harassment been implemented; how many complaints have been reported; what sanctions have been applied; and what prevention and non-repetition measures is the institution implementing.**
- **What is the status of prison regulations and what public policies have been developed to incorporate the gender perspective into: prison management, classification, treatment, health, the disciplinary regime and reintegration.**
- **What legislative measures have been pushed by the State to implement alternative means of detention for women deprived of liberty, in particular for those detained for administrative or minor crimes, low-risk offenders and those who can safely reintegrate into society, who are nearing the end of their sentences, sick or pregnant, elderly, and/or with disabilities.**
- **What public policy and budget has been earmarked for effective access to personal hygiene items, including free sanitary towels and permanent water supply in prisons.**
- **What public policies and what concrete measures it has taken to facilitate by all reasonable means the contact of inmates with their families, especially with their sons and daughters.**
- **What measures it has taken to ensure health and hygiene in the context of imprisonment and overcrowding during the pandemic.**
- **What specific measures have been taken in cases of mothers in pre-trial detention for micro-trafficking offences, which allow for the support of their families.**
- **What specific measures it has implemented to protect lesbian and trans women from acts of discrimination within penal institutions, specifically indicating the state of implementation and action plan by Gendarmerie of Chile of the provisions of Exempt Resolution No. 5716 of 20 November 2020, which approves provisions on respect and guarantee of identity and gender expression of trans persons deprived of their liberty.**

### **Fiscal inequality**

Chile has ratified both CEDAW and the International Covenant on Economic, Social and Cultural Rights, committing itself to generating and investing sufficient resources, in a non-discriminatory manner, to ensure substantive equality for women.

The failure to generate sufficient revenue from tax collection is evident in current legislative discussion over the comprehensive law on violence against women and the insufficient resources allocated to women's policies when compared to the scale of prevention and care and reparation for victims.

Added to this is the bias of an economy skewed towards greater reliance on unpaid domestic care work. Moreover, over-reliance on regressive fiscal policies to generate state revenue has a decisive impact on overall levels of inequality. Women and other marginalized groups that are overrepresented in the poorest sectors of society invariably take the brunt of regressive tax regimes.<sup>89</sup>

The costs of tax avoidance and transfer pricing are borne by the entire Chilean population, but women bear the highest burden of lost income due to regressive tax regimes, light regulation and/or resource-poor regulatory authorities; difficulties that are most intense in rural areas and for indigenous women.<sup>10</sup>

Tax Justice Network estimates US \$574,829,727 in losses suffered by Chile due to global tax abuse. This estimate only considers direct losses, excluding the broader<sup>11</sup> impact of the "race to the bottom" in corporate taxation. Similarly, the indirect impacts due to under-financing of bodies dependent on state support, preferential tax treatments and exemptions have not been included.

Along with capital flows abroad and light regulation,<sup>12</sup> this regime results in low tax collection in Chile and undermines the quality of public services, which are mainly used by women. In addition, several public services provided by private companies create discrimination against women, leaving them no choice in matters related to access to health, social security, retirement, housing and others.

**The Committee is requested to consult the State:**

- **What measures it plans to end the practice of fiscal integration that privileges private wealth and capital over labour income and discriminates on behalf of mostly-male business owners, which entitles them to personal tax credits and aggravates inequality.**
- **What measures it has taken or plans to take to generate sufficient resources for the effective exercise of women's rights.**
- **How it plans to introduce laws and procedures for gender-based financing along with gender-disaggregated data to compare and monitor the impact of its fiscal, budgetary and spending practices on the economic situation of women in Chile.**
- **How it will commit to increasing its fiscal control and enforcement capacity in order to monitor all multinational corporate accounts, given the ease with which**

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<sup>8</sup> Center for Economic and Social Rights, Redistributing Unpaid Care Work – Why Tax Matters for Women's Rights, 2016. [https://www.cesr.org/sites/default/files/UnpaidCare\\_IDS\\_CESR.pdf](https://www.cesr.org/sites/default/files/UnpaidCare_IDS_CESR.pdf)

<sup>9</sup> OHCHR, Report of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona, 2014. Available at: [https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A\\_HRC\\_26\\_28\\_ENG.doc](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A_HRC_26_28_ENG.doc)

<sup>10</sup> <https://www.oecd.org/tax/revenue-statistics-chile.pdf>

<sup>11</sup> <https://www.taxjustice.net/reports/the-state-of-tax-justice-2020/>

<sup>12</sup> Tax Justice Network, New study and tool for assessing risks of illicit financial flows in Latin America, 28 January 2021. <https://www.taxjustice.net/2021/01/28/new-study-and-tool-for-assessing-risks-of-illicit-financial-flows-in-latin-america/>

**base erosion and profit shifting (BEPS) can be used to reduce domestic tax revenues.**

### **Renewable energy and substantive equality**

One of the main measures that the Chilean State has taken to mitigate climate change is the establishment of an energy policy that aims to increase the share of renewable energy. One of the most visible consequences of climate change is water scarcity, which has worsened over the past 20 years, resulting from glacier loss and lack of rain.<sup>1314</sup>

However, this transformation in the composition of the energy matrix, while fundamental in the fight against climate change, does not in itself generate more inclusive and fair systems capable of promoting and respecting women's rights. On the contrary, a number of actors at the national and global levels have warned that the development of such climate mitigation projects has caused severe human rights impacts on local populations, particularly and disproportionately, affecting the rights of women and girls.

In recent years, the construction of various hydroelectric plants in different areas of the country involving, inter alia, the stripping of water resources from Mapuche communities, has been of particular concern. Similarly, various social and environmental impacts arising from the unsustainable exploitation of lithium mines in the Atacama desert for renewable energy generation have been documented. At the national level, the populations that have been most affected by renewable energy projects are indigenous and rural communities in conditions of socio-economic precariousness for whom the preservation of their lands and natural resources are fundamental to their survival and the exercise of their rights. However, because of the structural conditions of gender inequality that still prevail across the country, the impact on these communities is differentiated and more serious for women and girls.<sup>1516</sup>

Women are often overrepresented in contexts of energy poverty and underrepresented in decision-making processes and spaces, both in their communities, and in the design and implementation of national energy policy. On the other hand, being the ones who carry out most of the domestic and care work in their families and communities, they are also

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<sup>13</sup> Ministry of Energy, Government of Chile, Energy 2050: Energy Policy of Chile, p. 14. Available at: [https://energia.gob.cl/sites/default/files/energia\\_2050\\_-\\_politica\\_energetica\\_de\\_chile.pdf](https://energia.gob.cl/sites/default/files/energia_2050_-_politica_energetica_de_chile.pdf)

<sup>14</sup> Fernández Santibañez Quezada, 'Climate change and water resources of Chile', Office of Agricultural Studies and Policies (ODEPA), Government of Chile, Second Section \* Reflections and Challenges as of 2030: Perspective of External Specialists, (2017), available at: <https://www.odepa.gob.cl/wp-content/uploads/2018/01/cambioClim12parte.pdf> Aislinn Laing and Fabian Cambero, 'Chile's president announces water crisis team amid 'intense' drought', (5 September 2019), disponible en: <https://www.reuters.com/article/us-chile-environment/chiles-president-announces-water-crisis-team-amid-intense-drought-idUSKCN1VQ2SU>

<sup>15</sup> José Aylwin, Felipe Guerra and Rubén Sánchez, 'Renewable Energy and Human Rights in Chile' (2020), available at: <https://www.business-humanrights.org/es/blog/energ%C3%ADas-renewable-and-human-rights-en-chile/>

<sup>16</sup> Amanda Romero, José Aylwin and Marcel Didier, 'Globalization of renewable energy companies: Lithium extraction and rights of indigenous peoples in Argentina, Bolivia and Chile ("Lithium Triangle")', Citizen Observatory, (2019), available at: [https://media.business-humanrights.org/media/documents/INFORME\\_LITIO\\_FINAL\\_PARA\\_WEB.pdf](https://media.business-humanrights.org/media/documents/INFORME_LITIO_FINAL_PARA_WEB.pdf)



disproportionately affected by the lack of access to natural resources, land and territories caused by the development of renewable energy projects. In addition, access to safe and sustainable energy sources is essential to reduce household workloads that make women susceptible to poverty and hinder the full exercise of their rights to health, work and an adequate standard of living.

It is urgent that energy transition policies incorporate a differential and intersectional gender perspective, based on human rights principles, that seeks to address the specific problems arising from the impacts of renewable energy projects on women's rights.

While renewable energy technologies have great potential to be a crucial means of achieving greater equality and combating climate change, a "fair transition" cannot be achieved without inclusive institutional agreements that ensure gender-sensitive energy processes.<sup>17</sup>

In order to prevent and reduce the disproportionate impacts of the transition to renewable energy on women and promote substantive equality, it is essential to effectively incorporate them into decision-making processes and, where appropriate, in resettlement and compensation plans, in benefit-sharing, as well as to consider their differentiated needs in access to safe and sustainable energy sources.

**The Committee is requested to consult the State:**

- **What measures it has implemented to strengthen the gender perspective based on human rights in the specific and operational policies governing renewable energy projects in Chile**
- **What measures are planned to incorporate a human rights-based gender approach into social and environmental impact assessments of large-scale renewable energy projects**

## ARTICLE 5: MODIFICATION OF SOCIOCULTURAL PATTERNS

Achieving material and substantive equality for women requires the modification of structural conditions that are based on discrimination and violence against women, ensuring a level playing field and non-discrimination in the exercise of rights.

The pandemic has created the opportunity to raise the profile, in political discourse and public management, of the unfair sexual division of labour and the urgency of reorganizing. According to UN Women, the Women's Institution M and the Centre for Longitudinal Studies and Surveys of the Catholic University, in the context of the

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<sup>17</sup> As the Special Rapporteur on Extreme Poverty and Human Rights noted in his most recent report, actions to move towards a renewable energy system must be "triple-dividend", implying that simultaneously they must contribute to CO2 reductions, to the construction of companies more biodiverse and combating poverty and social inequalities, including gender inequalities. Oliver De Schutter, 'The "just transition" in the economic recovery: eradicating poverty within planetary boundaries', Interim report of the Special rapporteur on extreme poverty and human rights, A/75/181/Rev.1, (2020), disponible en: <https://www.undocs.org/A/75/181/REV.1>

pandemic, 38% of men consulted devote zero hours a week to household chores, 57% say they do not spend a single hour on childcare tasks and 71% devote no time to children's schoolwork.

In 2011, the maternal subsidy law was reformed, extending post-natal leave to 6 months, including in the final six weeks the possibility of that leave being transferred to the father. Nine years after the enactment of the law, only 0.2% of men who have had the option to access this have done so.

**The Committee is requested to consult the State:**

- **What steps it has taken to promote co-responsibility in home care and maintenance, repositioning care as a social responsibility and reducing women's desertion from the labour market.**

**ARTICLE 6: TRAFFICKING IN WOMEN AND EXPLOITATION OF PROSTITUTION**

The Human Trafficking Investigative Brigade (Britrap) has reported large growth in the number of human trafficking cases (27 in 2017 to 376 in 2019). The context of this increase is associated with the hardening of migration policies and the rejection of border income that expose migrants to trafficking and human trafficking networks.

**The Committee is requested to consult the State:**

- **What assessment it has made of the conditions of the high increase in trafficking cases in Chile.**
- **What plans or programs it has developed to prevent trafficking and promote case detection.**
- **What adjustments it has considered to adapt the law regulating the prosecution of trafficking and trafficking in migrants, improving the investigation and sanction of those responsible.**

**ARTICLE 7 and 8: PUBLIC LIFE AND POLICY**

Law 20,840, which amended the congressional electoral system, incorporated gender quotas into the lists of nominations and special tax contributions to such campaigns. Political parties are temporarily forced not to exceed 60% of the same sex. The implementation of this regulation in the 2017 parliamentary elections increased the proportion of female legislators (22.5% MPs and 23.2% senators) from 15.8% to 22.7%. Still, Chile remains below the regional average and far from achieving the necessary parity.

This legislation only operates at parliamentary level, maintaining the absence of affirmative measures for regional and local authority elections. In addition, there has been no standard on affirmative action measures to increase women's participation in other decision-making areas in the public and private sectors.

In this regard, a draft law on gender quotas (60%-40%) is being debated in the Senate in the second constitutional process for the election of regional councillors. However, the positions of regional governors and mayors have been excluded and the Government has not assigned legislative urgency to it (Bulletin No. 11.994-34).

Citizen mobilization initiated in October 2019 enabled the start of a process, starting with a plebiscite in October 2020 that won broad approval (78%), for the creation of a new Constitution drafted by a body directly elected by citizens.

The articulation of feminist and women's organizations with parliamentarians from different political sectors ensured gender parity at the Constitutional Convention.

Inexplicably, women deprived of liberty who have not been deprived of active suffrage in their sentence cannot exercise their right because their access to voting is not facilitated.

In August 2020, a bill amended Law No. 18.700 (Constitutional Organic Law on Popular Votes and Counting) to enable the early voting of voters who, for various reasons, whether health or mobility, have difficulty or inability to move polling sites (Legislative Bulletins No. 13,729-06 and No. 13,772-06). This initially incorporated persons deprived of liberty, but revisions submitted by the President of the Republic excluded persons deprived of liberty from the initiative (Message No. 511-368, 19 January 2021).

**The Committee is requested to consult the State:**

- **What measures will be implemented to ensure the joint representation of men and women in public decision-making spaces.**
- **What legislative measures it has taken to make effective the right to vote of women deprived of liberty who have not lost it by court ruling.**

## ARTICLE 11: EMPLOYMENT

In recent decades, women's participation in the labour market has been slowly rising, reaching 52.7% employment in 2019. But the pandemic set figures back to those of a decade ago, reinforcing the fragility and precariousness of such labour insertion. This decrease is due both to the decline in jobs and to the difficulties women face, given the gendered distribution of work, to return to their paid jobs thanks to the need to carry out care work within households in the face of the closure of care centres and schools.

Migrant women are in highly precarious labour sectors, with violations of their labour rights being exacerbated in the context of the pandemic.

**The Committee is requested to consult the State:**

- **What measures it has taken to ensure the care of all those in need, and what measures it has designed to advance a national care system with the participation of the state, private sector, men and women.**
- **What measures it has implemented to increase women's participation in the labour market through formal employment.**

## ARTICLE 12: HEALTH AND FAMILY PLANNING SERVICES

In September 2017, Law No. 21.030 was passed decriminalizing the voluntary termination of pregnancy on three grounds: risk to life, non-viability, and rape. This overcomes, in part, the total criminalization of abortion imposed by the civic-military dictatorship, which was maintained for 27 years, and regulates health care in those cases. However, it does not account for the legitimate decision of women who for multiple reasons – which it is not for the State to decide – decide to terminate pregnancies in order to give effect to their right to decide the number and spacing of their children.

On the other hand, conscientious objection has been found to be a widespread practice among health care providers involved in the care of women and girls in public establishments. Among private establishments, meanwhile, there are numerous cases of conscientious objectors, some of whom do not even correspond to health centres qualified to make use of this provision.

Based on the regulation of individual conscientious objection, contained in the IVE Act and the regulations of the Ministry of Health, which does not safeguard the exceptional nature that according to international standards this must have, numerous professionals and technicians from public health establishments have opted to refrain from performing the voluntary interruption of pregnancy in accordance with reasons provided for in the law.

The most worrying situation concerns women, adolescents and girls facing pregnancy as a result of rape, as one in two obstetricians in public establishments refuses to care for them if their decision is to terminate the pregnancy. In addition, according to health services, the proportion of objector obstetricians in 7 of the 29 sites is more than two-thirds, while in 12 sites objectors account for between 33.4% and 66.6% of obstetricians. In only 10 sites is the level of conscientious objection less than one third.

Chile requires progress in the debate on the decriminalization and legalization of abortion, as it is the right of women and girls facing an unwanted pregnancy to decide on abortion, an issue that three-cause abortion legislation does not safeguard, given its tight definition and restrictive regulation.

In January 2021, discussion began on the bill amending the Criminal Code to decriminalize abortion consented to by women within the first fourteen weeks of gestation, proposed by women's organizations (Legislative Gazette No. 12.038-34). In the face of this, the Government of President Piñera promptly announced its rejection of this initiative.

As noted by Chile's Ministry of Justice Gender Programme for the Gendarmerie, the Inmate Women's Health Care Service's difficulties relate to its actual ability to meet the access and opportunity guarantees set out in the Explicit Health Guarantees (GES) plan, due to the lack of obstetricians, gynecologists and diagnostic equipment.<sup>18</sup> In addition, in January 2020, Resolution No. 663 was adopted in the Chamber of Deputies, requesting the President of the Republic to send a bill providing for the free distribution of menstrual

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<sup>18</sup> MINISTRY OF JUSTICE, *Gendarmerie Gender Program*, Santiago de Chile, 2014, p. 22

hygiene products in educational establishments receiving state support, in public health centres, prisons, shelters and for homeless people.<sup>19</sup>

In addition, during 2020 there was a situation of serious risk, discrimination and violation of the right to sexual and reproductive health of women and adolescents in Chile due to the existence of 4 brands of defective contraceptives that presented problems in their composition: Anulette CD, Minigest 15, Minigest 20 and Conti-marvelón 20. As of January 2021, 112 women have approached the Miles Chile Corporation in search of legal, psychological and social assistance. Of the total number of women who have requested support, 111 of them are or have been pregnant as a result of defective contraceptive pills Anulette CD.

This situation constitutes a violation of the right of all persons to "freely decide whether or not to have a child, how many and when, and to enjoy a pleasant and safe sexuality", in accordance with the provisions of the Fertility Regulation Standards of the Chilean Ministry of Health and as stated in article 94 of the Chilean Health Code: "it will be up to the Ministry of Health to ensure that the population has access to quality, safe and effective medicines or pharmaceutical products, which it will deliver through its Regional Ministerial Secretariats and the agencies that relate to the President of the Republic."

**The Committee is requested to consult the State:**

- **How it has ensured that Law 21,030 has been applied to all women and adolescents who have demanded health benefits, including in the context of the pandemic.**
- **How the situation has been resolved in those locations where doctors declared themselves to be conscientious objectors, so that individuals who have required to terminate their pregnancy because of the three grounds expressed in the law have been able to do so. How many cases there have been.**
- **What programs have been implemented for the prevention of adolescent pregnancy and sexual abuse against girls and adolescents.**
- **How women deprived of liberty have been guaranteed access to the benefits contained in Law 21,030.**
- **What measures it has taken to ensure access to sexual and reproductive health services for women deprived of liberty.**
- **What measures it has taken to make access to menstrual hygiene products effective for vulnerable women who lack the resources to purchase them.**
- **What concrete steps it has taken to re-implement access to oral contraception for women in the country.**
- **What actions it has taken to respond to women who had unplanned pregnancy as a result of the above-described contraceptive failure.**
- **What new measures it has implemented to ensure quality control of contraceptives.**

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<sup>19</sup> [https://www.camara.cl/legislacion/resoluciones/resolucion\\_documentos.aspx?prmId=5750](https://www.camara.cl/legislacion/resoluciones/resolucion_documentos.aspx?prmId=5750)

- **What steps it has taken to withdraw the more than 276,000 doses of defective contraceptives from the public and private health network.<sup>20</sup>**
- **What redress measures have been given to women who have been affected by the use of defective contraceptives.**
- **What measures it has implemented to ensure compliance with regulations governing access to the health system for migrants, especially women and girls, and their results.**
- **What mechanisms have been implemented or strengthened to prevent and punish institutional discriminatory practices in the field of health such as obstetric violence, discrimination or neglect of migrant women, especially Afro-descendants and what the results have been.**

#### ARTICLE 14: RURAL AND INDIGENOUS WOMEN

The territorial conflict between Mapuche communities and the Chilean state is as old as independence, and yet the responses from the State remain police and repressive measures, without recognition of the Mapuche people and their legitimate demands.

In the Araucanía and southern Bío Bío region, there is a high police presence, and as reported by various national and international reports, the human rights situation is critical.

In that context, on 7 January 2021, while the community of Temucuicui awaited the verdict of the Criminal Court of Angol regarding the murder of the Mapuche campesino Camilo Catrillanca by police officers, the community was heavily raided by police personnel in connection with a court order for alleged drug and arms trafficking. Catrillanca's 7-year-old daughter, her mother and her widow were arrested.

#### **The Committee is requested to consult the State:**

- **What measures have been taken to protect Mapuche girls, adolescents, and women living under the police siege of the area.**
- **What protective measures were taken in particular for the 7-year-old girl G.C, daughter of Camilo Catrillanca, who was killed on 14 November 2018 by police personnel, both with regard to the trauma from the loss of her father and due of her own experience of institutional violence with police personnel.**
- **How many indigenous women and girls with disabilities are there and how are their needs incorporated into state policies for the care of persons with disabilities, with prior consultation.**

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<sup>20</sup> "Mothers without choosing to be: 111 Chileans pregnant by faulty contraceptives", in: <https://mundo.sputniknews.com/america-latina/202101211094188856-madres-sin-elegir-serlo-111-chilenas-embarazadas-por-anticonceptivos-con-fallas/>

## ARTICLE 15: EQUALITY BEFORE THE LAW AND LEGAL CAPACITY

For women and girls with disabilities, systems of care that are compatible with their own wishes should be provided, ensuring the possibility of deciding for themselves, thus overcoming and reversing interdiction and curate regimes. This is particularly relevant in the face of acts of institutionalization and forced sterilizations and loss of guardianship of their daughters and sons, which violate the right to informed consent and even more so the right to bodily autonomy.

The biomedical model of intervention has so far not resolved the right of persons with mental disabilities to self-determination and autonomy, which departs from the guarantee of informed consent around their health.

Legal capacity reforms, in the current legislative process, lack the budgetary resources to finance the supports and vital resources necessary to guarantee the right to informed consent and end deprivations of liberty and irreversible forced treatment.

During the previous government, the Intersectoral Technical Bureau for Sexual and Reproductive Rights of persons with disabilities was implemented with the participation of SernamEG, SENADIS and civil society organizations, providing, among other initiatives, insolvency funds for these scenarios. SENADIS directed its health program towards sexual and reproductive rights and a sex education manual was developed for PcD. However, the current administration stopped advancing these initiatives.

### **The Committee is requested to consult the State:**

- **What measures it has implemented to prevent discrimination and obstetric violence against girls and women with disabilities.**
- **Does the state have a public offering of human rights-friendly gynecological and obstetric care for women and girls with disabilities that incorporates accessible spaces for attention and interpretation in sign language.**
- **What parenting supports are given to women with disabilities.**
- **How comprehensive sex education for people with disabilities has been promoted.**
- **How has the state implemented provisions for informed consent as required by the voluntary termination of pregnancy law for girls, adolescents and women with disabilities who have been subject to injunctions.**
- **What are the specific programmes aimed at women with disabilities implemented by the Ministry of Women and Gender Equity.**
- **How have supports for users with psychosocial disabilities who regularly attend medical facilities been implemented.**
- **What measures have been taken to ensure the safety of women and girls with psychosocial disabilities who have been exposed to various health malpractices.**

## ARTICLE 16: MARRIAGE AND FAMILY LEGISLATION

More than a decade ago, the State breached the Amicable Settlement Agreement signed before the Inter-American Commission on Human Rights, which required the repeal of rules discriminating against women in the marital regime (*Sonia Arce Esparza v. State of Chile*), so the lack of legislative debate on this matter is extremely serious.

The draft amendment to the marital society regime submitted in 2011 by President Piñera, and dispatched in the first constitutional process unanimously by the Chamber of Deputies in March 2013, has not been debated in the Senate or by the Committee on the Constitution, Legislation, Justice and Regulations, or by the Committee on Women and Gender Equality for 7 years (Legislative Bulletins No. 5,970-18, 7,567-18 and 7,727-18 recasts); nor has there been a debate on a parliamentary initiative dating back to 1995 and referred to the Upper House in 2005 for second constitutional formality (Legislative Bulletin No. 1,707-18).

Although reform of the marital regime is part of the Government Programme, no priority has been given to its legislative debate and only on 4 occasions was it given urgency (between March and June 2018).

The lack of protections for children of same-sex couples is very concerning. Legal status is urgently needed in accordance with the obligations that the State has assumed in matters of equality and non-discrimination of all persons, protection of families and the rights of children. In April 2016, civil society organizations pushed for the submission of a bill to regulate the filiative rights of children of same-sex couples, which nearly five years after its entry into the process is still in the first constitutional process before the Senate and has not had legislative support or urgency on the part of the Executive (Legislative Bulletin No. 10,626-07).

Meanwhile, the equal marriage or same-sex marriage bill introduced by former President Michelle Bachelet in September 2017 to the Senate has also not made significant progress in its legislative process, largely due to lack of support from the current government (Legislative Bulletin No. 11,422-07).

### **The Committee is requested to consult the State:**

- **What measures it has implemented to ensure non-discrimination for same-sex couples who want access to the institution of marriage.**
- **What measures it has implemented to amend the inheritance regime of the institution of marriage, recognizing full legal capacity for women and equal rights to men and women with regard to social property and owned property.**
- **What measures it has implemented to guarantee the filiative rights of and give equal protection to children of same-sex couples.**