



Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women Fifty-third session

Summary record of the 1071st meeting*

Held at the Palais des Nations, Geneva, on Tuesday, 2 October 2012, at 10 a.m.

Chairperson: Ms. Pimentel

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* No summary record was issued for the 1070th meeting.

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The meeting was called to order at 10.15 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention

Combined fifth and sixth periodic reports of Chile (CEDAW/C/CHL/5-6, CEDAW/C/CHL/Q/5-6 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Chile took places at the Committee table.*
2. **Ms. Schmidt** (Chile), introducing the combined fifth and sixth periodic reports (CEDAW/C/CHL/5-6), said that the Government of Chile made every effort to ensure de jure and de facto equality in all areas of women's lives and was committed to guaranteeing the rights enshrined in the Convention on the Elimination of All Forms of Discriminations against Women. To that end, the new President had recently issued an instruction requiring all Government bodies to become involved in implementing and following up on the Committee's concluding comments, and the Convention had been translated into the country's three principal indigenous languages – Mapudungun, Aymara and Rapa Nui.
3. Unlike other ministries, since 2006, the National Service for Women (SERNAM) had benefited from progressively increasing funding that had assured it a key role in shaping policies and programmes affecting women in various domains, including education, health, access to justice, gender-based violence and political participation. Its success in mainstreaming gender issues in all areas of the State administration was reflected in the diverse composition of the delegation, which included representatives of the police, the judiciary and various ministries.
4. Specific tools and mechanisms had been created to help develop the conditions that would enable women to realize their potential, including the Ministerial Council for Equal Opportunity, which met once or twice a year, the Equal Opportunities Plan for 2011–2020, the Gender Agenda for 2010–2014, and a programme for improving gender equality management that enabled the authorities to produce gender-disaggregated statistics for all areas of public service. In addition, a new law outlawing any act of arbitrary discrimination which violated the rights established in domestic legislation or duly ratified international human rights treaties had been enacted to reinforce the prohibition against discrimination established in the first article of the Constitution of Chile.
5. Women and girls did not face discrimination in access to education: female students outnumbered male students in higher education and also achieved better academic results. Preschool coverage had increased considerably, with attendant benefits for mothers in work and/or education. A gender perspective had been incorporated in primary and secondary school curricula and materials, and the number of pregnant teenagers who dropped out of school had declined.
6. However, meeting the special educational needs of rural and indigenous women and girls, pregnant teenagers and adolescent unmarried mothers and bringing women into traditionally male-dominated, higher paying professions remained a challenge. Moreover, despite good results, a sex and emotional education programme launched nationwide in 2005 had so far been implemented in only a small percentage of educational institutions. To redress that deficiency, since 2010, the authorities had been working to extend coverage and ensure that a sex education programme encouraging responsible sexual behaviour was incorporated in all secondary school curricula. Furthermore, from 2013, issues including sexuality, discrimination and domestic violence would be obligatory components of primary school curricula.

7. Chile had achieved impressive advances in various health-related indicators, including life expectancy, maternal mortality and malnutrition. Universal free health care had been extended to cover a total of 60 diseases, prioritizing those particularly prevalent among women. Health care was also free for all HIV-positive women and their babies and HIV rates in pregnant women as well as vertical transmission had been considerably reduced.

8. Challenges remained, however, particularly in the area of adolescent sexual, reproductive and mental health, and reducing teenage pregnancies was one of the lynchpins of the national health strategy for 2011–2020. The Government was also working to improve the support and assistance available for women affected by miscarriage and other types of reproductive loss. To that end, it had passed a new law on fertility issues and services, and had begun providing free emergency contraception through the public health system. However, easier access to the morning-after pill had prompted a sharp increase in its use.

9. Advances towards equal opportunities in employment included: a new law that enshrined the principle of equal pay for equal work (although the proactive, targeted monitoring system needed to enforce its provisions had yet to be created); another new law that made sexual harassment in the workplace a criminal offence; an increase in paid maternity leave; and the introduction of a certification scheme that encouraged employers in both the public and private sectors to promote gender equality and work-life balance. In addition, labour protection and working conditions for female domestic employees and seasonal farm workers had greatly improved, incentives had been introduced to encourage employers to recruit women, and the Government was developing training programmes to increase female participation in higher-paid, traditionally male-dominated sectors such as mining. Another important recent advance in the area of employment had been the election of the first female president of the Unified Federation of Workers.

10. The Government of Chile was committed to modernizing its judicial system and preventing the double victimization of women. With those aims in mind, specialized, interdisciplinary family courts had been established, family law was gradually being adapted to the requirements of the Convention and other United Nations treaties, and the judiciary had entered into a cooperation agreement with the National Human Rights Institute. The changes to the family justice system had been accompanied by a revision of domestic violence legislation to ensure equal protection for victims and family members irrespective of their relationship with the abuser, to make habitual abuse a criminal offence and to exonerate women accused of assaulting or murdering a partner from criminal liability when there was a history of domestic violence. Since 2008, the State party's proactive policies on domestic violence had contributed to a gradual decline in femicides committed by a current or former partner.

11. The efforts of SERNAM to combat violence extended beyond the domestic domain to include trafficking and sexual violence. Those issues were tackled through coordinated action by the public, private and non-governmental organization (NGO) sectors, and an anti-trafficking programme was already in place. A shelter for female victims of trafficking and three specialized care and rehabilitation centres for female victims of sexual abuse had been opened and a first conviction had been obtained under the new Anti-Trafficking Act passed in 2011, which recognized all the rights enshrined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol).

12. The number of women in parliament had increased but, at around 14 per cent, the percentage of female parliamentarians was still far smaller than the percentage of female voters, and women had accounted for less than 20 per cent of candidates in every election

since 1993. Furthermore, only 4 of the country's 22 ministries were headed by women and a similar pattern was visible in the judiciary.

13. The Government was endeavouring to strengthen democracy and enhance female participation with a number of new initiatives, including an automatic voter registration system that should enable more than 2.3 million women to vote for the first time in the municipal elections scheduled for October 2012. Moreover, with support from the United Nations Development Programme and a number of national NGOs, 600 women leaders from all parts of Chile had received training in how to encourage other women to follow their example.

14. The Government of Chile recognized the persistent need to break down historical cultural patterns. It also acknowledged that certain groups of vulnerable women, including indigenous women, rural women, elderly women, women with disabilities, women deprived of their liberty, female heads of household and lesbian, gay, bisexual and transgender (LGBT) women required particular assistance and support. The difficulties that women with disabilities faced in accessing employment and education and the situation of female carers were particularly worrying. However, the Government was addressing the deficiencies in all those areas through legal reforms, special programmes, dialogue, direct participation and dedicated mechanisms, such as the national forum of rural women workers, and was committed to gender mainstreaming and the elimination of discrimination against women in all areas of the State administration.

Articles 1 to 3

15. **Ms. Bareiro-Bobadilla** said that she would like to know the reasons for the State party's continuing failure to ratify the Optional Protocol to the Convention, as recommended by the Committee in 2006. Since the Chilean mission in New York had been closely involved in its preparation and Chile had been the first Signatory State, it was difficult to understand why, a decade later, the Government had still not ratified the resultant instrument.

16. While welcoming the new anti-discrimination legislation, she was concerned that some forms of indirect discrimination, including acts that were discriminatory in effect, but not in intent, might be excluded from the scope of the acts of arbitrary discrimination that the new law expressly prohibited, with the result that the prohibition might not be all encompassing.

17. Lastly, she was concerned that the State party appeared to be using the terms *equidad* (equity) and *igualdad* (equality) synonymously, whereas in fact they had different meanings. It was the modern concept of equality, coupled with the concept of non-discrimination, on which the State party should be focusing its policies and programmes.

18. **Ms. Ameline** asked whether the Government had a precise timetable for the complex legislative amendments that remained outstanding in areas including the use of parliamentary quotas, abortion, divorce and domestic violence. With regard to legislation outlawing domestic violence, she questioned the need for abuse to be "habitual" in order to constitute a criminal offence, as referred to in the introductory statement.

19. Concerning the recognition of diversity, she would appreciate information about measures providing protection and support for migrant and indigenous communities in Chile and how those measures fitted in with the provisions of antiterrorist legislation. Lastly, she asked whether the evaluation structures developed by the new President would be sufficient to ensure that all discriminatory provisions remaining in Chilean legislation were rapidly identified and rectified.

20. **Ms. Murillo de la Vega**, referring to coordination and the role of the different Government mechanisms, said that she did not understand how SERNAM could have ministerial status and yet be subordinate to another ministry. Did the Minister who headed the Service have direct access to the President and a seat on ministerial committees at which public policies were determined? She would also like to know whether each individual ministry had an equal opportunities plan or whether there was a single umbrella plan coordinated by the Ministerial Council referred to in the introductory statement. In the latter case, the Council needed to meet more frequently if it was to keep up with the political agenda and respond to public opinion. She recommended that greater participation of civil society in relevant consultation processes should be encouraged.

21. Although Chile ranked highly in certain indicators of advancement relative to other countries in the region, in terms of female political representation it ranked below average in spite of women's educational achievements and a robust and proactive civil society. She would therefore like to know about specific initiatives addressing the gender gap in politics and decision-making more generally.

22. In addition to the new legislation on domestic violence, stringent provisions outlawing inter-institutional violence were needed in the domestic legal arsenal. She suggested that reviews of the country's antiquated antiterrorism legislation and the legal provisions dealing with sexual identity and orientation might provide the opportunity for such an addition.

23. **Ms. Schmidt** (Chile) said that although the ratification of the Optional Protocol had been under consideration since 2004, it would be some time before the necessary political consensus was reached. However, Chile was firmly committed to the human rights protection system and was a party to the optional protocols to a number of other United Nations treaties. The definition of discrimination implied in the Constitution was extremely broad in its scope and the legislature was conscious of the need to avoid enacting provisions that might limit its interpretation or application.

24. **Ms. Barros** (Chile) said that the constitutional prohibition against discrimination was reinforced by other constitutional safeguards, which included the guarantee of equality before the law. In addition, the Constitutional Court had confirmed that the Constitution prohibited both direct and indirect discrimination in its ruling on a recent discrimination case brought under the law governing private health-care providers.

25. **Ms. Schmidt** (Chile) said that the Government of Chile recognized and understood the substantive difference between *equidad* and *igualdad* and was careful to take that difference into account when developing laws and practical measures. There was no set timetable or programme for all the reforms that needed to be made to the current legislation on equality, but the Government was committed to eliminating the discriminatory provisions that continued to exist, for example, in the law governing marriage and marital property.

26. Women's very limited participation in public and political life was a major concern. A number of proposals for the introduction of quotas had been submitted over the past decade but, unfortunately, they had failed to gain the required momentum and quorum. For example, a proposal for quotas in primary elections submitted in September 2012 had been approved by only one third of voters, whereas a quorum of at least 50 per cent was needed to move forward.

27. The Government had entered into dialogue with the Mapuche community and had amended antiterrorist legislation. As a result, all the charges brought against members of the Mapuche community in recent cases had been reclassified as ordinary offences and none of the resulting convictions had been served under antiterrorist law.

28. **Mr. Magdic** (Chile) said that the definition of a terrorist offence under Chilean law did not diverge from international standards. The definition covered premeditated acts committed in Chile against a particular group of people or particular organization or authority and could encompass homicide, kidnapping, arson, bombings, hijacking and bodily harm. Since 2006 and the reclassification of terrorist offences, no women had been convicted under antiterrorist laws in Chile either in relation to the Mapuche conflict or in any other case.

29. **Ms. Raimann** (Chile) said that the Carabineros (police) was a pioneering organization, in which women had been involved for 50 years and it dealt with human rights issues. Its mandate was to ensure public security in Chile and it therefore reacted swiftly to reports of abuse or ill-treatment in the Mapuche communities against children or adolescents through a range of measures, in coordination with the relevant bodies. A variety of means for reporting police abuses had been introduced, in addition to a number of protocols to promote mutual respect and understanding and to improve the relationship between the Carabineros and the population. There was room to strengthen dialogue and cooperation further between the police and the relevant bodies. It should be noted that a considerable number of police officers were young persons from Mapuche communities. The relevant procedures were followed in cases of reported abuse, and offences were investigated and reported to the competent military and judicial bodies. In 2011, the Carabineros had established a human rights unit to harmonize its approach to human rights issues and to monitor the human rights situation on the ground.

30. **Ms. Schmidt** (Chile) said that most refugees who arrived in Chile from neighbouring countries were women; few were refused visas, and 25 per cent of refugees were granted official refugee status. The national migration policy had been updated and substantial measures had been introduced in that regard.

31. **Mr. Magdic** (Chile) said that Chile had an open migration policy. The substantial measures that had been introduced in respect of migration included intersectoral coordination, particularly with civil society, to inform migrants of how to obtain residency and how to regularize their situation if required. In addition, an intersectoral committee had been established to launch the Blue Heart Campaign against Human Trafficking. Moreover, foreign women who were witnesses in trafficking cases were given support in regularizing their residence status. Legislation had been introduced to improve efficiency in processing refugee applications. Women migrants in a regular situation had the same access as nationals to all social benefits. Moreover, a number of procedures were in place for migrants in an irregular situation, particularly children, adolescents and women, in order to facilitate their integration and to enable them to regularize their status and obtain access to basic social services. Various measures were available to afford special protection to women migrants who were pregnant or had children, including the issuance of temporary visas.

32. Legislation had been enacted to protect victims of gender-based violence and the confidentiality of reporting in such cases was ensured. New legislation had been introduced in 2009 concerning the provision of shelters for women victims and a unit had been established to provide financial assistance to victims of gender-based violence who were vulnerable or at risk, to optimize the network and ensure that women in particular had access to it.

33. **Ms. Schmidt** (Chile) said that as SERNAM was a Cabinet-level entity, the Minister of SERNAM had direct links to the highest political authority in the country. SERNAM was one of the most visible ministries; it had been established in 1991 to play a coordinating role between the various ministries. Its work was necessarily intrasectoral; its most important function was to cut across all ministries to ensure that gender was mainstreamed in all national policies. It was uniquely competent to assess other ministries

and had at its disposal a powerful tool, in that it could penalize officials who did not comply with gender mainstreaming requirements. Moreover, SERNAM had a direct link with parliament, in that all legislation before parliament was scrutinized and approved by its Minister.

34. Consensus still had to be reached in respect of appropriate coordination mechanisms; however, efforts to obtain consensus were being made. The participation of civil society in the development of consultation processes was encouraged; SERNAM sought to work with civil society organizations and had set up a number of workshops with such organizations and persons in vulnerable situations. In addition, an advisory council had been established in which civil society participated, and a law on civil participation had been enacted.

35. An important advance had been made in 2005 in respect of family violence; it was no longer considered a private matter but had been established as an offence. Since 2005, various aspects of the relevant legislation had been updated and amended. All the necessary steps to ensure the implementation of the Equal Opportunities Plan had been taken.

36. **Ms. Ameline** sought clarification concerning the approach that SERNAM used to establish links with civil society in order to facilitate broader political consensus.

37. **Ms. Schulz** said that while direct and indirect discrimination were covered by a ruling of the Constitutional Court, it would be helpful to know whether SERNAM intended to define such forms of discrimination so that they could be easily understood by the courts and other stakeholders, such as employers. In addition, she asked the delegation to clarify the scope of the Anti-Discrimination Act. Furthermore, she wished to know whether it was planned to suppress article 2, paragraph 3, of the Act in order to bring it into line with the Convention and other human rights instruments.

38. **Ms. Bareiro-Bobadilla** said that simply stating that equality existed did not mean that it did in fact exist. The Committee sought to encourage States parties to avoid discrimination that could sometimes be arbitrary, not because it was enshrined in the law, but because the law resulted in discrimination.

39. **Ms. Schmidt** (Chile) said that efforts had been made to generate political consensus through communication with civil society organizations and political parties, in particular with regard to political participation. However, generating consensus was a process and, although there had been some progress, not all the desired changes had yet been made. The approach that had been taken had been strengthened by the promulgation of a special law on civil participation. Equality must also be understood as a process. The national Constitution, as the highest legal instrument from which all laws emanated, enshrined the principle of equality. The Anti-Discrimination Act was a significant step forward; while it did not resolve every issue related to equality, it ratified the principle enshrined in the Constitution and strengthened the national legislation. Inequalities existed in numerous different contexts involving not only women but also other persons and groups; it was necessary to adjust the legal framework in order to achieve equality, and such adjustments were necessarily an ongoing process.

Articles 4 to 6

40. **Ms. Pires** said that the State party was to be commended for its efforts to advance women's rights in Chile and for its achievements in that regard. However, she noted that although in its concluding comments on the fourth periodic report of Chile (CEDAW/C/CHL/CO/4) the Committee had urged the State party to adopt temporary special measures so as to accelerate the achievement of women's de facto equality, and although the Committee's general recommendation No. 25 clarified the term "measures" and recommended that reports of State parties should include information on the adoption,

or lack thereof, of temporary special measures, the combined fifth and sixth periodic reports did not refer to how the State party had implemented the Committee's concluding comment with regard to article 4, paragraph 1 of the Convention.

41. Were temporary special measures, such as the introduction of scholarships, being considered to address the multiple forms of discrimination suffered by Mapuche girls and women that put them at a significant educational disadvantage in comparison with other groups? Were temporary special measures being considered to address the special educational needs of rural and indigenous women, which the Minister had highlighted in her introductory remarks? In addition, had the baseline study on indigenous women offered an opportunity to consider the introduction of temporary special measures that addressed areas of concern specifically for that group? Did the study provide information that could be used to analyse and determine the temporary special measures required? Could the delegation explain why a proposed reference to the introduction of temporary special measures to accelerate equality had been removed from the anti-discrimination bill? What barriers existed to the introduction of such measures, both in the political arena and other areas?

42. **Ms. Šimonović** congratulated the State party on progress achieved since the consideration of the previous report. With reference to its core document, which was more than 10 years out of date, and in the light of the delegation's earlier assertion that some aspects of direct and indirect discrimination were established by jurisprudence, she asked what status the Convention had in the national legal system; whether judges and the judiciary invoked the Convention and international treaties when making decisions in different cases; and whether they were also able to invoke the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women that Chile had also ratified.

43. She also asked the State party to explain how it considered that it could fulfil its obligations under article 2 of the Convention in view of its assertion that a more specific definition of discrimination than that contained in the Constitution could be limiting. Given that States parties had the obligation under article 2 of the Convention to prevent public authorities from engaging in any practice of discrimination and violence against women, she wished to know how the abuses of power against students in the 2011 demonstration and cases of sexual violence against indigenous girls and women reportedly perpetrated by members of the police force and other similar incidents were being prosecuted.

44. She asked whether the prison regulations in force were in line with Standard Minimum Rules for the Treatment of Prisoners with regard to women prison officers and separate facilities for men and women. The new legislation on domestic violence was commendable. However, she wished to know how police forces interpreted and implemented the definition of domestic violence as "habitual abuse".

45. While the State party's report indicated that femicide was decreasing, other reports indicated that legal protective measures were in place in 60 per cent of cases. Did the State party plan to study that phenomenon and take steps to prevent femicides? Were there differences between trends in parricide and femicide?

46. **Ms. Arocha Domínguez** said she was pleased to note that the Minister of SERNAM had recognized that problems remained with regard to certain groups, such as indigenous, elderly or homosexual women. Although she had indicated that various different legal provisions and protection programmes existed for those groups, stereotyping was one of the most difficult problems to resolve and required additional measures. She asked for further information on additional measures taken to combat stereotyping including on evaluation mechanisms for such provisions and programmes, accountability systems and awareness-raising activities. In addition, she asked how sanctions for violations were applied. Despite

changes in recent years, Chilean society remained deeply conservative, stereotypes persisted and women's role remained traditional. While the report indicated that significant measures had been introduced to promote joint responsibility in the home, it did not provide factual information as to how those measures were implemented in practice. It would be helpful to know how many fathers attended the birth of their children, or how many requested parental leave to tend to a sick child.

47. Lastly, in the context of the case of Judge Karen Atala, deprived of the custody of her children in 2004 because of her sexual orientation, she asked the delegation for its views on lesbian mothers.

48. **Ms. Jahan** said that the Committee welcomed the enactment by Chile of anti-trafficking legislation in line with the Palermo Protocol, and asked whether such legislation criminalized all forms of trafficking, including internal trafficking. Alternative sources had indicated that internal trafficking was rampant in Chile, but that fact had not been recognized in the State party's report or replies. She wished to know what measures were being taken to ensure that internal trafficking was covered by the new legislation or by programmes for trafficked women. She also wished to know what special measures the Government was taking to address the root causes of trafficking, particularly in rural areas. In addition, she enquired whether the Intersectoral Panel on Trafficking in Persons was adequately financed and whether the number of officers assigned to the recently-established trafficking and smuggling unit was sufficient, in view of the State party's terrain.

49. In its previous concluding comments, the Committee had requested comprehensive information on trafficking in women and on prostitution, and on the measures in place to combat those phenomena and their impact. She asked the delegation to provide further information on those issues. With regard to specific protection measures, she asked whether the shelters for victims of sex trafficking were available to women who were victims of other forms of trafficking, including women trafficked for labour. Furthermore, she requested information on the policies in place to ensure that foreign women who were victims of sex trafficking were not deported from the country once the cases in which they were involved had been resolved because they were not able to afford visa fees. Lastly, she requested information on the national plan of action to combat trafficking.

50. **Ms. Schmidt** (Chile) said that shelter was available to victims of sex and labour trafficking. In addition, three refuges for the victims of sexual abuse were being opened in order to address domestic violence. The new legislation on trafficking was entirely in line with the Palermo Protocol with regard to both domestic and international trafficking, and had been invoked in some rulings.

51. **Mr. Magdic** (Chile) said that the Act No. 20507 on the Smuggling of Migrants and Trafficking in Persons, which had come into effect in April 2011, had introduced substantial changes to Chilean law. New offences had been defined, the penalty for trafficking had been increased from 3 to 15 years' imprisonment, and special protection measures had been implemented for victims. The costs of obtaining a visa for victims had so far been covered by the Public Prosecution Service. The Intersectoral Board for Trafficking in Persons comprised 14 State agencies and several civil society organizations and was implementing specific measures to combat trafficking, especially trafficking in women and children, who were viewed as a particularly vulnerable group. The Board received support and input from the International Organization for Migration, the United Nations Office on Drugs and Crime (UNODC) and the Organization of American States. An assessment of human trafficking in Chile and the country's institutional capacity for handling the problem had been carried out, and a detailed national anti-trafficking plan had been drawn up. The first shelter exclusively for victims of trafficking had been opened, but there were many other shelters where they were taken care of as well. Special anti-trafficking units had been set up in both police forces, and procedures developed by the

Southern Common Market (MERCOSUR) for the early detection of trafficking at borders were being implemented.

52. Chile was a founding member of the Ibero-American network on human trafficking and was also looking into launching its own version of the Blue Heart Campaign against Human Trafficking led by UNODC. The first sentence for trafficking in persons for the purposes of sexual exploitation and the first sentences for smuggling migrants had recently been passed under the new Act. As to prostitution, all voluntary prostitution engaged in by adults was legal in Chile. In all other cases the promoters and clients were prosecuted, but not the prostitutes themselves.

53. **Ms. Schmidt** (Chile) said that surveys had found that indigenous women felt discriminated against in most aspects of life, and various temporary special measures had been put in place to combat that discrimination. In addition, SERNAM was addressing issues such as violence and the traditional practice among indigenous communities of leaving land to sons, not daughters, and was working to support the education and improve the employability of indigenous women. Efforts were also being made to change gender stereotypes through early education programmes and by promoting good practices among employers. Attitudes had still not caught up with the law, however: parents were entitled to take a 24-week leave of absence upon the birth of a child, but of the 60,000 leaves of absence granted, only 500 had been taken by men.

54. **Ms. Valenzuela** (Chile) said that all international treaties ratified by Chile had the status of law but did not rank above the Constitution. The Convention had been specifically invoked by the courts in 179 sentences, which was not particularly high. One of the activities planned under the agreement that SERNAM had signed with the National Human Rights Institute was to raise awareness of women's rights among the judiciary.

55. **Ms. Prado** (Chile) explained that Act No. 20066, on domestic violence, criminalized habitual abuse, which meant that, as well as the severity of any injuries sustained, the prolonged nature of ill-treatment could be taken into account.

56. **Ms. Schmidt** (Chile) said that efforts were being made to improve the precautionary measures used to protect women against violence. Security had improved, and the statistics revealed the importance of reporting domestic violence. Of the women murdered by their partner in Chile, 73 per cent had not filed complaints beforehand, and 90 per cent had not been under any kind of protection. The impact of the imprisonment of perpetrators of domestic violence was being studied, and new legislation on the use of electronic bracelets was under consideration.

57. **Ms. Raimann** (Chile) said that the Carabineros had a special human rights unit; all complaints of human rights abuses were investigated and all violations were duly prosecuted. All members of the Carabineros received human rights training and special courses in how to handle violence against women. Security cameras had been installed in police stations in the most conflict-ridden areas to monitor the treatment of detainees, and new procedures had been introduced, such as the use of metal detectors to replace body searches. The rights and physical integrity of detainees were guaranteed.

58. **Ms. Schmidt** (Chile) said that the State was obviously responsible for investigating and prosecuting any abuses committed by police officers and upholding the principles of due process and the rule of law. In that regard, the Government had regularly reported to the United Nations special rapporteurs on freedom of association, freedom of expression and human rights defenders.

59. **Ms. Barros** (Chile) said that, under the Constitution, State agencies were not allowed to discriminate. In addition, under the new Anti-Discrimination Act, they were obliged to draw up policies to eliminate discrimination. The provisions of the new Act were

wholly compatible with the legislation on other constitutionally guaranteed rights, such as freedom of opinion and freedom of expression; it was not a matter of one taking precedence over the other. Arbitrary discrimination was always prohibited, and in any case of arbitrary discrimination, it was the Anti-Discrimination Act that would apply.

60. **Ms. Schmidt** (Chile) said that, with regard to the case of Judge Karen Atala, the Government had complied with all aspects of the sentence of the Inter-American Court of Human Rights regarding the obligation to provide psychological support to Judge Atala and other matters. The full text or summaries of the sentence had been published in the press, the official gazette and on the websites of the Ministries of Justice and Foreign Affairs, and arrangements were being made for the public acknowledgement of the State's responsibility in the case. Compensation for the victims was also being arranged within the time frame stipulated. Human rights education and training were essential for combating the stereotypical attitudes displayed in the case, and SERNAM and the National Human Rights Institute were developing a programme for judges and lawyers.

61. **Ms. Jahan**, referring to the introductory statement made by Head of Delegation and paragraph 53 of the replies to the list of issues (CEDAW/C/CHL/Q/5-6/Add.1), which stated that the shelter for trafficking victims would, "in exceptional cases, provide assistance to female victims of labour trafficking", said that she was concerned that victims of trafficking for labour exploitation did not receive unqualified assistance in Chile. She requested clarification of the matter.

62. **Ms. Murillo de la Vega** said that, according to reports from other sources, 11 of the women murdered in 2011 had filed complaints against their murderers beforehand and, in 7 cases, protection measures had been applied. She wished to know whether there was a system for determining what had gone wrong and who was responsible for the failure to protect those women. The Committee had also received reports that the complaints filed about the human rights abuses committed by the security forces under the antiterrorism laws, which had resulted in several individuals, including minors, being injured, had not been processed by the police. The law had been changed, but it seemed that measures needed to be taken to ensure that police practices changed too.

63. Transsexual persons and lesbians were reportedly being harassed under the statutes on moral conduct and forced to undergo gender identification procedures that violated their human rights. She requested information on the legal and medical procedures for acquiring transsexual status. She also wished to know about the penalties established in the prison service for abusing female prisoners. Plans and programmes were all very well, but punitive measures were the most effective.

64. **Ms. Gabr** said that human trafficking should be seen as a human rights issue, not just a crime. She also preferred women and children to be viewed and referred to as a high-risk group rather than as particularly vulnerable persons. Only by adopting a rights-based perspective would it be possible to implement the new Anti-Trafficking Act, raise awareness of the problem, identify the real victims and rehabilitate them.

65. **Ms. Schulz** said that she would like further clarification of the definition of discrimination set forth in article 2, paragraph 3 of the Anti-Discrimination Act, which stated that distinctions, exclusions or restrictions could be justified if made in the legitimate exercise of other fundamental rights, especially those mentioned in article 19 of the Constitution. On a practical level, for example, what would happen if a school refused to enrol the child of divorced parents simply because it did not admit pupils whose parents were separated?

66. **Ms. Arocha Domínguez** said that her question about the case of Judge Atala had been asked in connection with article 5, not articles 1 and 2 of the Convention, because she

wished to know how the State party valued the right to maternity of lesbian, transsexual and bisexual women.

67. **Ms. Šimonović** said that defining domestic violence as habitual behaviour could make it difficult to prosecute one-off incidences of serious violence.

68. **Ms. Belmihoub-Zerdani** said that she wondered whether there were special historical or economic reasons for the level of domestic violence in Chile. Instead of opening shelters for the women and child victims of that violence, the State party might consider focusing more efforts on locking up the perpetrators.

69. **Ms. Schmidt** (Chile) said that domestic violence was part of the machismo found in Chilean society and efforts were being made to change the cultural patterns that perpetuated it. Over 1,700 male perpetrators of domestic violence were currently being re-educated in special centres.

70. The legal provisions criminalizing habitual abuse were used mainly to prosecute psychological abuse. A spousal relationship was considered an aggravating circumstance that doubled the penalties for violence. As to the Atala case, the sentence handed down by the Court had ratified the right to maternity of all women. Cultural attitudes still needed to change, however, and training was being given to justice officials to combat stereotypes.

71. **Ms. Barros** (Chile) said that the Anti-Discrimination Act would be applicable if a school refused admission to a child on the grounds that the parents were divorced since such a refusal would constitute arbitrary discrimination.

72. **Ms. Prado** (Chile) said that SERNAM used a rights-based approach and acted in full accordance with the Palermo Protocol in its efforts to combat trafficking. It worked closely with immigration officials and provided legal and psychological counselling to victims of all kinds of trafficking.

73. **Ms. Schmidt** (Chile) said that her introductory statement had been misleading and that the shelters for trafficking victims were open to victims of all kinds of trafficking. Special measures, in addition to the Anti-Discrimination Act, were required to protect the rights of lesbian, gay, bisexual, and transgender persons. A forum for dialogue on sexual diversity had been set up, and SERNAM had organized a workshop for public officials on gender, including LGBT issues. Individuals could now change their name under Chilean law and change their sex upon presentation of the corresponding medical certificate. As to the ill-treatment of detainees by the police, SERNAM was working with the Carabineros to change attitudes and eliminate much of the ignorance about different kinds of population groups.

74. **Ms. Barros** (Chile) said that, indeed, the moral conduct provisions had been used to detain LGBT persons, which was unacceptable. Discrimination against such persons among the police must be eradicated, and training on the applicability of the morality provisions needed to be provided. The provisions should not be repealed, however, since they were needed to detain and prosecute sexual exhibitionists who exposed their genitals to children, for example.

The meeting rose at 1 p.m.