

**Совет по правам человека****Пятьдесят восьмая сессия**

24 февраля — 4 апреля 2025 года

Пункт 3 повестки дня

**Поощрение и защита всех прав человека,  
гражданских, политических, экономических,  
социальных и культурных прав,  
включая право на развитие****Посещение Чили****Доклад Специального докладчика в области культурных прав  
Александры Ксантаки\* \*\****Резюме*

Специальный докладчик в области культурных прав Александры Ксантаки находилась с визитом в Чили с 25 марта по 5 апреля 2024 года. Цель посещения состояла в том, чтобы, действуя в духе сотрудничества и конструктивного диалога, получить представление о том, как государство стремится осуществлять культурные права, а также выявить передовой опыт и возможные препятствия на пути поощрения и защиты культурных прав в Чили. Специальный докладчик рассматривает несколько ключевых вопросов, связанных с правом каждого человека участвовать — или не участвовать — в культурной жизни по своему выбору, используя все средства выражения, включая искусство. Она рассматривает права всех людей на доступ, участие и вклад в культурную жизнь во всех ее проявлениях, а также в процессы принятия решений, которые оказывают влияние на их мировоззрение, ценности и образ жизни, в том числе в политике, касающейся устойчивого и культурного развития. При этом она уделяет особое внимание государственным мерам, пространствам и политике, способствующим культурному разнообразию и межкультурному взаимодействию, и особенно тому, как они признают и включают афрочилийцев, мигрантов и коренные народы.

Многие рекомендации Специального докладчика направлены на внедрение передового опыта, свидетелем которого она стала, в деле осуществления культурных прав в рамках долгосрочных стратегий, политики и правовых структур страны, с тем чтобы гарантировать полноценную реализацию этих прав для всех людей в каждом регионе страны независимо от политической повестки дня.

\* Настоящий документ был передан в конференционную службу для обработки после установленного срока по причине проведения консультаций с государством-членом.

\*\* Резюме настоящего доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на том языке, на котором он был представлен, и на испанском языке.



## Приложение

### Доклад Специального докладчика в области культурных прав Александры Ксантаки о посещении ею Чили

#### Contents

	<i>Page</i>
I. Introduction .....	3
II. General context and framework .....	3
A. International human rights framework .....	4
B. Constitutional and legislative framework .....	4
C. System of cultural governance .....	6
III. Realizing cultural rights in Chile: specific issues .....	7
A. Legal guarantees for everyone's cultural rights and their realization .....	7
B. Understanding the full scope of cultural rights .....	11
C. Measures to implement the right to participate in cultural life .....	15
IV. Conclusions and recommendations .....	17
A. Conclusions .....	17
B. Recommendations .....	18

## I. Introduction

1. The Special Rapporteur in the field of cultural rights conducted a mission to Chile at the invitation of the Government from 25 March to 5 April 2024. She thanks the Government for the invitation to visit the country and for its openness and cooperation, which allowed her to hold discussions on various aspects of her mandate.

2. During her mission, the Special Rapporteur visited Arica, Rapa Nui, Santiago and Valparaíso. She regrets that, because of the dimensions of the country, she was not able to visit more places. She held meetings with Government officials at the national, regional and local levels, who were responsible in the areas of foreign affairs; justice and human rights; cultures, the arts and heritage; memorialization; education and interculturality; science, technology, knowledges and innovation; communication and civic participation; social development and family; Indigenous Peoples; women and gender equity; and migration. She also met with members of Congress and a justice of the Supreme Court. In addition, she met with representatives of cultural institutions and agencies, artists, academics, members of civil society, leaders of cultural communities and Indigenous Peoples, as well as with the National Institute of Human Rights and the National Commission for the United Nations Educational, Scientific and Cultural Organization (UNESCO). The Special Rapporteur thanks all for their time and commitment and for the wealth of information they shared with her. She also extends her gratitude to the United Nations country team and the Office of the United Nations High Commissioner for Human Rights for their support in the preparation and conduct of the visit.

## II. General context and framework

3. The country's geography, stretching over 4,300 km in length, while on average only 177 km in width, with the Andes to the east and the Pacific Ocean to the west, has greatly impacted the diversity of peoples and ways of life in Chile. Chile declared its independence from Spain in 1818. Rapa Nui was transferred to Chile in 1888 and was fully incorporated into the Province of Valparaíso in 1966. It has special status due to its recognition as a natural park and world heritage site.

4. Migration started to increase over the recent period, mainly concentrated in the north. Whereas Chile used to be rather open to migration, it is currently seen as a security issue. The Special Rapporteur noticed the dominance of negative narratives that blame migration for many current challenges.

5. Chile has been experiencing a long transition from General Augusto Pinochet's dictatorship to democracy. Public administration has expanded organically, and the many ministries are trying to better coordinate their actions. Chile is considered one of the most successful economies in South America, but also one of the most unequal countries of the Organisation for Economic Co-operation and Development. At the time of the visit, the country was coming out of two failed attempts to modify its Constitution, which would have included explicit recognition of cultural rights.

6. Very little freedom existed for artistic and cultural expressions during the dictatorship, and the country has been trying to recuperate from that general deficit. The Mapuche have struggled for decades to have their rights recognized, including their land rights and living cultures. The Commission for Peace and Understanding was created by the Government to address the land conflicts and establish new relationships with the Mapuche,<sup>1</sup> including important cultural rights aspects. The Commission is supported across political parties. Efforts to maintain and transmit Indigenous languages are also ongoing, in particular for Mapudungun, Quechua, Rapa Nui, Huilliche and Aymara.

<sup>1</sup> See decree No. 14 of 2023 (available at <https://www.diariooficial.interior.gob.cl/publicaciones/2023/07/12/43599-B/01/2344461.pdf>) and [www.bcn.cl/leychile/navegar?idNorma=1194148](http://www.bcn.cl/leychile/navegar?idNorma=1194148) (in Spanish).

7. In 2019, the communities of people of African descent that were in Chile prior to the establishment of the modern State were legally recognized as a Chilean tribal group. They have been granted approximately the same rights as Indigenous Peoples, on the basis of the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169). Unfortunately, implementation is elusive.

8. The Special Rapporteur visited Chile during a period of sustained commitment from the Government to multilateralism, as demonstrated by the invitations to various United Nations special procedures to visit the country and the openness of public institutions to discussing human rights challenges and their welcoming of suggestions for improvement. She commends this positive engagement of the Government, especially at a time of scepticism towards multilateralism and international law.

## **A. International human rights framework**

9. Chile ratified both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights on 10 February 1972. Chile has therefore agreed to respect and implement article 15 of the International Covenant on Economic, Social and Cultural Rights, which protects the rights to take part in cultural life, to enjoy the benefits of scientific progress and to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which one is the author. It is also bound by article 13 of that Covenant, on the right to education, and articles 18, 19, 21, 22 and 27 of the International Covenant on Civil and Political Rights protecting, respectively, the rights to freedom of thought, conscience and religion, to freedom of opinion and expression, including in the form of art, to peaceful assembly and to association, and the right of ethnic, religious and linguistic minorities to enjoy and practice their own culture and language.

10. Chile has ratified 17 of the 18 main human rights treaties and optional protocols, many of which also include obligations with respect to cultural rights, such as the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities. At the time of the visit, the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights was considered a priority, but no date had been set yet. In 2008, Chile ratified ILO Convention No. 169, the application of which is overseen by the National Corporation for Indigenous Development.

11. In 2022, Chile ratified the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador), which should strengthen the protection of economic, social and cultural rights.

12. In Chile, with its dualist legal system, international human rights instruments and their corresponding obligations need to be approved by the parliament and enacted by decree to enter into national law. However, the Government of Chile admits that no institutional mechanism exists to send recommendations from human rights bodies to the parliament so that they may be considered in the modifications to the legal framework, nor is there a mechanism to receive complaints concerning violations of international law provisions. Accordingly, monitoring of the implementation of international human rights obligations is a known challenge to the Government.

## **B. Constitutional and legislative framework**

13. There is no domestic law that recognizes everyone's cultural rights. Article 6 of the Law on Migration and Foreigners (Law 21.325)<sup>2</sup> and articles 7 and 26 of the Law on Persons with Disabilities (Law 20.422) recognize the participation of foreigners and persons with disabilities in social, cultural, political and economic life and commit the authorities to respect their different cultural expressions and languages. The Special Rapporteur was told

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<sup>2</sup> Available at [www.bcn.cl/leychile/navegar?idNorma=1158549](http://www.bcn.cl/leychile/navegar?idNorma=1158549) (in Spanish).

that violations of cultural rights could in part be claimed through non-discrimination and property provisions; in the Special Rapporteur's view, this is insufficient.

14. Numerous laws of relevance for cultural rights were being reviewed at the time of the visit.

### **1. Specific legislation**

15. The Law on Associations and Citizen Participation in Public Management (Law 20.500)<sup>3</sup> of 2011 recognized the right to association, the need for State support, and the right of people to participate in State policies and actions. All public bodies therefore have the obligation to establish formal and specific modalities of effective participation for people and civil society in their work. The Law established a national fund to strengthen public interest organizations and defined the nature and number of civil society organizations participating in the regional councils of the fund. At the time of the visit, it was announced that the Law would be reformed.

16. Discussion was under way on the enhancement of the provisions of the Law on Heritage to include living heritage practices and Afro-Chileans and Indigenous Peoples as rights holders. The Special Rapporteur was also told about a draft law on memorial sites, which aimed at expanding the existing Law on National Monuments. Effective participation of local populations in the creation of such laws is important.

17. The Law on Equality and Anti-discrimination (Law 20.609) was also the subject of consultations, with a view to reforming it. Suggestions for reform included creating a body tasked with receiving complaints and addressing redress and compensation, as well as integrating gender, direct and indirect discrimination and an open clause for all grounds of discrimination in the scope of the law. The Special Rapporteur encourages the integration of these changes into the law.

18. Successive laws between 1993 and 2023 established the protection, promotion and development of 11 Chilean Indigenous Peoples and created an entity for their development, namely, the National Corporation for Indigenous Development. The recognition of other Indigenous Peoples was being discussed in Congress at the time of the visit.

19. With the revision of all of these important pieces of legislation, the Special Rapporteur hopes to see internationally recognized cultural rights, as currently interpreted by human rights bodies, fully enshrined in national law and a human rights approach strengthened for all.

### **2. Human rights framework**

20. The second National Plan for Human Rights was adopted in 2022. Its stated objectives include improving respect for the economic, social and cultural rights of various groups of the population; recognizing the cultural rights and rights to cultural identity of Indigenous Peoples and tribal peoples; and strengthening intercultural approaches to foster the integration of migrants.

21. Human rights responsibilities are distributed across various ministries and coordinated by the Ministry of Justice and Human Rights. The subsecretariat on human rights focuses on mainstreaming the human rights agenda in the activities of different sectors. It has created a committee to extend human rights training to as many civil servants and members of the general public as possible. Unfortunately, cultural rights do not seem to be widely understood and implemented by the various sectors. The Special Rapporteur hopes that her visit will contribute to strengthening the training on cultural rights and their realization.

22. The National Institute of Human Rights is financially and politically independent (A status) and has representations in each region. It produces a yearly report on the protection and promotion of human rights, which is presented to the President, the Supreme Court and the legislative bodies. The Institute is tasked with reviewing laws and is invited to present its analysis and recommendations to the Congress; however, the Congress does not have any

<sup>3</sup> Available at [www.bcn.cl/leychile/navegar?idNorma=1023143](http://www.bcn.cl/leychile/navegar?idNorma=1023143) (in Spanish).

obligation to consider its analysis. In discussions with the Special Rapporteur, officials of the Institute admitted that there was a knowledge gap with respect to cultural rights. They were working to fill that gap and would take advantage of the visit of the Special Rapporteur to advance that work.

### C. System of cultural governance

23. Chile is party to seven of the main UNESCO treaties concerning heritage and has seven properties and three living practices inscribed on the World Heritage List and the Representative List of the Intangible Cultural Heritage of Humanity, respectively. UNESCO has a regional presence in Chile and conducts various programmes jointly with the Government, including on the promotion of the Mapuche language and related teachers' training, and on cultural workers.

24. The National Commission for UNESCO was created in 1980 under the responsibility of the Ministry of Education. It is tasked with national coordination of all work on the UNESCO conventions and has established, to that end, intersectoral round tables with all ministries. At the time of the visit, only two representatives of ministries were involved in its work, and it had no full-time employee. It therefore had no independence from the Government and was not equipped to fulfil its coordination and monitoring work.

25. In 2017, the Ministry of Cultures, Arts and Heritage was created (Law 21.045), with a broad and holistic vision of culture that aligns in many ways with cultural rights.<sup>4</sup> It benefited from prior consultations with Indigenous Peoples, who insisted on pluralizing the concept of "culture". The law was amended twice in 2019 to create a National Council for Scenic Arts (Law 21.175) and to provide for the digital transformation of the Ministry (Law 21.180). The Ministry has representations in all regions of the country, but most of the decision-making power is centralized. The coronavirus disease (COVID-19) pandemic and the related cuts in funding had an impact on the first years of operation of the Ministry. At the time of the visit, the Ministry employed about 3,000 persons across the country, but benefited from only 0.44 per cent of the national budget.

26. The National Council for Cultures, the Arts and Heritage is composed of representatives from ministries, academia, applied arts and crafts, Indigenous Peoples and migrants. The National Monuments Council is in charge of the recognition (listing), protection and conservation of expressions of heritage. There are approximately 75 theatres in the country, and the Ministry of Cultures, Arts and Heritage has increased the number of cultural centres over the past few years. A policy of developing "points of culture" across the territory was slowly being implemented, an approach the Special Rapporteur supports.

27. At the time of the visit, the country did not have a policy on the creative economy or a baseline for cultural work, but certain processes were under way. In 2021, the Ministry engaged in the creation of a registry of national actors in the field of culture and heritage in order to map the territorial resources and stakeholders and to better understand the needs. In 2022, it adopted a "decent cultural work agenda", under which a series of social dialogues was organized with the technical support of UNESCO and ILO. In March 2024, the Government adopted decree No. 11, creating an interministerial committee to work on the status of cultural workers (Comité Interministerial para un Estatuto del Trabajo Cultural). To accompany this process, the Ministry of Cultures, Arts and Heritage engaged in a process supported by the UNESCO-Aschberg Programme for Artists and Cultural Professionals. The Special Rapporteur commends the Ministry on this process and is looking forward to hearing more about the work of the committee to better define and protect the status of cultural workers.

28. The Ministry has a national Subdirectorate for Indigenous Peoples, which include Afro-Chileans, tasked with revitalizing cultures, fostering the transmission of languages and

<sup>4</sup> Available at [www.bcn.cl/leychile/navegar?idNorma=1110097&idParte=9845581&idVersion=2017-11-03](http://www.bcn.cl/leychile/navegar?idNorma=1110097&idParte=9845581&idVersion=2017-11-03) (in Spanish).

practices and attending to claims related to land. The Subdirectorate also develops and disseminates intercultural material and conducts awareness-raising campaigns.

29. The Ministry of Science, Technology, Knowledge and Innovation works on social and natural sciences, scientific culture and outreach on science. Its Science and Technology Council was working on traditional and popular knowledge and its integration into the work of the Ministry at the time of the Special Rapporteur's visit. It was looking, for example, into a dual approach to medical knowledge in the public health system in the south of the country. Both the structure and the policy work of the Ministry appeared to the Special Rapporteur to be very much in line with a cultural rights understanding of the right to participate in science.<sup>5</sup>

30. Finally, the Ministry of Foreign Affairs works closely with the Ministry of Cultures, Arts and Heritage to provide opportunities for international collaboration. It is involved in the National Council of Cultures, the Arts and Heritage, the Crafts Foundation as well as the La Moneda Cultural Centre.

### III. Realizing cultural rights in Chile: specific issues

31. The Special Rapporteur listened with interest to the numerous plans and visions of the national and local authorities concerning cultural rights. However, she was struck by the emphasis on plans, rather than coherent actions. Chile ratified the International Covenant on Economic, Social and Cultural Rights in 1972, and democracy was restored several years ago. There is an urgent need to move from plans to action to ensure the participation of all in cultural life.

32. Three broad areas need improvement for the enjoyment of cultural rights in Chile: the legal framework, the general understanding of the scope of cultural rights and guarantees for effective participation.

#### A. Legal guarantees for everyone's cultural rights and their realization

33. A clear and strong legal framework is required for the realization of cultural rights. As admitted by the Government, there is no generic legal framework recognizing the right of everyone to participate in cultural life, and there are therefore no legal guarantees for cultural rights. Laws that have been adopted only target either elements of cultural rights, such as the rights of artists and craftspeople,<sup>6</sup> or specific sections of the population. The Special Rapporteur is concerned that the Commission of Cultures, Arts and Heritage of the Chamber of Deputies has not planned to adopt a comprehensive protection of cultural rights for all, and that neither the Congress nor its Commission on Culture has any plans to incorporate article 15 of the International Covenant on Economic, Social and Cultural Rights into domestic law. This omission casts doubt on the State's commitment to its obligations to respect, protect and fulfil cultural rights.

34. Chileans have to be made aware of their cultural rights and be able to claim them. Mandatory training on cultural rights and the applicable standards should be widely provided. The Special Rapporteur appreciates the efforts of the Supreme Court to develop clear language tools, as a way to make the justice system more culturally adapted and increase access to justice. The various formats developed, such as film, theatre and comments on novels, the regularity of workshops and their online streaming, and the investments in translation and interpretation into various languages, are commendable ways to overcome the symbolic barriers that the justice system represents and to empower more Chileans to engage with it. However, the justice system needs more knowledge of the scope of cultural rights and their justiciability.

35. The lack of clear legal guarantees and knowledge about cultural rights standards and the continued presence of machismo and social hierarchies in Chile, which are reproduced in public services, have embedded exclusion, continue to undermine the cultural expression of

<sup>5</sup> See [A/HRC/55/44](#).

<sup>6</sup> See, for example, the law on the protection of craftspeople, adopted on 2 April 2024.

many individuals and groups and impede the possibility of all to take equal part in cultural and public life.

## 1. Sex and gender discrimination

36. The harmful attitude of machismo continues to prevail in Chilean society. The Special Rapporteur was informed about the fourth national plan on gender equality (2018–2030), campaigns on the right to live without violence, training for the judiciary and civil servants on a gender-sensitive approach, as well as non-sexism in education, which was recognized as a State obligation by the Constitutional Tribunal during her visit.<sup>7</sup> She was also informed, however, that discrimination against women by civil servants was still prevalent, and that many men resisted attending training on gender equality and stereotypes. She notes that stereotypes about the social roles of women have resulted in a gap in the representation of women in many areas of society. Policies, published guides, and recommendations and indicators adopted by ministries have not yet brought the intended results. Much still needs to be done to dismantle machismo throughout society.

37. The need to combat negative stereotypes regarding the roles of men and women is included in the Convention on the Elimination of All Forms of Discrimination against Women, which Chile ratified in 1989. These international obligations must be implemented urgently across the country. Specific targets on gender equality and non-discrimination must be integrated in the management plans of all public entities and national services in all regions.

38. The Ministry of Women and Gender Equality has included in its work lesbian and transgender women, and, to the extent possible, persons with diverse or non-binary sexual identities, who otherwise do not have their own representation. Lesbian, gay, bisexual, transgender, intersex and queer persons must be fully recognized and protected against the specific threats they face, such as the risks of human trafficking and forced prostitution in the northern part of the country, as well as their general exclusion in education and access to healthcare. The Law on Gender Identity (Law 21.120) recognizes the right to self-identification, providing legal protection to lesbian, gay, bisexual, transgender, intersex and queer persons across the country; however, their public visibility and their ability to participate fully in cultural life without fear remains challenging.

39. Lesbian, gay, bisexual, transgender, intersex and queer persons must benefit from equal protection under the law. The Special Rapporteur was told that certain past violent incidents against lesbian, gay, bisexual, transgender, intersex and queer persons had not been investigated adequately or prosecuted. They should also be supported in their fight against discrimination and in making their voices heard. Efforts by the community to memorialize and raise awareness about the discrimination they face should contribute to healing and to strengthening guarantees of nonrecurrence.

## 2. Indigenous Peoples and Afro-Chileans

40. For Indigenous Peoples and tribal Afro-Chileans, the right to participate in cultural life is intertwined with their right to self-determination and includes the right to free, prior and informed consent in matters relating to the natural and cultural resources that impact their identity and cultural life. The Special Rapporteur notes with dismay that not all Indigenous Peoples and tribal communities were included in the 1993 Indigenous Law (Law 19.253), implying a non-recognition of the status and related rights of those who were left out. This situation also weakens their collective claims to the lands that were divided during the dictatorship. It was reported to the Special Rapporteur that, despite the Law, thousands of hectares of land had been lost to private companies.

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<sup>7</sup> Article 12 of the Comprehensive Law on Violence against Women, referring to non-sexist education, was recognized by the Constitutional Tribunal as being constitutional and compatible with the preferential right of parents to educate and freedom of education (decision 15.276-2024, 8 April 2024).

41. Whereas prior consultation of and sustained engagement with Indigenous Peoples, as protected and decentralized in Supreme Decree No. 66,<sup>8</sup> are positive steps, international human rights law and standards require that States seek Indigenous Peoples' free, prior, and informed consent in all matters that affect their cultures and lands.<sup>9</sup> That requirement, established in the United Nations Declaration on the Rights of Indigenous Peoples, has now reached the status of emerging customary law and should be systematically applied by the State in its internal policies. It includes the right of veto of Indigenous Peoples on matters that have a direct impact on their cultural rights.

42. Cultural self-determination also applies to the use and representation of Indigenous Peoples' resources and symbols by outsiders, in museums and on virtual platforms. The Special Rapporteur was informed about the abusive appropriation of Rapa Nui symbols and land on a virtual platform and the presence of Moais in foreign museums, as well as about the efforts of the Council of Elders to regain control over the representation of their culture in these emblematic cases. She encouraged the authorities to support the efforts of the Rapa Nui people to ensure that their narratives are prioritized.

43. The Special Rapporteur was impressed by the number of revitalizing actions that have been initiated by the Subdirectorate for Indigenous Peoples and recognizes the promising process in place. However, many challenges remain with respect to including Indigenous Peoples' histories and cultures in schools, providing training on their human rights and adequately presenting their living practices.

44. Indigenous languages are not recognized and publicly supported, and speakers struggle to realize their right to use them in public spaces and institutions. The lack of teaching in Indigenous languages creates a knowledge gap, not only in the early years, to the disadvantage of Indigenous children, but also in ensuring continuity in the use and transmission of the languages for future generations. Some experiences in teaching Indigenous languages to non-Indigenous children in schools were reported, but these were not institutionalized and were generally not considered as adding value. However, languages cannot be revitalized if they are only used in private settings.

45. The Special Rapporteur commends the legal recognition of the tribal Afro-descendants in 2019 and the efforts to revise educational curriculums to increase their visibility as part of Chilean society. With a view to implementing the 2019 law, in which the right to living heritage was recognized, multiple dialogues and prior consultations were organized with Afro-Chileans to identify heritage resources to be protected. The "*cruz de mayo*" and "*morenos de paso*" practices have been successfully included in the national list of living heritage.<sup>10</sup> The Special Rapporteur encourages the authorities and all ministries involved to implement a sustainable strategy to ensure that these improvements remain.

46. More work needs to be done, however, to ensure the realization of human rights of Afro-Chileans, including their cultural rights. The precarious socioeconomic situation of Afro-Chileans in the north of the country is destroying their ways of life, including their food sovereignty and the continuity of their cultural practices. Because their lands were not recognized, many have, in the past, settled on land that was contaminated from the mining industry. Although programmes are being implemented to help them resettle in safer areas, the majority of those living outside of Arica only have running water every other day and need to ensure their electrical supply through generators.

47. Formal representation of Afro-Chileans is still lacking in decision-making bodies, and some mechanisms have not yet been adapted to their realities. For example, their grants applications for cultural projects are reviewed by representatives from other Indigenous Peoples, who may not know enough about their cultural expressions to appreciate their merit.

<sup>8</sup> Supreme Decree No.66 of 15 November 2013 entered into force on 4 March 2014. It decentralizes consultations with Indigenous Peoples to a number of public authorities, which must consult in good faith to reach agreement, but it stipulates that even those consultations that do not obtain the consent of the concerned peoples should be considered as having fulfilled their objective.

<sup>9</sup> United Nations Declaration on the Rights of Indigenous Peoples, arts. 10 and 11.

<sup>10</sup> See <https://chilecultura.gob.cl/cultural-sections/146/> (in Spanish).

48. Representatives of Afro-Chilean tribes expressed the need not only to be featured in the archives, but to maintain and practice their culture on a daily basis, which requires ensuring their access to ancient and meaningful territories for ceremonial and agricultural practices. The fact that they do not possess legal titles for their lands means that they could lose them at any moment, as has happened in the past. Representatives of Afro-Chileans reported insufficient consultation with the tribes about public and private development projects on their territories. The authorities fail to recognize that, just as for Indigenous Peoples, the international standard of free, prior and informed consent implies the possibility for Afro-Chileans to refuse projects or programmes that impact their cultural resources and ways of life and to effectively shape them according to their needs.

49. The Special Rapporteur thanks the Afro-Chilean communities for their openness and looks forward to learning more about improvements in their living situation, their increased visibility in national educational curriculums and their possibilities for participation in all aspects of cultural life in Chile.

### **3. Migrants**

50. Stereotypes and dehumanizing discourse about migrants are on the rise in Chile. Foreigners in the country are the subject of many public debates, and negative narratives and fear are being amplified by the media and in some government discourses. Narratives about migrants' inherent criminality or destructive ways of life must be pushed back by all public bodies in a coordinated and consistent manner, as required by international law. Instead, the Special Rapporteur heard some government officials blame migrants for failures of the State. The ongoing attacks on their ways of life and cultures have an impact on their ability to access other human rights. Although education and health services are, by law, universally available to all inhabitants of Chile, non-citizens and migrants reported difficulties in having their diplomas registered and in accessing healthcare, including maternity care. African migrants struggled to establish their place in society.

51. The Special Rapporteur was impressed with the engagement of civil society groups, especially women, to combat racism and stereotypes against migrants, and commends the numerous community-led cultural and artistic activities aimed at giving voice to their realities and supporting them in navigating administrative procedures. She encourages the authorities at the national and local levels to make more funding available to support such civic engagement and to recognize its pivotal value in building the intercultural social fabric.

52. She was also impressed that local authorities in Arica did not consider migration a problem, but rather a factor in developing policies. The municipality provides services to help regularize migrants and has created an open academy offering training in a variety of skills, including artistic disciplines and languages, to identify and foster migrants' capacities for local jobs. However, the infiltration of organized crime across the northern border has given rise to general mistrust towards Venezuelan migrants, who experience discrimination and are isolated from the rest of the population of Arica. Local authorities struggle to monitor the needs of those migrants who live in areas that are under the control of criminal organizations and to build relationships with them. More support is needed from the authorities to reach out to those inhabitants who are falling under the control of criminal groups and to guarantee their safety.

### **4. Detainees**

53. The Special Rapporteur was told about challenges related to cultural practices in prisons. For Indigenous Peoples and local populations, those include challenges related to accessing spiritual leaders and healers and maintaining cultural and religious practices that do not interfere with the security of the detention centres. She reminded the Government that economic, social and cultural rights continue to apply in places of detention.

54. A review of the prison rules for persons deprived of their liberty was to be undertaken in the second half of 2024. That process should involve consultations with Indigenous Peoples, including concerned detainees, in accordance with international standards. The Special Rapporteur looks forward to receiving further information about this process and its results, which should ensure greater cultural adequacy in penal matters.

## B. Understanding the full scope of cultural rights

55. The recent elaboration of the system of cultural governance in Chile meant that it could benefit from the evolution of cultural rights understandings. In specific ways, it did so. The Special Rapporteur appreciated the broad and holistic vision of culture at the core of the creation of the new Ministry of Cultures, Arts and Heritage and the numerous bridges it had built with other ministries to foster better integration of the cultural dimension in the other policies of the State. But such promises and commitments have yet to be fulfilled. Insufficient resources certainly played a part in this, but the development of a more participative approach and an integrated understanding of the broad meaning of culture and cultural rights would be a positive step forward.

56. The work of the Ministry seems to have focused initially on improving access, rather than the participation and contribution of all in cultural life. Unfortunately, views and workstreams have remained fragmented, both within the Ministry and among the various organs of Government, with programmes focused on specific issues and groups, weakening the understanding of cultural rights. The Special Rapporteur was glad to hear of the recent shift in the narrative of the Ministry, from a focus on “access to culture” to an objective of democratizing culture, as the latter is much more in line with cultural rights.

### 1. Protecting all forms of heritage

57. The implementation of UNESCO conventions and the Chilean UNESCO heritage sites should provide incentives to build citizenship and cultural dynamics. One positive example is the designation in 2003 of Valparaíso as a world heritage site, which was seized as an opportunity to establish a participative community development plan for the city that contributes to building sustainable social dialogue, citizenship and peace. Through the world heritage site plan, the authorities are tackling the deterioration of the port neighbourhood, addressing homelessness and increasing cultural and sports offerings.<sup>11</sup> The Special Rapporteur highlighted the gentrification risk often connected with revitalization initiatives, which can empty the centre of its long-established inhabitants. She looks forward to learning more about the integration of these efforts in sustainable municipal cultural policies in the coming years. Rapa Nui was another positive example. The site, spreading over most of the island, is under the responsibility of local leadership, which coordinates with multiple persons and groups in the management and use of the site. Its oral tradition is also listed in the register of intangible cultural heritage in Chile and is fully managed by the community. The Special Rapporteur experienced first-hand the shared sense of community, care and pride of the inhabitants of the island with respect to this heritage.

58. The Special Rapporteur was concerned to hear, however, that there was no holistic national heritage list that would include the heritage of all groups and communities and that certain Indigenous Peoples had been reluctant to propose some of their heritage assets for the national and UNESCO listings, for fear that they would lose their say over them. This situation highlights the need to prioritize effective participation and, in the case of Indigenous Peoples, build trust and provide guarantees about cultural sovereignty.

59. Unfortunately, it seems that those fears are grounded. The Special Rapporteur was told about several sites of cultural and spiritual significance that were currently under threat, such as the Retxikūra ceremonial site, the natural sacred site of Ngen Mapu Kintuante, which is threatened by the construction of a hydroelectric plant, and the spaces for religious practice of the Mapuche community of Collipulli, which are being taken over by the construction of a wind farm without the free, prior and informed consent of the Mapuche community. The Special Rapporteur was also alarmed by the intimidation and arrest of some leaders of the communities, who were defending their right to their heritage. The Government needs to respect the cultural right to heritage as well as the need for the free, prior and informed consent of Indigenous Peoples and local populations. The Government must also ensure human rights due diligence and the accountability of the companies involved in development

<sup>11</sup> See [www.sfgp.gob.cl/publicaciones/informe-de-la-mision-de-asesoramiento-tecnico-de-la-unesco-al-sitio-patrimonio](http://www.sfgp.gob.cl/publicaciones/informe-de-la-mision-de-asesoramiento-tecnico-de-la-unesco-al-sitio-patrimonio) (in Spanish).

projects across the territory and engage in good faith with the claims to protect heritage sites that are important for the people concerned.

60. The Special Rapporteur received less information about efforts invested in living cultures, in adopting positive measures to promote and protect the values, aspirations and priorities of all individuals and communities across Chile and include them in the public strategies, policies and practices. Chileans are very aware about the indivisibility of tangible and living heritage, and affirmed to the Special Rapporteur that the people themselves were the essence of heritage (“*somos patrimonios*”): the songs, the clothes, the food they ate every day was the heritage they cared for. The reform of the Law on Heritage should aim at better integrating the various dimensions of heritage, but also ensure that all heritage policies, concerning built or living heritage assets, are designed in such a way that the views and decisions of the persons and communities who are connected to heritage resources will be systematically solicited and integrated, in line with cultural rights.

61. The Special Rapporteur also warned against the use of Indigenous consultation to put to referendums or popular votes decisions regarding practices that manifestly violate human rights. The human rights obligations of States cannot be subject to consultation or vote. She was delighted to learn about the success of women-led activism in Rapa Nui to end tolerance for violations of girls’ rights and challenge the relativist justification that was being put forward to lessen sentences for various sexual crimes in the name of culture. Through their engagement, the Rapa Nui women succeeded in modifying article 13 and repealing article 14 of law 16.441, demonstrating how Indigenous cultures, like all cultures, evolve with the real participation and leadership of the people themselves. The Special Rapporteur encourages the Council of Elders to embrace this success and publicly declare that violations of the rights of girls and children in the name of culture are in stark contradiction to the values of the Rapa Nui people and international human rights values and standards. In the same vein, she encourages the local authorities in Rapa Nui to increase their efforts to challenge all forms of tolerance towards mistreatment of and violence against children.

## 2. Memorialization

62. How to appropriately memorialize human rights violations that occurred during the dictatorship is an important concern in Chile. Memorialization processes should provide the spaces necessary to those affected by human rights violations to articulate their narratives. Memorial practices should stimulate and promote civic engagement, critical thinking and discussion regarding the representation of the past, as well as the contemporary challenges of exclusion and violence that still exist today. It is a necessary form of reparation and a safeguard to guarantee non-repetition.<sup>12</sup>

63. The fiftieth anniversary of the coup d’état in September 2023 should have been an opportunity to define a new and improved policy on memorialization, to strengthen history teaching and public memory, but at the time of the Special Rapporteur’s visit, no political will in those areas had materialized. The State initiated the Sites of Memory Programme,<sup>13</sup> but the call for a law on memorialization to protect sites and proposals to preserve the memory of social unrest, including the movement of 2019, reportedly received little support from the Government.

64. The Special Rapporteur was disappointed by the weak involvement of public authorities in memorialization efforts and is concerned about the reported unrepentant and negationist sentiment of certain right-wing elements. Many sites are in precarious condition or have been vandalized with impunity. Despite the Government’s commitment to dedicate 1 per cent of its budget to memorialization, only 13 sites are supported by public funding, and more than 56 are pending official recognition. Most sites of memory are tended and preserved by private initiatives only, and those benefiting from public support receive short-term grants that do not allow for continuous care. The Special Rapporteur stresses that what is needed is collective memory and reparations, not fragmented initiatives.

<sup>12</sup> See [A/HRC/25/49](#).

<sup>13</sup> See [www.patrimoniocultural.gob.cl/fondos/programa-sitios-de-memoria-psm/convocatorias/programa-sitios-de-memoria-psm-2023](http://www.patrimoniocultural.gob.cl/fondos/programa-sitios-de-memoria-psm/convocatorias/programa-sitios-de-memoria-psm-2023) (in Spanish).

65. The fact that many memorialization initiatives have emerged from the families of victims or from groups such as migrants is an excellent dynamic that should be welcomed by the authorities. But civil society groups cannot substitute for the responsibility of the State. The continuous preservation of the memorial process, the necessary legal and archiving expertise, and the safeguarding and conservation of memorial assets must be publicly guaranteed, among other things, to prevent negationism. The right balance must be struck between bottom-up, civil society initiatives and active memorial policies from the authorities. Victims of human rights violations, and the inhabitants of Chile in general, have a right to know about their past and share their history.

### **3. Access to and participation in arts and cultural spaces**

66. The right to take part in cultural life implies real opportunities to access and enjoy cultural spaces. Artistic and cultural spaces have reportedly been reduced to commodities or touristic attractions, with very little support from the public authorities to ensure these spaces are accessible and affordable for all. The fact that cultural activities are expensive excludes a large part of the population from accessing and enjoying them on a regular basis. It also perpetuates the impression that arts and cultural activities are only for the elite, not for all. With limited public funding, theatres, cinemas and cultural centres only survive where there is enough critical mass to sustain their existence, as in big cities like Santiago, where most of the cultural offerings are concentrated in five communes. Meanwhile, most of the country is left without active spaces to create, develop, enjoy and transmit artistic and cultural practices. Most theatres and cultural centres that are not supported do not have the personnel or equipment to keep the spaces going, with the exception of a few private or locally supported spaces.

67. Concerns were raised multiple times about the scarcity of information on cultural offerings,<sup>14</sup> including musical offerings, as well as the lack of diversity and interculturality in the content proposed by most cultural institutions. The need for public media to embrace its mission to disseminate information that reflects the full diversity of national works was expressed. The unavailability of public transportation options in the capital was mentioned as an additional obstacle.

68. Beyond the material obstacles, the fact that arts and cultural activities are peripheral in education deprives many of the opportunity to be introduced to and develop a relationship with the arts in their various forms. This is fundamental to developing the full potential of all individuals, or as one person told the Special Rapporteur, art is part of everyone and a means for transformation and social change.

69. There is a pressing need for cultural mediation, through spaces that respect, welcome and encourage the artistic desires and capacities of each person and provide conditions for individuals and communities to be subjects of their own artistic rights, and not mere consumers and spectators of the works of others. There must be more trust on the part of the authorities that Chileans across the country have something to say and can contribute to artistic and cultural life.

70. Cultural policies should strengthen the overall ecosystem of cultural actors and organizations to involve more of the existing cultural centres, libraries and artistic spaces, from the north to the south. This ecosystem should include all the professions and crafts that make cultural works possible, to create dynamics and foster complementarities so that all Chileans may enjoy cultural and artistic creations.

### **4. Embracing diversity and interculturality**

71. It has long been established that cultural rights and cultural diversity are mutually reinforcing, and that the exercise of any human right or cultural diversity may not be invoked to infringe upon human rights guaranteed by international law or to limit their scope. These principles guard against relativist attempts to use what are claimed to be cultural, religious

<sup>14</sup> Despite the existence of a site aiming to gather information about all cultural offerings ([chilecultura.gob.cl](http://chilecultura.gob.cl)).

or traditional arguments to undermine human rights, and should be mainstreamed into the understanding of cultural rights in the country.

72. From the Special Rapporteur's point of view, a culture of diversity and interculturality, one that would challenge the stereotypes and segmentation of society, has not yet been developed in Chile. The Special Rapporteur was told that, although numerous efforts had been made in a sectoral manner, no consistent work had been done in this sense on gender and sexual diversity, Indigenous Peoples, Afro-Chileans and migrants, and on the intersections of issues faced. In many instances, the cultural expressions of minority and Indigenous groups are represented as folklore, and not considered living practices that contribute to the interculturality of the country.

73. The recent increase in the number of migrants, with their inherent diversity, has certainly accelerated the process. Whereas children have quickly mixed through their sustained interactions in school and play, adults have faced more difficulties in coping with changes that go beyond diversity in food and tastes and require greater effort.

74. The Ministry of Social Development and Family has made considerable efforts to progress from the protectionist model for persons with disabilities to real inclusion in society. Examples of measures that were taken to promote the autonomy and independence of persons with disabilities included flexible arrangements in schools' curriculums and in the labour market, improvement in access to recreational activities and provision of sign language in public television programming. However, there was also frustration that the efforts were concentrated in that Ministry, and that the goal of inclusion was not considered the responsibility and duty of all civil servants.

75. Diversity must be ensured within the civil service and public bodies, and interculturality must be applied correctly. Migrants, Indigenous Peoples, Afro-Chileans, persons with disabilities and lesbian, gay, bisexual, transgender, intersex and queer persons should be able to learn about the values, norms and customs of other Chileans, while all Chileans should also be able to learn about the specific histories and cultures of the above-mentioned groups, and about their positive contributions to society. The Unit on Culture, Memory and Human Rights of the Ministry of Cultures, Arts and Heritage promotes interculturality and the positive inputs of migrants, including through educational material. However, to become a reality, exposure to cultural diversity must be the norm in all aspects of society, from an early age.

76. The educational system has a primary role to play in achieving this goal. Ensuring universal access to school is a good way to guarantee that diversity – of origins and religions, of urban and rural realities, of economic backgrounds and of languages – will be experienced in everyday classes. Teachers should be supported in their efforts to put forward and recognize the value of diversity in their teaching and class management. For example, in Arica, the Special Rapporteur heard from a Colombian student that she felt welcomed in school and was given the opportunity to talk in class about her country of origin. School curriculums, which are still centralized, must integrate in the main narrative the history of native peoples, both Indigenous and Afro-Chilean, as well as the historical contributions of women, lesbian, gay, bisexual, transgender, intersex and queer persons, migrants and persons with disabilities. She encourages the Ministry of Education to increase the availability of intercultural education in which all groups would be represented. Regional specificities and shared references should both be included, so that all children, from every part of the country, have a strong sense of their origins and of the national context.

77. More should be done to feature the positive contribution of diversity. With their long-standing interactions with Bolivians, Peruvians, Aymara and Quechua, local authorities in Arica integrate and value interculturality in their work.<sup>15</sup> Real interculturality needs to enter every neighbourhood of Chile, through social and traditional media, arts and cultural initiatives and role models. For example, the fact that migrant women stand together to fight for their rights should be celebrated. The Special Rapporteur encourages all public bodies to learn from these positive recognitions of interculturality and to change the focus from

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<sup>15</sup> See [www.cultura.gob.cl/interculturalidad/](http://www.cultura.gob.cl/interculturalidad/) (in Spanish).

separate targeted groups to a holistic approach and adopt special measures at the local and regional levels to address specific needs.

### **C. Measures to implement the right to participate in cultural life**

78. The Special Rapporteur believes that it is necessary to prioritize and strengthen the participation of all in the formation, delivery and evaluation of public priorities, policies and actions. The right to participate in cultural life includes the right of everyone to feed, directly and indirectly, into the vision of society, through grass roots, open, democratic and accessible mechanisms and structures. At the moment, this is not the case. One of the consequences of the years of dictatorship was the erosion of social engagement, so that participatory citizenship has a long deficit to recover from. A cornerstone in rebuilding democracy will be to improve communication and prevent disinformation. The Special Rapporteur was glad to hear that it was a priority of the Government to address disinformation,<sup>16</sup> including by strengthening community media. Another cornerstone will be to foster the participation of all through institutionalized and formal mechanisms, support for local initiatives and the use of public spaces.

79. In view of the security concerns that were raised repeatedly, the Special Rapporteur was surprised that the Government had not focused more attention on supporting participation. The reduction of social tensions cannot be achieved solely through public order and security measures. As tensions often derive from the feeling of not being heard or included, emphasis on participation through a bottom-up approach is known to reduce frustration and enhance people's feeling that they are part of the social fabric.

#### **1. Formal participation mechanisms**

80. The rigid institutional structure in Chile makes the implementation of a participatory human rights approach difficult. The highly centralized nature of the State represents a first obstacle to broad participation in cultural life. The Special Rapporteur was glad to hear that decentralization efforts would be increased to strengthen regional and local dynamics. Attention should be given to strengthening both the two-way flow of information to and from the capital and the communications channels between the regions and local communities.

81. The formal channels of participation the Special Rapporteur observed seemed to encourage the maintenance of silos and the status quo, rather than allowing inclusion. Many of the ministries, including the Ministry of Cultures, Arts and Heritage, admitted being aware that more needed to be done to engage with all parts of the population and ensure that multiple voices were truly involved in shaping their work. The Special Rapporteur is concerned that, in the search for fresh new visions, experience, long-standing expertise and historical memory are not valued, and that the people who have them are pushed aside with no period of transition and thus with no opportunity to share their knowledge and experience. Fresh visions need the reality check and the lessons provided by past experience.

82. Each ministry has institutionalized a civil society council that holds periodic meetings to discuss the orientations and define the priorities for reports of that ministry. However, these councils have a consultative, not a decision-making, function. The Special Rapporteur is concerned about the limited and sporadic participation, in particular of civil society organizations representing the most disadvantaged groups, in the design and monitoring of the public policy of the respective ministries. The organizations and individuals participating in the various councils should change regularly so that many voices can be heard in the development of the plans of the ministries, in the evaluation of what has happened and in the delivery of what is about to happen.

83. The Special Rapporteur notes that the Ministry of Foreign Affairs organizes broad consultations prior to the universal periodic review, but stresses the need for such open sessions to also be organized to discuss recommendations received from the universal periodic review, as well as those from treaty bodies and special procedures. All social

<sup>16</sup> See [www.minciencia.gob.cl/areas/comision-contra-la-desinformacion/](http://www.minciencia.gob.cl/areas/comision-contra-la-desinformacion/).

partners should be involved in developing the measures to implement those recommendations on the ground.

84. The Office of the Minister and Secretary-General of Government is the main body in charge of facilitating communication between the Government and Chilean society, disseminating the central messages from the executive and establishing channels to gather the opinions and concerns of the population and direct them to the right ministries. Through it, genuine efforts are being made to enhance participatory approaches, including by better analysing representation trends. However, trust in the official institutions and the funds to cover the expenses of civil society representatives wishing to participate in meetings at the communal level, continue to be lacking.

85. The reform of the Law on Associations and Citizen Participation in Public Management (Law 20.500) should help strengthen the presidential instruction of 2022 requiring that each ministry have a citizen participation area. However, in all the ministries, separately and together, there is a need for a coherent overall plan which would comprise a vision for the right of all to participate in the shaping of society and its priorities and vision.

## **2. Ongoing involvement of citizens in public affairs**

86. Various actors said that gaining access to the authorities was difficult, not just to discuss problems, but also to present initiatives and transmit what people have to say and contribute.

87. The grant processes of the Ministry of Cultures, Arts and Heritage aimed at encouraging and strengthening cultural initiatives seem to have impeded, rather than increased, involvement of civil society in cultural life. Project-based grant processes limit funding to a period of 12 to 24 months, which impedes the continuity of cultural involvement in the territories. They also foster competition among cultural professionals for the rare public funding opportunities, rather than bringing them and their creativity together. On average, only 14 per cent of civil society organizations receive funding, leaving the others without public support. In certain fields, like heritage, those granted support and participating tend to be from similar social circles, with little diversity in the inputs. With the forms and grants applications becoming more sophisticated, professional grant writers have emerged, leaving the majority of grass roots and smaller organizations unable to compete.

88. The Ministry has committed to improving its participatory methodology and fostering the co-creation of its programming through interactive workshops. Improving communities' participation in museums would be a good place to start. Real partnerships with territorial expertise should also be built, with the authorities showing that they are open to learning from the field. The strengthening of a network of peer-appointed community cultural points to increase participation in cultural life is a promising initiative of the Subdirectorate for Indigenous Peoples.

89. The Special Rapporteur was impressed with the approach of the Ministry of Science, Technology, Knowledge and Innovation to diversity and effective participation in science. The Ministry presented numerous participatory practices that served as positive examples of inclusive participation, such as community gardens contributing to the treatment of water, the involvement of Indigenous persons as presenters and contributors in training about environmental protection and in developing the preservation policies for the lagoons, and the support for public science labs led by communities and using everyday knowledge. The fact that the capacities of public universities and laboratories were offered to test and administer vaccines during the COVID-19 pandemic contributed to increased public trust in the sciences. The Special Rapporteur was glad to hear the Ministry's position on the need to ensure that research be oriented to benefit the whole of society. She encourages the authorities to constantly monitor to ensure that financing for research, and the necessary partnerships with private actors to support it, are oriented towards that goal.

90. From what she observed, the follow-up to initiatives and evaluation of the impact of policies not only seemed weak, but did not involve the people concerned. In many cases, the authorities could not provide indications or measurements of progress. The Special Rapporteur recalls that the right to participate in decision-making processes that have an

impact on one's cultural rights does not end once the programmes or policies are established. It should continue in the monitoring and evaluation stages.

### 3. Use of public spaces

91. A good way to encourage participation is to increase the use of public spaces as spheres for deliberation, cultural exchange, social cohesion and diversity. Chilean authorities at all levels have the obligation to guarantee the collective and participatory character of public spaces and have real opportunities to strengthen the dynamics they create.

92. The Special Rapporteur was impressed by the vibrancy and diversity of local initiatives, led by communities and groups, that fill the gap left by the lack of involvement of public authorities. She was informed about numerous local festivals, lively intercultural carnivals in the north, neighbourhood associations in Valparaíso, the use of graffiti as a form of street art, and the thirst of many to participate in cultural life. She commends the creativity and engagement of civil society. The *Trenzando* nomad cultural centre, for example, uses former train tracks to access communities outside of the city centres, uniquely combining participative cultural works with the revitalization of the old train stations, which become community centres and spaces of heritage.

93. Most grass-roots cultural initiatives rely on side activities, such as the sale of food or sewing, to finance their cultural activities. Some collectives, created from groups of citizens to preserve the architecture and character of their neighbourhoods, have been criminalized for their use of public space. A popular jazz festival, organized in a Santiago market to offer a counter-narrative to the poverty and security threats in that public space, faced difficulties in securing private and public funding because it sought to keep activities free of charge for the audience and participants.

94. The authorities must recognize and support in all possible manners these dynamics and initiatives and seek to build partnerships with the local communities that are contributing importantly to cultural life. The talents, engagement and methods are there and strongly at play in the neighbourhoods. In Arica, the use of public areas by local authorities to organize different activities, fairs and gatherings has had a positive impact in reaching out to a large majority of the population and creating links between the various groups and sectors. A human rights framework should be applied to the design, development and maintenance of public spaces, and a participatory approach should guide their use for and by all.

## IV. Conclusions and recommendations

### A. Conclusions

95. Throughout the visit of the Special Rapporteur, the Government of Chile demonstrated its strong belief in the need to work together to improve the realization of cultural rights and effective participation, both within the country and on the multilateral stage.

96. The recent shift in narrative, from a focus on "access to culture" to democratizing culture and decentralizing decision-making, is very positive. The Special Rapporteur encourages Chile to develop more avenues and opportunities to truly harness the voices of all its inhabitants and ensure their participation in cultural life, including in the institutions, spaces and decision-making bodies that shape and have an impact on cultural life and the exercise of cultural rights. The creation of the Commission for Peace and Understanding is a positive step toward redressing past wrongs and creating a space for dialogue. Integrated and sustainable development of the country cannot be achieved if some parts of society are not involved in the debates that define the values that development aims to fulfil.

97. More importantly, the Special Rapporteur encourages the Government to move from plans to action in order to build trust so that Chileans all over the country can start to witness the change in the governmental approach and contribute, as partners, in improving the effective implementation of their cultural rights.

## **B. Recommendations**

98. To improve the legal protection of everyone's cultural rights, the Government should:

- (a) Adopt a law protecting cultural rights, as they are currently broadly understood, for all, irrespective of their status or any other characteristic;
- (b) Provide systematic training across all of its bodies and institutions on cultural rights and on the standards of participation;
- (c) Establish a bottom-up and inclusive approach in the culture of civil service, where real dialogue takes place on ways forward with diverse individual and collective voices;
- (d) Institutionalize a channel for recommendations from human rights bodies to reach the parliament for legal consideration and implementation;
- (e) Ensure the justiciability of cultural rights before courts;
- (f) Ratify, as soon as possible, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
- (g) Make training on gender equality and non-discrimination based on origin, sexual orientation and gender identity and status compulsory for all civil servants including the judiciary;
- (h) Complete the recognition of all Indigenous Peoples and tribal communities and ensure their equal protection before the law as soon as possible; increase the resources allocated to the Subdirectorate for Indigenous Peoples so that it may include all of them in its consultative and participatory initiatives;
- (i) Implement free, prior and informed consent for Indigenous Peoples in all matters that affect their cultures and lands, as stipulated in the United Nations Declaration on the Rights of Indigenous Peoples.

99. To improve understanding of the full scope of cultural rights, the Government should:

- (a) Strengthen the National Commission for UNESCO so that it has the capacity to fulfil its functions;
- (b) In the reform of the Law on Heritage, review the approach to heritage to foster a holistic view of it that incorporates tangible, living and natural heritage;
- (c) Reconsider the national heritage list with a view to making it more holistic, afford protection to all heritage sites and practices that have value and meaning for persons living in Chile, irrespective of their status, and ensure that heritage policies fully take on board the views and decisions of the persons and communities who are connected to the heritage resources;
- (d) Halt any projects and construction in cultural, religious and meaningful sites that have begun without the appropriate consultation and/or free, prior and informed consent of the persons whose heritage is at stake, with a view to addressing tensions and finding adequate solutions;
- (e) Increase the funding of the Unit on Culture, Memory and Human Rights so that it may fulfil its tasks of fostering interculturality and preserving historical memory;
- (f) Develop, together with all concerned stakeholders, a transversal and sustainable policy on memory, including through education, memorials and museums;
- (g) Encourage and support various forms of financial support for artistic and cultural work, to ensure increased accessibility and diversity in cultural programming;

(h) **Make inclusion, cultural diversity and interculturality, in line with international cultural rights norms and standards, cross-cutting goals of all public organs and institutions.**

100. **To improve the opportunities for all to participate in the vision of society, the Government should:**

(a) **Accelerate its decentralization efforts, strengthening the autonomy of local authorities, especially in the fields of culture, education and civic participation;**

(b) **Hold regular meetings with civil society groups, ensure their diversity and encourage a rotation in the representation and organizations consulted;**

(c) **Give space in official narratives, including in the media and educational material, to the positive contributions that migrants make;**

(d) **Strengthen the participatory monitoring and evaluation of projects, policies and programmes, and seek feedback from the persons concerned and lessons learned to shape the next steps of governmental planning and implementation;**

(e) **Extend systematic and mandatory capacity-building on women's rights, gender-sensitive investigation, encouragement of reporting and avoidance of revictimization for magistrates, judges, prosecutors, public defenders, lawyers, law enforcement officers, administrators, mediators and expert practitioners;**

(f) **Develop campaigns to reverse negative stereotypes and narratives of vulnerable and marginalized groups, including people of African descent, migrants, and lesbian, gay, bisexual, transgender, intersex and queer persons, and to combat long-standing challenges such as machismo and racism;**

(g) **Create space for the Rapa Nui community to discuss and revise any harmful cultural practices, and encourage the Council of Elders to clearly denote any practice that goes against the rights of women and children as contrary to the current Rapa Nui values.**

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