



**Convention on the
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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-ninth session

SUMMARY RECORD OF THE 764th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 23 January 2002, at 3 p.m.

Chairperson: Mr. DOEK

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Second periodic report of Chile (CRC/C/65/Add.13; CRC/C/Q/CHI/2; written replies of the Government of Chile to the questions in the list of issues [document without a symbol distributed in the meeting in English only])

1. At the invitation of the Chairperson, the members of the delegation of Chile took places at the Committee table.
2. Ms. KARP, noting that the activities of the National Service for Minors (SENAME) other than those devoted to juvenile offenders were to be transferred with their corresponding budgets to a new social service for children, asked whether the State party had approved the budget and allocations required for the new structure.
3. Was there a plan to codify the obligations for judges, administrators and professionals working with and for children to take children's opinions into consideration? What measures had been taken to prevent and punish ill-treatment of institutionalized children by teachers and other categories of personnel working in such establishments?
4. How did the State party ensure respect for the rights of children under 16, who had not reached the age of criminal responsibility and thus could not be subject to real criminal proceedings? In particular, were measures such as deprivation of liberty taken against juvenile offenders of a lesser duration than custodial sentences imposed on persons over 16 who were found guilty of the same offences? Did the new juvenile justice law provide children with the opportunity to be represented by counsel?
5. Ms. TIGERSTEDT-TÄHTELÄ asked whether the reform of SENAME was part of a new national family policy, and whether responsibility for the new social services structure would be given to the Ministry of Social Affairs that it was intended to establish or to the Ministry of Planning and Cooperation. Was civil society, including first and foremost non-governmental organizations (NGOs), taking part in the reform of policy on children?
6. Ms. SARDENBERG asked whether the parliamentary group for the defence of children still existed and whether an assessment had been undertaken of the measures applied to combat discrimination against the Mapuche people.
7. Noting that the State party had in 1997 adopted a law to combat domestic violence, she asked whether measures had also been taken to assist children who were victims of ill-treatment at school, in SENAME institutions and in private establishments, and what strategies had been adopted in that respect. In particular, what steps had been taken by the State party to meet its commitments in respect of the periodic consideration of the situation of institutionalized children.
8. Lastly, could the delegation provide more information on the judicial inquiries and proceedings relating to the disappearance of teenagers and violence against children which had occurred respectively at Alto Hospicio and at the now-closed Dignidad camp?

9. Ms. del GATTO (Chile) said that the feasibility studies for a new child protection service had established both the economic and the political viability of the project, and the Government had approved all the necessary allocations to set up the new system.

10. The new law regarding sex offences provided for sentences of five to 20 years' imprisonment for the rape of a minor under the age of 12. The inquiry on child abuse carried out by the United Nations Children's Fund (UNICEF) had studied children from 10 to 12 in certain regions of the country, and had found a reduction in serious physical violence and an increase in cases of psychological and less severe physical violence. The success in reducing serious physical violence was attributable to numerous awareness-raising campaigns, public indignation at sexual abuse cases and the effect of the Government's multi-sectoral policy for dealing with maltreatment.

11. SENAME realized that there was still much to be done to protect the rights of children in its institutions. Anyone with knowledge of abuse in the system had a duty to report it. Complaints filed, including those lodged by children, gave rise to judicial inquiries and the incriminated public officials as well as any persons committing abuses who worked for one of the private establishments forming part of the network were suspended pending the conclusion of the criminal proceedings.

12. The Government was taking steps to ensure the right of all children to receive advice, if necessary covering the expenses involved.

13. Mr. FREY (Chile) said that in Chile, unlike in other countries, just seven per cent of people detained by the police were minors, which was a low figure in comparison with the number of offences committed by youths. The reform of the juvenile justice system was the subject of a lively debate. A bill had been drawn up to eliminate obsolete and arbitrary provisions from the legislation in force and it would provide, on the basis of proportionality, a wide range of sanctions applicable to minors found incapable of discernment. Custodial sentences were less severe for minors than for persons who reached the age of majority.

14. The system currently in place had several shortcomings. In practice, children hardly had access to a lawyer, and penalties were not subject to time limitations. Minors were judged as adults and were held in the same penal institutions, but in special wings with their own particular regime. The purpose of the current reform was to ensure respect for the rights of the child and to foster social reintegration. The bill under consideration provided in particular for shorter judicial proceedings, which should not exceed 180 days.

15. Mr. MORENO (Chile) said that civil society was not playing its full role effectively, in part because it had been weakened by the departure of many heads of NGOs, some of whom had taken up positions in the Government, and also because such organizations had until recently been more concerned with tackling existing problems than with issuing opinions on questions of national interest. The Government, in cooperation with the Inter-American Development Bank, was finalizing draft regulatory and administrative provisions aimed at strengthening the participation of civil society in particular in the drafting of legislation.

16. Chile had adopted a National Plan to Overcome Discrimination. The National Service for Women carried out programmes to combat discrimination against women and girls. The National Indigenous Development Commission, established in 1993, had taken measures to strengthen educational activities, in particular for the Mapuche population. The Indigenous Peoples Act made birth registration mandatory. According to the most recent socio-economic surveys, 4.6 per cent of the population considered themselves indigenous. The Mapuches, who represented 80 per cent of indigenous people, were poorer than the rest of the population. However, in practice they were not subjected to any form of discrimination in respect of health care and education, as services were the same for everyone.

17. The Ministry of Education and Health and the National Service for Women had drawn up a bill on responsible sexuality, the main purpose of which was to prevent abortions, teenage pregnancies and sexually transmitted diseases. It gave priority to community-based action and the organization of information and educational and counselling activities.

18. Mr. SALINAS (Chile) said that his Government had launched a major campaign for the eradication of torture and maltreatment. Acts of torture had been made criminal offences and the Government was working with the Special Rapporteur of the Commission on Human Rights on the question of torture. All alleged acts of torture or ill-treatment by public officials were investigated by the police and those found guilty were dismissed from their functions and incurred criminal penalties.

19. With regard to the series of murders committed at Alto Hospicio, a district in the city of Iquique, after a poorly conducted and unproductive initial police investigation, further inquiries had made it possible to find and bring to justice the guilty party. The police officers responsible for the first investigation had been subjected to the administrative sanctions and judicial proceedings were in progress. The Dignidad colony, created in the southern part of the country by German settlers in the 1950s, had been wound up as a legal entity in 1991. In 1997, the justice system had initiated proceedings for acts of paedophilia against Paul Schaeffer, who had regrettably succeeded in leaving the country with the protection of the German Government. Other proceedings were being continued against people who had been living there but the charges brought did not involve minors.

20. Abortion, including on therapeutic grounds, was illegal in Chile. Many women, and particularly young girls, resorted to clandestine abortions and doctors practising them could be prosecuted as accessories to the offence. That issue was the subject of heated debate in the country, but a whole segment of the Chilean population, mainly consisting of Catholics, was resolutely opposed to the legalization of abortion.

21. The Children's Parliament had been created on the initiative of young people themselves, with the encouragement of the Chamber of Deputies and the Government, in order to promote peaceful coexistence between the various political movements in a democratic context.

22. Mr. MORENO (Chile) indicated that the national economic and social survey conducted every two years in Chile made it possible to gather data from the police services, the National Service for Minors, the National Service for Women and UNICEF.

23. Ms. SARDENBERG asked whether there was a link between the group of parliamentarians for the protection of children and the Children's Parliament and whether mechanisms existed to protect children threatened with expulsion. She would also like to know whether children could express their views in the school context, whether scholarships were offered to indigenous children to facilitate their access to education, whether school curricula included sex education courses and whether it was true that parents had to pay part of the cost of schooling for their children in the public as well as in the private educational systems.

24. Ms. AL-THANI remarked that Chilean adolescents were placed in a very difficult situation: abortion was illegal and they could not obtain means of contraception without their parents' agreement. On another point, she observed that 16 per cent of disabled children under five years of age were integrated into regular schools, as against only 4 per cent in the case of those in the 6 to 18 age group. That latter percentage seemed very low and she therefore asked whether it was attributable to a shortage of classrooms or to a lack of training for teachers to cater for disabled children. It would appear, given the very large number of disabled children attending specialized institutions, that such institutions were not exclusively reserved, as they should be, for children with the severest disabilities. Lastly, she would like some clarification about the independent health services mentioned in paragraph 602 of the report. Were those private health care services? Was the quality of health care the same both in rural areas and in urban areas?

25. Ms. CHUTIKUL said that she was concerned by the information provided according to which only 44 per cent of children completed their primary schooling without having to repeat a year, and by the marked differences in quality between public and private education, on the one hand, and between rural and urban areas, on the other; she would also like to know whether the reform of the education system had already yielded positive results. She asked what happened to children expelled from school owing to disciplinary problems and whether there were alternative solutions to expulsion. Lastly, she inquired about the results obtained from the implementation of the national plan to combat child labour and would like to have some clarification about the extended school day, scheme which a large number of institutions had adopted.

26. Mr. CITARELLA said that he would like more information about the different ages set by the Civil Code and by the national legislation, which sometimes appeared to conflict with the provisions of the Convention. He asked what measures the authorities were planning to take to reduce the differences observed, in terms of school attendance and drop-out rates, between rural and urban areas. He also inquired whether it was true that abandoned children were treated as stateless persons. Lastly, he would like to know whether the authorities intended to institute legal safeguards for young offenders under 16 years of age, who - unlike adult offenders - could not currently appeal against court decisions concerning them or file complaints regarding their conditions of detention.

27. Ms. OUEDRAOGO said that the information provided in the report to the effect that the initiative to convene the first Children's Parliament had come from the Chamber of Deputies seemed to contradict the statement made by the delegation in that regard. It would be a pity if that initiative were to be pursued by politicians to further their own aims. She regretted the lack of details provided about the problem of child sexual exploitation, the

apparent absence of relevant legislation and, consequently, of appropriate sanctions for the perpetrators, and about the reintegration of the victims. Was it envisaged to carry out a study in order to assess better the extent of the phenomenon and to elaborate a plan of action in that regard?

28. Ms. KARP asked whether it was true that women had access to contraception only after a first pregnancy, whether the authorities intended to provide assistance to young girls forced to resort to clandestine abortions and what was the status of the project to hold sex education courses in schools, which appeared to have faced strong resistance. She was surprised to note that prostitution was considered in the same terms as vagrancy and begging as an offence in Chile, as that was contrary to the Declaration and Programme of Action of the World Congress against Commercial Sexual Exploitation of Children. Did the new Chilean legislation contain provisions concerning the minimum age of sexual consent? Until what age were children protected against sexual exploitation and did boys enjoy the same protection as girls?

29. She would like to know whether corporal punishment was completely prohibited and whether the health services took part in raising parents' awareness of the harm caused by that practice. Lastly, she would like to know how the child's right to privacy was respected, given that children under 15 had to consult their parents for any medical treatment.

30. Mr. AL-SHEDDI, noting the low rate of school attendance for indigenous children, which was 71 per cent at the primary level and 17 per cent in secondary education, asked what the Government intended to do to remedy such de facto discrimination. At the national level, only 75 percent of schoolchildren completed primary education and 45 percent their secondary education. Was not a reform of the education system as a whole now essential? Lastly, did the school curricula include human rights awareness-raising activities?

31. The CHAIRPERSON, speaking as a member of the Committee, said he noted from a report by UNICEF that the secondary school enrolment rate was seven times higher for children from prosperous families than it was for poor children. What steps was the Government intending to take to bridge that educational gap? Could the delegation perhaps also provide more information about the question of sexual violence inflicted upon minors? Was it possible to assist child victims of maltreatment within the family without removing them from the family environment? Did the programme for the "family reinforcement" and "family rehabilitation" mentioned in the written replies constitute intervention of that kind? What was meant by "family mediation" in the pilot project of the Ministry of Justice?

32. Ms. PÉREZ (Chile) indicated that her country had embarked on a process of reform in the early 1990s in many fields, including education, health care and juvenile justice. The aim of the health care reform currently under way was to introduce a greater equality in the distribution of services and to improve the quality of the care provided. About 80 per cent of health services were provided by the public sector

33. Schools might be entirely public (in which case they were municipal schools administered locally), semi-private (and thus subsidized by the State), or else private, with school fees being paid by the pupils' parents.

34. Mr. MORENO (Chile) said that the measures taken as part of the reform of the education system had yielded good results, as evidenced by the wider national coverage and the lower rate of absenteeism.
35. Sex education courses and human rights teaching had been introduced into the school curriculum. Children were, moreover, free to express their views and participate in the preparation of programmes and any other activities concerning them. As for cases of expulsion, the pupils had to be reintegrated within 48 hours; otherwise the school directors could face administrative or even judicial sanctions.
36. While there was a gap between urban and rural areas in respect of access to education, it should be borne in mind that 85 per cent of the population lived in towns, where there were many schools, and it was the 15 per cent made up of rural children who had limited access to education. In the countryside, it was generally the distances to be covered and bad climatic conditions that were an impediment to children's school attendance. At the national level, however, primary education was almost universal, the school enrolment rate being 98.6 per cent. The figures relating to pre-school education and to higher education were less good, coverage extending to only about a third of the population concerned. Lastly, it had to be acknowledged that, in terms of the quality of education, there were flagrant disparities between schools in rich districts and those in disadvantaged areas. Aware of those disparities, the Ministry of Education was exploring ways to remedy the problem.
37. Sick persons who went to a doctor or to a health care centre could be sure that professional confidentiality would be respected, unless the life of a minor was at risk, in which case the minor's parents were informed.
38. The situation regarding disabled children had markedly improved, 78.7 per cent of them having been able to continue their studies in normal schools in 2000, as against 70.1 per cent in 1996.
39. Applying the principle of the equality of all before the law, a great effort had been made for the benefit of indigenous children, as evidenced by the increase in the number of scholarships awarded to them. Furthermore, the Inter-American Development Bank in 2001 had put in place a programme under which \$9 million had been made available to support 159 schools carrying out activities for youths belonging to the Mapuche minority.
40. Although the Chilean Civil Code dating from the 19th century had entitled parents to administer moderate punishment on their children, that provision had now been repealed to bring domestic law into conformity with the Convention.
41. Ms. del GATTO (Chile) said that SENAME subsidized a number of NGOs for the purpose of accelerating the reform process once the draft legislation had been approved.
42. As part of the current reform of the justice system, it was planned to transfer responsibility for the protection of children's rights from SENAME to a new service coming under the Ministry of Social Affairs. SENAME would itself remain in charge of all matters affecting minors in conflict with the law. The "Tiempo Joven" detention centre's task was in part to determine whether a young offender had been capable of discernment when he or she

had committed a criminal act and also to prepare youths for their reintegration. The current reform of the justice system should lead to a reduction in the average length of young offenders' stay in such institutions.

43. Abandoned children in Chile had the same rights as other children and benefited from the system of State protection. They were in no case considered to be stateless persons.

44. Within the framework of the global initiative to combat the commercial sexual exploitation of children, which had been launched in Stockholm in 1996, the Chilean Government planned to conduct a study in 2002 that would help it determine the extent of the phenomenon in its territory and better identify the cities in which such illegal activities were concentrated. The results of the study would serve as a basis for the adoption of a series of measures to eradicate that scourge.

45. The CHAIRPERSON, speaking as a member of the Committee, cited UNICEF statistics which suggested that there were about 10,000 child prostitutes in Chile. Was the working group on sexual exploitation continuing its activities? Lastly, were the victims of sexual exploitation prosecuted in the justice system?

46. Ms. del GATTO (Chile) said that 18-year-old victims of sexual exploitation were neither prosecuted nor punished but cases were included in a register. As the figures given by UNICEF were only estimates, the Government had decided to undertake a study to obtain a more precise idea of the scale of the problem. The Government was implementing programmes for child victims to help them overcome their traumatic experiences and be reintegrated into society.

47. Concerning the maltreatment of children in SENAME centres, steps were immediately taken when such acts were reported to protect the child victim, and criminal proceedings were instituted without delay against the perpetrators.

48. With regard to violence within the family, about 65 per cent of acts of sexual abuse of children were known to be committed by family members. Previously, the child would have been taken away from his or her family for protection. Nowadays, it was the perpetrator of the maltreatment who was made to leave the family so that the child could be kept in the family setting to receive appropriate care. The child could also benefit, if necessary, from out-patient treatment free of charge.

49. Mr. FREY (Chile) said that the 1999 law on sex offences penalized the following acts: attempts to force a minor to leave the country for purposes of prostitution (punishable by imprisonment ranging from five years and one day to 20 years); incest; sexual exhibitionism in front of minors aged 12; the production of pornographic material featuring minors; and procuring (if that activity consisted in encouraging the prostitution of 12-year-olds, it was treated as equivalent to rape). The law protected boys and girls alike.

50. Mr. SALINAS (Chile) said that Chile had a large number of migrant workers coming from neighbouring countries essentially for economic reasons. When they had obtained a residence permit and a work permit, those persons and their family members had the same rights as Chilean citizens in respect of access to education, health care and social welfare.

51. Similarly, the approximately 200 persons who had obtained refugee status under the Convention relating to the Status of Refugees also had access, like the members of their families, to education and health care and likewise benefited from programmes especially designed for them. The Government had signed an agreement with UNHCR to help refugees and their families either to settle in Chile or to return to their countries of origin.

52. With regard to Chileans living abroad, a special service had been set up within the Ministry of Foreign Affairs to resolve the problems which they faced and help those wishing to do so to return home.

53. Furthermore, the Government had elaborated a draft law under which Chileans living abroad who had lost or had to renounce Chilean nationality could recover their nationality.

54. Ms. ZULOAGA (Chile) said that, under the International Programme on the Elimination of Child Labour (IPEC), Chile had set up a National Committee on Child Labour Eradication, which was chaired by the Minister of Labour and included representatives of the private sector, NGOs, churches, ILO and UNICEF. The Committee was in particular entrusted with studying the question of sensitizing the public to the danger of child labour and proposing legislative measures aimed at eliminating that practice, even if child labour was relatively uncommon in Chile, where it was estimated that only 1.2 per cent of children aged 6 to 14 worked.

55. The Committee had elaborated a plan for the prevention and elimination of child and adolescent labour which covered the period 2001-2010 and had five components: dissemination of information on violations of children's rights; collection of data on child labour; proposals for legislative and penal measures to combat child labour; and follow-up of implementation of the plan.

56. A law had been passed in June 2000 amending the Labour Code. It prohibited the employment of under-15-year-olds and provided that children aged from 15 to 18 could work only if doing so was not detrimental to their studies and they had their parents' authorization.

57. The CHAIRPERSON, speaking as a member of the Committee, asked whether minors had access to means of contraception, what was the minimum age of sexual consent and whether sex education courses were provided in the secondary education system.

58. Ms. SARDENBERG said that she would like to know whether the Convention had been translated into the indigenous languages, what was a situation of single-parent families, what measures were being taken to combat HIV/AIDS, whether the Hague Convention on Inter-Country Adoption had been adopted and what was the central authority charged with supervising inter-country adoptions.

59. Mr. CITARELLA observed that there were several definitions of the child in the Civil Code. He was surprised that, under the terms of article 26 of the Code, any person having reached the age of puberty was to be considered as an adult.

60. Mr. MORENO (Chile) said that sex education courses were compulsory in all secondary schools, whether public or private. The law did not expressly define the minimum age of sexual consent.

61. A non-governmental organization had translated the Convention into the indigenous languages and the Government would publish and disseminate it. As to single-parent families, measures were taken to help them, particularly when they lived in extreme poverty.

62. Ms. del GATTO (Chile) said that Chile had ratified the Hague Convention on Inter-Country Adoption and the central authority charged with ensuring its implementation was SENAME.

63. Ms. SARDENBERG said that the dialogue between the Chilean delegation and the Committee had been very fruitful and rewarding. She hoped that it would help Chilean society, which seemed to be relatively conservative, in undertaking the reforms necessary for Chilean children to be truly considered as having rights and as citizens allowed to give their views on all matters of concern to them, including with respect to education and health care.

64. Measures should also be taken to improve the situation of children living in rural areas, poor children, children with disabilities and indigenous children. Civil society should be closely associated with efforts to carry out that task.

65. Lastly, the State party should make people working with and for children more familiar with the principles set forth in the Convention.

66. Ms. PÉREZ (Chile) said that her Government was perfectly aware that implementing the Convention involved a profound cultural transformation of Chilean society. The country was endeavouring to restore the social and cultural fabric that had for a long period been systematically impaired, a phenomenon which in part explained the delay in the implementation by Chile of policies on children. Chile was determined to make every effort, at the social, political and institutional level, to serve the cause of children.

67. The CHAIRPERSON thanked the delegation of Chile for the information which it had communicated to the Committee and expressed his confidence that the Chilean Government would do its utmost to improve the situation of children.

The meeting rose at 6 p.m.