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COMMITTEE ON ECONOMIC, SOCIAL  
AND CULTURAL RIGHTS  
Pre-sessional working group  
1-5 December 2003

**IMPLEMENTATION OF THE INTERNATIONAL COVENANT  
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**List of issues to be taken up in connection with the consideration of the third  
periodic report of CHILE concerning the rights covered by articles 1-15 of  
the International Covenant on Economic, Social and Cultural Rights  
(E/1994/104/Add.26)**

## **I. GENERAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED**

1. Please indicate whether the State party intends to establish a national human rights institution in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex).
2. Please clarify whether the State party intends to adopt a national plan of action for the protection of human rights in accordance with the Vienna Declaration and Programme of Action of 1993.
3. In its report, the State party acknowledges that economic, social and cultural rights constitute an ethical framework for defining economic and social policies. What specific action has the State party taken to ensure that economic policy priorities adequately reflect social development concerns?
4. Is the International Covenant on Economic, Social and Cultural Rights part of domestic legislation and are its provisions justiciable? Please cite examples of case law, in which the Covenant has been invoked before the courts.
5. Please indicate the position of the State party on the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights.
6. Please indicate whether non-governmental organizations have been consulted in the preparation of the third periodic report of the State party.

## **II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (arts. 1-5)**

### **Non-discrimination (art. 2, para. 2)**

7. Please indicate the measures taken by the State party, and the results thereof, to guarantee a non-discriminatory treatment of indigenous communities, in particular with regard to the Mapuche community. Please also provide information on measures taken to accommodate the demands of the Mapuche community on their ancestral lands.
8. Please provide updated information on the proposal to modernize the State party's migration policy, especially with reference to the vague provisions which empower the migration authorities to prohibit entry into the country of persons on ideological grounds, and the imprecise rules governing access to residence (see E/1994/104/Add.26, paras. 62-64).

### **Equality between men and women (art. 3)**

9. Please provide data, based on the results of the national system of gender indicators (ibid., para. 135), on the areas deemed critical for the creation of equal opportunities for men and women in the enjoyment of economic, social and cultural rights.

10. Please provide statistics on the number of women elected to government posts, as well as those in the judicial system, and the labour and entrepreneurial sectors.

### **III. ISSUES RELATING TO SPECIFIC RIGHTS RECOGNIZED IN THE COVENANT (arts. 6-15)**

#### **Right to work (art. 6)**

11. Please provide more information about the labour reform and the coverage of the compulsory unemployment insurance scheme approved by the present Government.

12. Please provide information on measures, legislative or otherwise, taken by the State party to combat child labour.

#### **Right to just and favourable conditions of work (art. 7)**

13. Please clarify whether the current minimum wage is sufficient to provide workers and their families with a decent living.

14. The report acknowledges various forms of discrimination against women - type of employment, wages, insecurity of employment and wage inequality. What measures has the State party taken to eliminate such discrimination against working women?

15. Please provide further information on measures taken to implement the Act on Disability and related regulations (ibid., paras. 72-74).

16. Please indicate whether the State party envisages ratifying International Labour Organization Convention No. 81 on Labour Inspection of 1947.

#### **Trade union rights (art. 8)**

17. Please provide information on measures taken to combat anti-trade union practices on the part of employers, referred to in paragraph 265 of the State party's report.

18. Please indicate whether amendments to the legislation regulating the activities of trade unions and the right to strike are envisaged, with a view to reducing restrictions on the right to strike and ensuring the right of trade unions to organize their activities without interference.

#### **Right to social security (art. 9)**

19. Please provide further information on how the Constitutional right to social security for all citizens is realized in practice, since it appears from the State party's report that the Chilean social security system does not grant universal coverage insofar as those who are unable to contribute to the private insurance system remain excluded and the public system is inadequate to meet the needs of low-income groups of the population.

20. What is the proportion of the employer's and the employee's contributions in the public and private insurance schemes?

21. What specific measures have been adopted to prevent discrimination against women in the private social insurance system?

**Protection of the family, mothers and children (art. 10)**

22. Please provide information on the status of the planned establishment of Family Courts and the bill concerning the status of children and young persons (*ibid.*, paras. 400-401).

23. Please clarify whether Chilean legislation recognizes divorce. If not, does the State party envisage adopting new legislation on divorce?

24. Please clarify whether domestic violence is a criminal offence in the State party and provide information on results achieved under the Intersectoral Plan on Domestic Violence (*ibid.*, para. 632).

25. Please clarify whether Chilean legislation recognizes de facto unions and provide information on how the rights of women living in de facto unions and children born out of such unions are protected. What is the system guaranteeing the right to alimony for the children?

26. Please provide information on the specific measures taken to address the problem of trafficking in women, and indicate the results of the measures taken to combat trafficking in children (*ibid.*, para. 491).

**Right to an adequate standard of living (art. 11)**

27. According to the State party's statistical data, the population living in poverty numbers close to 3,081,000 individuals, or 20.6 per cent of the total population, while the population living in conditions of extreme poverty numbers 849,000 persons (*ibid.*, para. 507). What measures are being taken by the State party to reduce poverty, so as to ensure an adequate standard of living for all?

**Right to physical and mental health (art. 12)**

28. Please provide information on the results of the health reform introduced by the State party.

29. Please provide updated information on the reproductive and sexual health of women. How does the State party address the negative effect of the low age of sexual consent (12 years) on the reproductive health of girls and boys? How does Chilean legislation classify and regulate abortion? Please provide up-to-date information on the number of abortions carried out.

30. Please provide information on the practical results of measures undertaken to combat pollution in urban areas and its negative effect on the population's health.

**Right to education (arts. 13 and 14)**

31. Please provide updated information on budgetary allocations for primary and secondary education by sector (municipal public education, State-subsidized private education).

32. How does the State party guarantee the principle of universal free primary education, especially for children from low-income families?

33. Please provide further information on the measures taken to deal with the problem of non-attendance in primary and secondary schools of children from poor families (*ibid.*, paras. 726 and 729).

**Cultural rights (art. 15)**

34. Please provide information on the enjoyment of cultural rights by ethnic groups in the State party and on the extent to which ethnic groups have access to education in their mother tongue.

35. Please update the data on the budget for cultural activities which, according to the State party's report, seems insufficient to meet the needs of the cultural and artistic world (*ibid.*, para. 819).

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