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I. General information about the State

A. Demographic, economic, social and cultural characteristics of the State

1. Historical context

1. The history of Chile can be divided into 12 periods, from the earliest human settlement to the present day. The first, or pre-Hispanic period, covers the history of the Amerindian ethnic groups present in the territory from 14,800 B.C. to the arrival on the American continent of the first European explorers in 1492. The second period, the discovery and exploration of the territory, is marked by the arrival in 1520 of Ferdinand Magellan and his expedition, the first Europeans to reach Chile, in the far south, through the strait that now bears his name. However, it is Diego de Almagro, who reached the Aconcagua Valley with his expedition in 1536, who is considered to be the official discoverer.

2. The Spanish conquest, or third period, begins with the arrival of Pedro de Valdivia in 1541 and the founding of the city of Santiago de Nueva Extremadura (the current capital). Valdivia, proclaimed Governor and Captain General, led the military campaigns against the indigenous Mapuche population to establish Spanish control over the central and southern territories. These campaigns, which were waged successively over three centuries, are known as the Arauco War.

3. The colonial period (the fourth period) covers two centuries, beginning in 1598, the year in which the colonial institutions were established: the Governorate and Captaincy General of Chile, which was assisted by the Real Audiencia and placed under the authority of the Viceroy of Peru. The outset of this period was highlighted by the Mapuche victory in the battle known as the Disaster of Curalaba, which established the Bío-bío River as the generally accepted border between the Spanish colony and the lands under Mapuche control.

4. The fifth period, known as the period of independence, begins with the ouster of the Spanish governor in 1810. The first symbolic act of emancipation took place on 18 September of that year, with the establishment of the First National Junta of Government. The Declaration of Independence was signed on 12 February 1818, and Bernardo O'Higgins was proclaimed Supreme Director of Chile. This period is followed by what is known as the period of national organization, a period that lasted until 1830. During these periods, various attempts were made to codify national coexistence,¹ with the abolition of slavery in July 1823 a noteworthy development.

5. The seventh period is known as the conservative republic (1831–1861) and the eighth as the liberal republic (1861–1891). These periods were marked by the entry into force of the Constitution of 1833, which was put in place by Diego Portales; it provided for a strong, centralized government, and its adoption marked the starting point of almost a century of institutional stability and economic prosperity.

6. This Constitution laid the groundwork for the consolidation of a republican State headed by a president and based on the separation of powers and periodic turnover of

¹ Eight constitutional texts followed in succession during this period: the Constitution of 1811, the Provisional Constitution of 1812, the Provisional Government Constitution of 1814, the Provisional Constitution of 1818, the Constitution of 1822, the Constitution of 1823, the Draft Constitution of 1826 and the Constitution of 1828.

Congress and the President of the Republic achieved through popular elections conducted in accordance with the census suffrage system in operation at the time. As from 1833, Chile went on to maintain the rule of law in a process interrupted only twice: once by the civil war of 1891, which culminated in the establishment of a parliamentary system (1891–1925), and again by the political and governability crisis of 1924–1932, during which one short-lived military government followed another.

7. The tenth period, the presidential republic, begins with the adoption of the Constitution of 1925 and the re-establishment of the presidential system that, starting in 1932, led to an extended period of normality in the selection of its leaders and the consolidation of democratic institutions, and of popular participation in the political process. In January 1934 women and foreigners were given the right to vote in municipal elections, and in January 1949 this right was extended to presidential and parliamentary elections. The last amendments to the Constitution of 1925 were made in 1971 and were intended to guarantee the rule of law, as well as social and personal rights, expressly establishing political rights, improving the freedom of opinion for the sake of pluralism of the democratic system and encouraging the participation of the community with the constitutional recognition of its organizations. Three parties dominated political life: the Radical Party, the Christian Democratic Party and the Socialist Party. Many State-owned companies were created in this period. The latter part of the period was marked by the triumph of the left and of socialist ideas.

8. The eleventh period began on 11 September 1973 with the overthrow of the Government of President Salvador Allende Gossens, the break down of the democratic institutions and the establishment of a military regime headed by General Augusto Pinochet Ugarte, who pursued a liberal economic policy and the adoption by referendum of the Political Constitution of 1980 (the Constitution), which remains in force.

9. An end to the period of military rule was obtained by means of a non-violent political transition that implied acceptance of the Constitution of 1980 by all political groups. In the referendum of 5 October 1988 the designation of General Pinochet as President for the period of transition to democracy, which would be extended by means of a constitutional amendment until 1997, was rejected.² This rejection led to the first presidential elections, in December 1989.

10. Thus, the twelfth period — the democratic republic — began on 11 March 1990 and continues to the present day. It began with the centre-left Governments of the Concertación de Partidos por la Democracia (Coalition for Democracy). The first Government was that of President Patricio Aylwin Azócar, followed by President Eduardo Frei Ruiz-Tagle in 1994, President Ricardo Lagos Escobar in 2000 and, lastly, in 2006, President Michelle Bachelet Jeria, Chile's first woman president.

11. The democratic republic was strengthened, when in a transfer of political power, Sebastián Piñera Echenique assumed the presidency on 11 March 2010; heading a centre-right coalition made up of the political parties Renovación Nacional (National Renewal) and Unión Demócrata Independiente (Independent Democratic Union).

12. Thus a strengthening of democratic institutions, including the re-establishment of the National Congress, has been under way since 1990; this process has incorporated within the free-market economic system, a strategy of growth with equity while striking a macroeconomic balance and emphasizing social programmes to reduce poverty and

² The “No” option obtained 54.7 per cent of the vote, while the “Yes” option obtained only 43.01 per cent.

exclusion, improve health, education and employment, and promote the human rights of all Chileans.

2. Main ethnic and demographic characteristics of the country

Territory

13. Chile is located along the south-west coast of South America. It is bounded on the north by Peru, on the east by the Plurinational State of Bolivia and Argentina, on the south by the South Pole and on the west by the Pacific Ocean. It is made up of mainland Chile, the oceanic islands and the Chilean Antarctic Territory. From north to south (from Visviri to the Diego Ramírez Islands), the territory on the American continent spans roughly 4,300 kms. The average width of the mainland is 250 kms. Easter Island is located some 3,600 kms offshore, in the Pacific Ocean. The total land area of Chile is 2,006,096 km² (756,096 km² for the mainland and the oceanic islands and 1,250,000 km² for the Chilean Antarctic Territory).

Population

14. In 2013, the estimated population, according to data from the National Statistical Institute, was 17,556,815. By 2050, it is estimated that the population of Chile will have grown to 20,204,779 inhabitants, of whom 9,904,861 will be men and 10,299,918 women.

Table 1

Estimated population in 2013 by sex³

<i>Year</i>	<i>Population</i>		
	<i>Total</i>	<i>Men</i>	<i>Women</i>
1992 (census)	13 665 241 (13 348 401)	6 755 455 (6 553 254)	6 909 786 (6 795 147)
2002 (census)	15 745 583 (15 116 435)	7 793 208 (7 447 695)	7 952 375 (7 668 740)
2005	16 267 278	8 052 564	8 214 714
2010	17 094 275	8 461 327	8 632 948
2012	17 402 630	8 612 483	8 790 147
2013	17 556 815	8 688 067	8 868 748

Rate of population growth

15. According to the 2002 census, the population of Chile is five times greater than it was at the turn of the twentieth century, but figures from the past 30 years show that population growth is slowing. From 2005 to 2010 the average annual population growth rate was 0.99 per cent; from 1992 to 2002 it was 1.2 per cent. And in the preceding 10-year period — that is, from 1982 to 1992 — it was 1.6 per cent. The decline in the population growth rate makes Chile one of the four Latin American countries with the lowest rates of population growth.

³ National Statistical Institute-United Nations Economic Commission for Latin America and the Caribbean (ECLAC), *Chile: Proyecciones y Estimaciones de Población. Total País. 1950–2050* (Chile: Population Projections and Estimates. Country Total), table 11, Chile: *Población total por sexo y años calendario estimada al 30 de junio* (Total population, estimated as at 30 June, by sex and calendar year), p. 36.

Table 2
Population growth rates for periods from 2005 to 2010⁴

<i>Period</i>	<i>Growth rate (per 100 inhabitants)</i>
2005–2006	1.01
2006–2007	1.00
2007–2008	0.99
2008–2009	0.98
2009–2010	0.97

Population density

Table 3
Estimated population as at 30 June 2010 and population density from 2005 to 2010⁵

<i>Year</i>	<i>Population</i>	<i>Density</i>
2005	16 267 278	8.1
2006	16 432 674	8.2
2007	16 598 074	8.3
2008	16 763 470	8.4
2009	16 928 873	8.4
2010	17 094 275	8.5

Note: As at 30 June 2012, Chile had a population density of 8.7 persons per km².

Population by geographic region

16. The largest number of inhabitants are concentrated in the country's central regions — Valparaíso, Biobío and the Santiago Metropolitan Region — with 62.5 per cent of the population. Of these, the Metropolitan Region with its approximately 6.7 million people, or 40.2 per cent of the country's total population, is the most heavily populated. The regions of Aisén, Magallanes and the Chilean Antarctic, located in the far south, are the least populated regions, with an estimated population of 260,206 people, or 1.6 per cent of the total. With a population of 7,007,620, or 40.3 per cent of the country total, the Metropolitan Region is the most heavily populated region. This region also has the smallest surface area and is thus the most densely populated region in Chile (454.9 people per km²).⁶

⁴ National Statistical Institute, *Proyecciones y Estimaciones de Población 1950–2050* (Population projections and estimates 1950–2050), August 2005.

⁵ Land area obtained by planimetrics on 1:50,000-scale maps from the Military Geographic Institute for Regions I to X, the Metropolitan Region, Region XIV and Region XV. The 2007 political and administrative division did not take into account the surface areas of Regions XI and XII to keep from considering inland maritime waters. Table 1.2.1-02, p. 96 (National Statistical Institute: *Compendio Estadístico 2009* [2009 Statistical Compendium], October 2009).

⁶ National Statistical Institute, *Compendio Estadístico 2012* (2012 Statistical Compendium), p. 97.

Ethnic composition of the population

17. According to the 2002 census, 4.6 per cent of the population (692,192 persons) claimed to belong to an indigenous ethnic group, distributed in the following manner: Mapuche (87.3 per cent), Aymara (7.01 per cent), Atacameño (3.04 per cent), Quechua (0.89 per cent), Rapa Nui (0.67 per cent), Colla (0.46 per cent), Alacalufe (0.38 per cent) and Yámana (0.24 per cent). The indigenous population is concentrated primarily in Region IX, Araucanía (29.6 per cent), the Metropolitan Region (27.7 per cent), Region X, Lagos (14.7 per cent), Region VIII, BíoBío (7.8 per cent) and Region I, Tarapacá (7.1 per cent).

Table 4

Indigenous population by region

Region	Indigenous nation/people									Total	% Indigenous
	Alacalufe	Atacameño	Aymara	Colla	Mapuche	Quechua	Rapa Nui	Yámana	None		
I (Tarapacá)	27	590	15 204	126	2 872	702	50	34	219 345	238 950	8.20
II (Antofagasta)	52	13 874	2 563	194	4 382	2 063	42	60	470 754	493 984	4.70
III (Atacama)	32	3 030	393	1 736	2 223	46	60	18	246 798	254 336	2.96
IV (Coquimbo)	37	664	450	325	3 549	58	63	48	598 016	603 210	0.86
V (Valparaíso)	130	425	564	74	14 748	149	2 637	111	1 521 014	1 539 852	1.22
VI (O'Higgins)	58	101	113	48	10 079	60	56	58	770 054	780 627	1.35
VII (Maule)	58	65	107	15	8 134	58	49	71	899 540	908 097	0.94
VIII (BíoBío)	120	143	222	43	52 918	160	124	177	1 807 655	1 861 562	2.90
IX (Araucanía)	110	64	89	90	202 970	460	104	63	665 585	869 535	23.46
X (Lagos)	390	68	130	31	60 404	193	120	142	655 261	716 739	8.58
XI (Aisén)	275	37	46	2	7 604	57	27	71	83 373	91 492	8.87
XII (Magallanes and the Chilean Antarctic)	569	27	52	24	8 717	45	25	191	141 176	150 826	6.40
XIII (Santiago Metropolitan Region)	671	1 411	2 787	287	182 918	1 609	1 215	556	5 869 731	6 061 185	3.16
XIV (Ríos)	54	22	51	31	40 260	121	38	38	315 781	356 396	11.40
XV (Arica y Parinacota)	39	494	25 730	172	2 571	394	37	47	160 160	189 644	15.55
Total	2 622	21 015	48 501	3 198	604 349	6 175	4 647	1 685	14 424 243	15 116 435	4.58

Population distribution by religion

18. Taking a population consisting of people of at least 15 years of age, the 2002 census, revealed the following distribution by religion or creed: Roman Catholic (69.6 per cent), Evangelical (15.14 per cent), Jehovah's Witness (1.06 per cent), Jewish (0.13 per cent), Mormon (0.92 per cent), Muslim (0.03 per cent), Orthodox (0.06 per cent), other (4.39 per cent), none/agnostic/atheist (8.30 per cent).

Table 5
Population aged 15 years or older by religion and by region

Region	Religion/Creed									Total population 15 years or older
	Roman Catholic	Evangelical	Jehovah's Witness	Jewish	Mormon	Muslim	Orthodox	Other	None	
I (Tarapacá)	124 447	19 678	2 747	80	2 143	210	47	9 206	14 845	173 403
II (Antofagasta)	258 972	39 741	6 998	111	4 714	75	91	17 486	32 950	361 138
III (Atacama)	138 428	19 537	2 281	80	2 353	60	30	6 492	12 942	182 203
IV (Coquimbo)	358 572	32 658	5 017	156	3 401	105	98	14 406	24 715	439 128
V (Valparaíso)	878 995	111 433	14 673	870	13 009	305	497	58 097	87 052	1 164 931
VI (O'Higgins)	451 837	65 200	4 941	96	3 802	89	424	14 116	30 832	571 337
VII (Maule)	505 965	97 995	4 318	172	3 783	102	84	19 363	35 821	667 603
VIII (Bíobío)	805 517	389 632	10 650	712	13 606	172	266	46 223	107 039	1 373 817
IX (Araucanía)	407 557	151 959	4 560	708	4 084	82	134	25 181	38 369	632 634
X (Lagos)	393 163	76 562	3 567	192	4 253	76	77	18 211	28 917	525 018
XI (Aisén)	47 110	9 582	388	19	903	14	18	1 878	5 572	65 484
XII (Magallanes and the Chilean Antarctic)	91 988	9 020	1 208	28	1 531	16	22	3 776	7 826	115 415
XIII (Metropolitan Region)	3 129 249	595 173	52 848	11 498	41 153	1 476	5 004	243 549	472 017	4 551 967
XIV (Ríos)	163 461	64 020	1 677	101	2 316	28	91	9 184	20 587	261 465
XV (Arica y Parinacota)	98 167	17 535	3 582	153	2 684	84	76	5 979	12 506	140 766
Total	7 853 428	1 699 725	119 455	14 976	103 735	2 894	6 959	493 147	931 990	11 226 309

Population by sex

19. Women account for 50.7 per cent (8,632,948 people) of the total population and men for 49.3 per cent (8,461,327). For every 100 men there are 102 women, a ratio that corresponds to the different mortality rates for the sexes, taking into account variations of time and age. Women predominate in the Metropolitan Region and in Regions V and VIII, and to a lesser extent in the other regions of the country.

Table 6
Estimated total population, by sex and by 5-year age group as at 30 June 2010⁷

Age group	Males	Females	Total
0–4	635 810	612 515	1 248 325
5–9	630 053	607 444	1 237 497
10–14	676 215	652 720	1 328 935

⁷ National Statistical Institute, *Proyecciones y Estimaciones de Población. 1990–2020* (Population Projections and Estimates. 1990–2020). August 2005.

<i>Age group</i>	<i>Males</i>	<i>Females</i>	<i>Total</i>
15–19	756 626	731 691	1 488 317
20–24	741 731	720 615	1 462 346
25–29	667 792	652 949	1 320 741
30–34	588 124	581 432	1 169 556
35–39	618 163	618 028	1 236 191
40–44	613 175	618 799	1 231 974
45–49	618 588	630 576	1 249 164
50–54	527 804	544 863	1 072 667
55–59	406 235	428 891	835 126
60–64	320 361	351 316	671 677
65–69	249 712	289 567	539 279
70–74	173 101	216 218	389 319
75–79	122 538	172 610	295 148
80+	115 299	202 714	318 013
Total	8 461 327	8 632 948	17 094 275

Urban/rural population

20. Some 86.6 per cent of the population lives in urban areas, while 13.4 per cent lives in rural areas. The results of the 2002 census indicate significant growth in the urban population (83.5 per cent in 1992), reflecting a movement of 181,674 people in a single decade. In rural areas (national and regional averages) the ratio of men to women is greater than 1:1 (more men than women), whereas in urban areas it is less than 1:1.

Age distribution

21. In 2010, National Statistical Institute estimates broke the population down into the following age groups: 0–14 years (22.3 per cent of the total population), 15–64 (68.7 per cent), 65 and over (9.0 per cent) and 60 and over (12.9 per cent). Figures from the 2002 census showed that 25.7 per cent of the population was under the age of 15 while 11.4 per cent was 60 or older. In 1960 the equivalent figures were 39.6 per cent and 6.8 per cent. These figures confirm a decrease in the proportion of persons less than 15 years old and an increase in that of older persons (persons aged 60 or older), a phenomenon that shows that Chile is in an advanced phase of the transition to an ageing population. Among the major causes of this demographic change are the decline in fertility, the drop in overall mortality rates and, above all, the sustained decrease in the risk of death in childhood and in youth.

Dependency ratio

Table 7

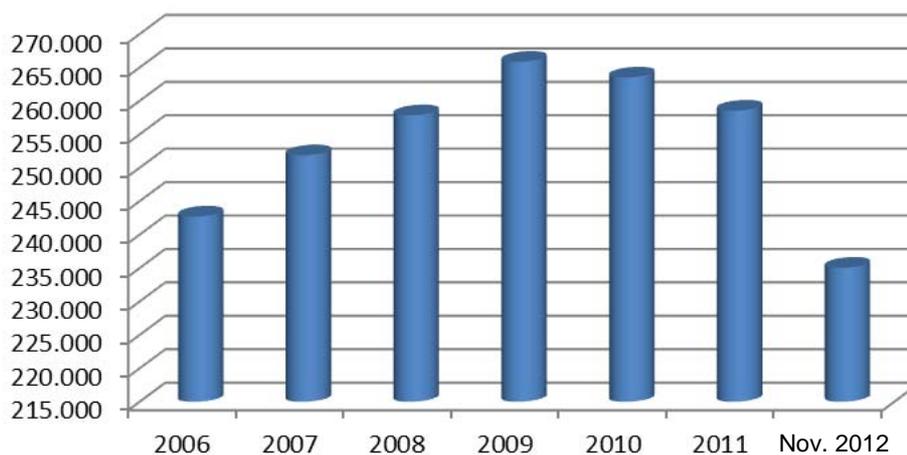
Age dependency ratio by sex, 2005–2010⁸

<i>Sex</i>	<i>Year</i>					
	2005	2006	2007	2008	2009	2010
Both sexes	48.9	48.2	47.6	46.9	46.3	45.6
Men	47.9	47.2	46.5	45.8	45.1	44.4
Women	49.9	49.3	48.6	48	47.4	46.8

Births and deaths

22. In 2007, Chile had a crude birth rate of 15.3 per 1,000 and a crude death rate of 9.7 per 1,000; the rate of natural population growth stood at 9.7 per cent.

Table 8

Total births⁹

	2006	2007	2008	2009	2010	2011	Nov. 12
Total births	242 700	251 860	257 840	265 840	263 499	258 542	235 046

⁸ Ibid. The age dependency ratio is a measure of the dependent population, i.e. the population of those younger than 15 years of age and those older than 65 per 100 people between the ages of 15 and 64 (2004–2008).

⁹ Information from the Civil Registry and Identity Service, current as at 30 November 2012 (Internet).

Table 9
Total deaths, 2004–2008

Vital statistics	Year				
	2004	2005	2006	2007	2008 P/
Deaths	86 138	86 102	85 639	93 000	90 168

Table 10
Number of deaths and rates of infant and maternal mortality and deaths from abortions¹⁰

Number of deaths and mortality rate	2004	2005	2006	2007	2008 P/
Number of deaths of infants under 1 year of age	2 034	1 911	1 839	2 009	1 948
Number of maternal deaths	42	48	47	44	41
Number of maternal deaths from abortions	4	7	7	4	5
Infant mortality rate (per 1,000 live births)	8.7	8.2	7.9	8.3	7.8
Maternal mortality rate (per 100,000 live births)	18.1	20.7	20.2	18.2	16.5
Deaths from abortions (per 100,000 live births)	1.7	3.0	3.0	1.7	2.0

Table 11
Number and percentage of deaths by cause of death¹¹

International Classification ICD-10	Cause of death	Year									
		2004		2005		2006		2007		2008 P/	
		No.	%	No.	%	No.	%	No.	%	No.	%
I00-I99	Diseases of the circulatory system	24 268	28.2	24 290	28.2	24 087	28.1	26 038	28.0	24 809	27.5
C00-C97	Malignant neoplasms	19 900	23.1	20 480	23.8	20 781	24.3	21 488	23.1	21 824	24.2
V01-Y98	External causes of morbidity and mortality	7 508	8.7	7 518	8.7	7 847	9.2	7 994	8.6	8 316	9.2
J00-J99	Diseases of the respiratory system	8 345	9.7	8 007	9.3	7 691	9.0	9 430	10.1	8 352	9.3
K00-K93	Diseases of the digestive system	6 564	7.6	6 130	7.1	6 225	7.3	6 556	7.0	6 694	7.4
R00-R99	Symptoms, signs and abnormal clinical and laboratory findings, not elsewhere classified	2 439	2.8	2 379	2.8	2 060	2.4	2 718	2.9	2 557	2.8
A00-B99	Certain infectious and parasitic diseases	1 824	2.1	1 767	2.1	1 753	2.0	1 775	1.9	1 712	1.9
P00-P96	Certain conditions originating in the perinatal period	844	1.0	806	0.9	816	1.0	932	1.0	898	1.0
N00-N99	Diseases of the genitourinary system	2 436	2.8	2 566	3.0	2 463	2.9	2 683	2.9	2 570	2.9
E00-E90	Endocrine, nutritional and metabolic diseases	4 243	4.9	4 251	4.9	4 242	5.0	4 657	5.0	4 143	4.6

¹⁰ National Statistical Institute, *Anuario estadísticas vitales (Vital Statistics Yearbook)*. Rates have been calculated on the corrected numbers of births. P/ = provisional figures.

¹¹ Ibid.

International Classification ICD-10	Cause of death	Year									
		2004		2005		2006		2007		2008 P/	
		No.	%	No.	%	No.	%	No.	%	No.	%
	Other causes	7 767	9.0	7 908	9.2	7 674	9.0	8 729	9.4	8 293	9.2

Life expectancy

23. According to 2009 estimates, life expectancy at birth is 75.4 years for men and 80.88 years for women, with an average of 78.08 years for the population as a whole.

Table 12

Life expectancy at birth, by sex¹²

Year	Both sexes	Men	Women
1990	72.91	69.41	76.45
2000	76.86	73.65	80.02
2009	78.08	75.40	80.88

Years of potential life lost

24. In 2008, men lost 4.3 more years of potential life than did women, as reflected in the larger number of male deaths and of years of life lost over the course of a lifetime. In general, older age groups, both men and women, suffered the largest losses of potential years of life. In the 0–14 age bracket, females accounted for 11.95 per cent of all years of potential life lost, while males accounted for 8.6 per cent. Between the ages of 15 and 64, the percentage of years of potential life lost was higher for men (52.5 per cent) than for women (42.81 per cent), with the differences more pronounced in the 20–44 age range. Starting at 65 years of age, women's share of years of potential life lost was greater than men's (45.24 per cent versus 38.90 per cent).

25. The causes of death that contributed most to men's year of potential life lost in 2008 were: diseases of the circulatory system (2.45 years); malignant neoplasms (2.45 years); external causes (2.2 years); and diseases of the digestive system (1.07 years). Together, these causes of death accounted for 72 per cent of years of potential life lost. For women, the largest contributors to years of potential life lost were deaths from malignant neoplasms (2.22 years) and from diseases of the circulatory system (1.45 years); these two causes of death accounted for 52.52 per cent of all estimated years of potential life lost in 2008.

26. Looking only at the most important causes of years of potential life lost, the weight of age as a contributing factor was calculated for each sex in an effort to determine a pattern of behaviour for this variable. It was found that deaths from malignant neoplasms, diseases of the circulatory system and diseases of the digestive system contributed most significantly to years of potential life lost at higher ages, particularly among older adults, accounting for 50 per cent or more of such losses.

27. In the case of external causes affecting men, the behaviour of the age variable is different. The greatest contribution to years of potential life lost is made at young ages,

¹² Life expectancies at birth for the period 1990–2001 were obtained using the estimated population and vital statistics. Those for the period 2002–2007 were obtained with the updated population and vital statistics. Those for 2008–2009 are projections based on earlier estimates.

starting at 15 years of age and peaking between the ages of 25 and 29, so that this group accounts for 12.55 per cent of all years of potential life lost.

Fertility

28. Since the mid-twentieth century, fertility has undergone profound transformations. During the period 1950–1965, the average number of children per woman rose from 5.0 to 5.4. At that point, a downward trend emerged. In 1980, the average number of children per woman was 2.7, which meant that the fertility rate had fallen by half in 15 years. For the five-year period 2000–2005, according to the most recent population projections,¹³ the average was 1.99 children per woman of childbearing age (15–49 years of age). In 2007 it was 1.97 children per woman, and the results for 2008 — 1.92 children per woman nationwide — confirm that trend.

29. The greatest contribution to fertility levels, equivalent to 25 per cent of that made by all women of childbearing age, is made by the female population of 25 to 29 years of age. Women in Chile are having children relatively late, as figures for 9 of the country's 15 regions show, while in 5 regions fertility levels are lower than the national average. Moreover, in the three regions with fertility rates above the national average, early fertility (women between the ages of 20 and 24) plays a greater role.

30. Late fertility, in which the higher percentage contribution to total fertility is very similar for women aged 20–24 and those aged 25–29, is observed in regions with fertility rates below the national average. The fertility level for adolescents aged 15 to 19 years is 14.8 per cent.

Table 13

Overall fertility rates, 1999–2008¹⁴

<i>Year</i>	<i>Rate (a)</i>
1999	2.20
2000	2.10
2001	2.00
2002	2.00
2003	1.90
2004	1.91
2005	1.93
2006	1.91
2007	1.88
2008	1.92

Marriages and marriage rates

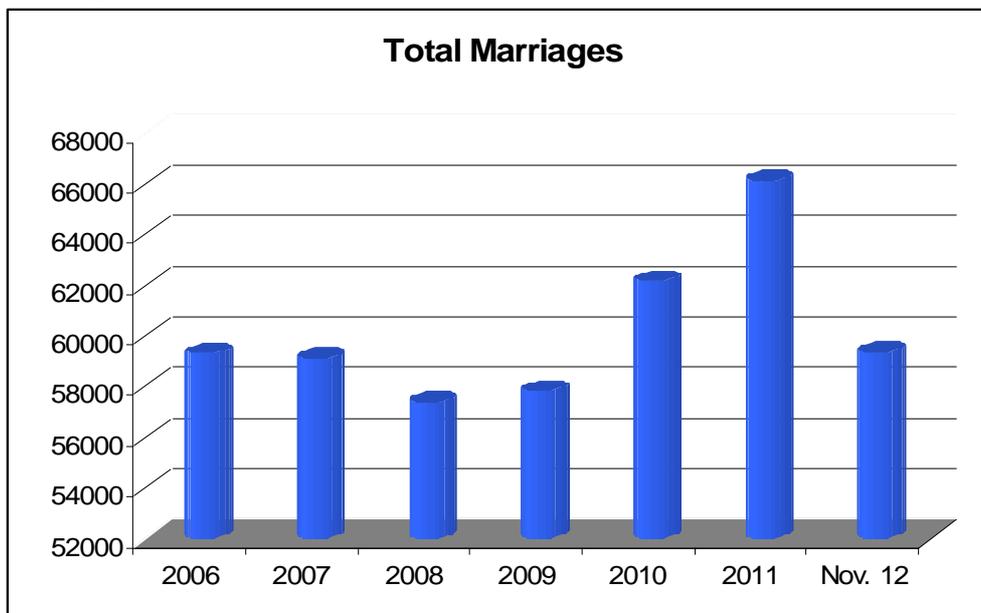
31. In 2008, there were a total of 57,404 marriages registered in Chile. Marriage rates have fluctuated. Between 1996 (83,547 marriages) and 2008, for example, there was a downward trend, with the exception of the increase posted in 2006 (59,323 marriages). In

¹³ National Statistical Institute, August 2005.

¹⁴ National Statistical Institute, *Anuario de estadísticas vitales, serie 1950–2007, Proyección de población femenina en edad fértil, serie 1950–2007 (Vital Statistics Yearbook, series 1950–2007, Projection of the female population of childbearing age, series 1950–2007)*. The table shows the average number of children born per woman surviving at the end of childbearing age (15–49).

2007 there was a decline of 0.6 per cent over the previous year, while in 2008 there was a decline of 2.9 per cent. Since 2009 there has been a sustained upward trend. According to the 2002 census, the average age at which men contract their first marriage is 27.7 years, while the average age for women is 24.6 years. According to the 2008 vital statistics report, there has been an increase of 2.1 years for men (to 29.8 years of age) and 3.5 years (to 28.1 years) for women.

Table 14
Marriages, 2006–2012¹⁵



	2006	2007	2008	2009	2010	2011	Nov. 12
Total marriages	59 323	59 134	57 404	57 836	62 170	66 132	59 372

Average household size

32. In the past two decades, household size fell by one person per household, decreasing from 4.5 persons per household in 1982 to 3.5 persons in 2002. The 2006–2007 Family Budget Survey, the sixth such survey, showed that in Greater Santiago the average household had 3.55 members; the figures ranged from 4.29 members in the bottom income quintile to 2.76 members in the top income quintile.

33. These figures reflect several phenomena, such as the growing tendency to form smaller households, the decline in fertility rates and the increase in the number of single-person households made up of older persons, a result of the ageing of the population.

Types of households

34. Between 1992 and 2002 the share of two-parent nuclear households with children as a percentage of all households fell from 41.6 per cent to 38.1 per cent. Other types of households, including single-person households, two-parent households without children and single-parent households with children, accounted for increasingly large shares.

¹⁵ Information from the Civil Registry and Identity Service, current as at 30 November 2012 (Internet).

Another change was the steady increase in the share of households headed by women: between 1982 and 2002 that share increased by nearly 10 percentage points (to 31.5 per cent of all households).

Table 15
Average household size¹⁶

<i>Census year</i>	<i>Average number of persons</i>
1960	5.4
1970	5.0
1982	4.5
1992	4.0
2002	3.6

Table 16
Total households, single-person households and percentage, by sex of head of household¹⁷

<i>Year</i>	<i>Total households</i>	<i>Single-person households</i>			
		<i>Men</i>		<i>Women</i>	
		<i>Number</i>	<i>Percentage</i>	<i>Number</i>	<i>Percentage</i>
1970 (1)	1 715 937	-	-	-	-
1982	2 466 653	93 105	3.8	82 489	3.3
1992	3 293 779	150 660	4.6	122 660	3.7
2002	4 141 427	261 504	6.3	212 239	5.1

Table 17
Total number of households and female-headed households¹⁸

<i>Year</i>	<i>Number of households</i>	<i>Female-headed households</i>	
		<i>Number</i>	<i>Percentage</i>
1970	1 715 937	349 034	20.3
1982	2 466 653	532 249	21.6
1992	3 293 779	834 327	25.3
2002	4 141 427	1 305 307	31.5

¹⁶ 1960–2002 censuses.

¹⁷ National Statistical Institute, population and housing censuses from 1970 to 2002. (1) Information disaggregated by sex not available.

¹⁸ 1970–2002 censuses.

*Share of the population living in rural and urban areas*Table 18
Urban areas¹⁹

<i>Year</i>	<i>Population</i>		
	<i>Total</i>	<i>Men</i>	<i>Women</i>
1990	83.46	81.91	84.97
2000	86.62	85.56	87.65
2010	86.98	86.02	87.92
2011	87.00	86.05	87.93
2012	87.02	86.08	87.94

Table 19
Rural areas²⁰

<i>Year</i>	<i>Population</i>		
	<i>Total</i>	<i>Men</i>	<i>Women</i>
1990	16.54	18.09	15.03
2000	13.38	14.44	12.35
2010	13.02	13.98	12.08
2011	13.00	13.95	12.07
2012	12.98	13.92	12.06

3. Standard of living of different segments of the population*Family spending*

35. According to family budget surveys conducted by the National Statistical Institute in the 1950s, the families of workers, with the exception of those in higher-income strata, which reported savings, declared that their expenses were greater than their income. Some 50 years later, during the period 2006–2007 the distribution remained intact, with income falling short of expenses. As the lowest average incomes have grown more than the highest average incomes, however, there has been a small shift towards less concentration. Over the past 10 years, the highest average incomes fell from being 10.3 times the lowest average incomes to being 9.7 times greater.

Main sources of household income

36. Income from employment accounted for 84 per cent of total household income in 2006–2007; other sources accounted for the remaining 16 per cent. Real growth of average household income reached only 7.2 per cent in 10 years. Real growth of per capita income, on the other hand, was 16 per cent over those 10 years. Per capita growth for the bottom income quintile amounted to 20 per cent.

¹⁹ National Statistical Institute, *Proyecciones y estimaciones de población, 1990–2020* (Population projections and estimates, 1990–2020), August 2005.

²⁰ Ibid.

Share of (household) consumption expenditures on food, housing, health and education

37. While there has been moderate improvement in real household income and in the distribution of that income, the patterns of consumption of Chilean households have changed considerably. The aforementioned demographic changes, in addition to changes in the country's economy, are at the root of the changes in household habits and patterns of consumption. These changes reflect the waning importance accorded to essential goods, the basic basket of foodstuffs and clothing, and the growing importance accorded to such goods and services characteristic of developed societies as transport and communications. In this connection, it will be noted that expenditures on bread (1.9 per cent) are very similar to those on beef and veal (1.7 per cent), followed by expenditures on mobile phones (1.57 per cent). Average expenditures on computers are among the top 20 items in the family budget, and expenditures on Internet access exceed those on cheese, milk, potatoes and yogurt, to mention some of the 50 most heavily consumed articles.

38. The expenditures of the poorest families reveal the increasing importance of spending on education and health, once practically free of charge or offered at low cost and now among the 50 largest expenditures. These expenditures exceed those on certain foodstuffs and articles commonly considered large items in the budgets of households with the lowest incomes, which have now fallen into the bottom 100 largest expenditures.

39. Expenditures on housing, including rent, water, construction materials and other furnishings, are falling, a situation unlike that in developed countries.

40. Such major changes in patterns of consumption over the past two decades are accounted for by fluctuations in the relative prices of certain items, the appreciation of the Chilean peso with respect to the United States dollar, the liberalization of foreign trade and consequent lowering of tariffs, free trade agreements, the reduction of inflation, declining interest rates and broad access to credit through credit cards issued by banks and retailers.

Proportion of the population living below the national poverty line

41. The results of the 2011 National Socioeconomic Characterization Survey (CASEN), a survey conducted every three years by the Ministry of Social Development,²¹ show, for the first time since 1990, a decrease in the numbers of persons living in poverty. In 2011, 14.4 per cent of the population (2,447,354 persons) was living in poverty, as compared with 15.1 per cent in 2009, or a drop of 0.7 percentage points, equivalent to 116,678 fewer persons than in 2009. The same applies with regard to persons living in destitution or extreme poverty, who accounted for 2.8 per cent of the population (472,732 persons) in 2011, down from 3.7 per cent (634,328 persons) in 2009.

42. Both urban and rural poverty rates were lower than in 2009, and the tendency for poverty rates to be higher in urban areas (15.0 per cent) than in rural areas (10.8 per cent) that had first become apparent in preceding years was confirmed. In all, poverty rates were lower in 11 of the country's 15 regions than they had been in 2009.

43. Children and young persons comprised the age groups most heavily affected by poverty. Some 24 per cent of children aged 0–3 years live in poverty, as do 22.5 per cent of those aged 4–17 years. The figures for adults aged 45–59 and for older persons (60 and older) are 10.1 and 7.9 per cent respectively.

44. The breakdown of poverty rates by sex indicates that poverty affects women (15.5 per cent) more heavily than it does men (13.3 per cent). Poverty rates for both men and

²¹ The former Ministry of Planning and Cooperation (MIDEPLAN).

women are lower than in 2009, but the gap between the sexes, at 2.2 percentage points, remains constant.

45. For the indigenous population over the same period (2009–2011), poverty rates fell slightly, from 19.9 to 19.2 per cent, whereas for the non-indigenous population the drop was from 14.8 per cent to 14.0 per cent. The greater increase in non-indigenous poverty widened the poverty gap between the two groups from 5.1 to 5.2 percentage points.

46. The figures also show that for the population aged 15 years and older, poverty and educational attainment are clearly correlated. On average, those living in destitution and in poverty have 1.4 fewer years of education than those not living in poverty. The figures likewise confirm the existence of a close correlation between employment and poverty. Whereas the unemployment rate stands at 41.5 per cent for the indigenous population and 25.9 per cent for those living in poverty, it is 6.0 per cent for those not living in poverty.

47. It should be noted that employment rates show a pattern similar to that for poverty, and that in all cases the rate is higher for women than for men; in addition, households headed by women are at greater risk of living in poverty. Some 54.7 per cent of destitute households and 51.3 per cent of poor households are headed by women, while only 37 per cent of households not living in poverty have female heads.

Gini coefficient (relating to distribution of income or household consumption expenditure)

48. As the CASEN survey showed, the Gini coefficient for 1990 was 0.55, rising to 0.56 for 1996. According to the Ministry of Social Development, the coefficient was 0.54 in 2006, 0.55 in 2009 and 0.54 in 2011.

Prevalence of underweight children under 5 years of age

49. Between 1960 and 2000, Chile succeeded in eradicating infant malnutrition; its prevalence including slight malnutrition in children under the age of 6 fell from 37 per cent to 2.9 per cent. This achievement was made possible by the adoption of health and food policies, including school nutrition policies. These policies involved providing food to children in day-care facilities, kindergartens and the country's public primary schools. In the field of sanitation, policies to broaden access to drinking water and sewage systems have been pursued since 1930. In 1990, 97.4 per cent of urban areas had access to drinking water and 81.8 per cent to sewage systems.

Health

50. According to the 2010 National Health Survey, the Chilean population's main health problems are arterial hypertension, lipid disorders, diabetes mellitus, nutritional deficiencies, coronary heart disease, chronic respiratory diseases, tobacco use, physical activity, depression, alcohol consumption, thyroid disorders, dental health, quality of life, disabilities, salt consumption, hepatitis B, hepatitis C, Chagas disease, HIV and the human T lymphotropic virus 1. It was estimated in 2007 that adult HIV/AIDS infection rates stood at 0.3 per cent, that 31,000 persons were living with HIV/AIDS and that 1,100 deaths from this cause had been recorded.

51. According to the 2006 Survey on Health and Living Standards,²² 48.9 per cent of the population that had had sexual relations over the past 12 months did not use contraception,

²² Available from <http://epi.minsal.cl/epi/html/sdesalud/calidaddevida2006/Compara2000-2006ENCAVI.pdf>.

17.5 per cent resorted to the pill, 13.6 per cent relied on an intrauterine device, 8.8 per cent had undergone female sterilization and 5.5 per cent used condoms.

Literacy and educational attainment

52. Of the population aged 10 or older, 95.8 per cent is literate. The literate share of the population has risen by 1.2 percentage points (1.0 points for men and 1.3 for women) since the 1992 census. The 2002 census showed that there were nearly twice as many children in pre-basic education programmes as there had been in 1992, with the number of pupils increasing from 289,680 to 571,096.

Economic figures

53. Gross domestic product (GDP) in 2011 amounted to US\$ 222.788 billion, yielding a per capita GDP of US\$ 12,805. Average growth for that year was estimated at 7 per cent. The consumer price index posted a monthly increase of 0.3 per cent and a 12-month increase of 2.7 per cent. In January 2011, the prices of 7 of the 12 components of the representative basket of goods and services posted increases; alcoholic beverages and tobacco (3.9 per cent), transport (1.3 per cent) and housing, water, electricity, gas and other fuels (1.3 per cent) stood out, having an impact of 0.085, 0.271 and 0.169 percentage points respectively. Taken together, the remaining items whose prices increased accounted for 0.069 percentage points. The increase in the price of alcoholic beverages and tobacco was the result of increases in four categories; tobacco, in particular stands out, having a monthly change of 7.3 per cent and a 12-month change of 22.4 per cent.

Table 20

Per capita income, GDP, growth, gross national income and consumer price index²³

Year	Incomes			Prices	
	Per capita income (millions of 2003 pesos)	Gross domestic product (GDP) (2003 pesos, in millions)	Annual growth (% change)	Gross national income (millions of pesos)	Consumer price index (December 2008 = 100)
2000	3	46 605 199	4.50%	44 373 673	73.15
2001	3.1	48 165 625	3.30%	45 291 830	75.76
2002	3.1	49 209 330	2.20%	46 581 750	77.64
2003	3.2	51 156 415	4%	48 510 272	79.82
2004	3.4	54 246 819	6%	53 447 994	80.66
2005	3.5	57 262 645	5.60%	58 095 051	83.13
2006	3.6	59 890 971	4.60%	62 283 142	85.95
2007	3.8	62 646 126	4.60%	66 871 565	89.74
2008	3.9	64 954 930	3.70%	69 620 882	97.56
2009	3.8	63 963 490	-1.50%	68 800 043	99

²³ Figures are in Chilean pesos (Ch\$): 1 United States dollar is equal to roughly Ch\$ 500.

B. Constitutional, political and legal structure of the State

1. Political and legal framework of the State

54. The Republic of Chile is unitary in structure. The territory is divided into 15 regions and a metropolitan area in which the capital of the country is located. Each region is divided into provinces and each province into communes. It is a democracy and has a presidential system of government.

55. The fundamental norm for the organization of the State is the Constitution, ratified by popular vote on 11 September 1980 and in force since 11 March 1981. This Constitution has since been amended several times, one of the most significant amendments being that promulgated on 17 September 2005 by means of Act No. 20050. Some 54 reforms were introduced at that time, including the following: (a) the elimination of appointed senators and senators for life; (b) the reduction of the presidential term of office from six to four years; (c) the conferral on the President of the Republic of the authority to remove Commanders-in-Chief of the Armed Forces and the Director-General of the Carabineros, subject to a report of his or her decision to Congress; (d) reform of the National Security Council (COSENA), which became an advisory body to the President that meets only when convened by the President; and (e) elimination of the one-year residency requirement that children born abroad to Chilean parents had to meet to acquire Chilean citizenship; being the child of a Chilean sufficed (the *jus sanguinis* principle was reaffirmed). Another subsequent constitutional amendment of importance is Act No. 20352 of 30 May 2009, whereby the jurisdiction of the International Criminal Court (Rome Statute) was accepted.

56. The institutional framework rests on the traditional division of powers into executive, legislative and judicial branches, notwithstanding the increasing relevance of other organs or institutions that enjoy constitutional autonomy.

The Executive

57. The President of the Republic oversees the functions of government and State administration. Under the Constitution, the President is elected by universal and direct suffrage for a period of four years and cannot be re-elected for the ensuing term. The appointment of ministers of State, intendants and governors, all of whom are public officials enjoying his or her exclusive confidence and contributing to the administration of government, is the exclusive power of the President.

58. Among the special powers of the President are the power to: contribute to the making of laws, as well as sanctioning and promulgating them; issue legally binding decrees when so directed by Congress; exercise executive rule; conduct international relations; grant presidential pardons; appoint and dismiss the Commanders-in-Chief of the Armed Forces and law-enforcement agencies; and oversee the proper collection of public revenue.

The Legislature

59. The Chilean legislature has two houses, a Chamber of Deputies and a Senate, which work together to formulate legislation, among other activities. The Chamber of Deputies is made up of 120 members elected by direct vote in the (60) electoral districts. It is responsible for oversight of government action, for which it has the power to create special committees of inquiry, to call upon ministers of State to provide information and to accept or reject impeachment proceedings brought by its members against senior State officials.

60. The Senate is made up of 38 senators elected by direct vote in the (19) electoral districts. Among the exclusive powers of members of the Senate are the power to: hear and resolve (as members of the jury) impeachment proceedings brought against senior State

officials when such proceedings have been declared admissible by the Chamber of Deputies; hear cases relating to conflicts of jurisdiction between political or administrative authorities and higher courts of justice; grant reinstatement of citizenship; authorize the absence of the President of the Republic from the country for a period exceeding 30 days or during the final 90 days of his or her term; and approve ministerial appointments, as well as the appointment of prosecutors of the Supreme Court and the Public Prosecutor's Office.

The Judiciary

61. The judiciary is made up of autonomous, independent courts enjoying constitutional status that have the power to try civil and criminal cases, to adjudicate them and to enforce their judgements. The Supreme Court, with powers of management, control and supervision of all the courts of the Republic, is the highest court in the land. The Constitution guarantees that, subject to good conduct, judges shall not be removed from office.

62. Other organs that form part of the State apparatus and enjoy both autonomy and constitutional status include: the Public Prosecutor's Office, which is responsible for criminal prosecutions; the Constitutional Court, responsible for reviewing the constitutionality of any legislation involving the interpretation of any constitutional principle, institutional acts and the provision of a treaty, prior to its ratification, that pertain to matters covered by such acts; the Elections Board, which is responsible for counting votes and determining the legitimacy of presidential and legislative elections; the Office of the Comptroller-General, which monitors the legality of acts of the Administration as well as the collection and investment of Treasury monies, municipal funds and the resources of other agencies and services, as determined by law; and the Central Bank, which has responsibility for monetary policy.

2. Electoral system and political parties

63. The current electoral system is binominal and is intended to promote political stability on the basis of a system of broad political coalitions. It was designed under the military Government and, following the approval of the 1980 Constitution, provision was made for its regulation by an institutional act; it is now regulated by Act No. 18556 of 1986 on the electoral registration system and the Electoral Service and Act No. 18700, issued by the military junta in 1988, on general elections and vote counts.

64. Chile's political parties — or, more accurately, the Chilean party system — clearly distinguishes three major groups: the centre-right *Coalición por el Cambio/Alianza por Chile* (Coalition for Change/Alliance for Chile), currently in office; the centre-left *Concertación Democrática* (Coalition for Democracy); and the left-wing *Juntos Podemos* (Together We Can).

Table 21

Political parties at the time of the 2012 municipal elections²⁴

<i>Number</i>	<i>Party</i>	<i>Acronym</i>	<i>Coalition</i>
1	Renovación Nacional	RN	Por el Cambio/Alianza por Chile
2	Partido Demócrata Cristiano	PDC	Concertación Democrática

²⁴ Information from the Chilean Electoral Service (SERVEL) current as at 8 July of the current year (Internet).

<i>Number</i>	<i>Party</i>	<i>Acronym</i>	<i>Coalition</i>
3	Partido por la Democracia	PPD	Concertación Democrática
4	Unión Demócrata Independiente	UDI	Por el Cambio/Alianza por Chile
5	Partido Socialista de Chile	PSCH	Concertación Democrática
6	Partido Comunista de Chile	PCCH	Concertación Democrática
7	Partido Radical Socialdemócrata	PRSD	Concertación Democrática
8	Partido Humanista	PH	Juntos Podemos
9	Partido Regionalista de los Independientes	PRI	Independent
10	Movimiento Amplio Social	MAS	Independent
11	Partido Ecologista Verde	PES	Independent
12	Partido Progresista	PRO	Independent
13	Partido Igualdad		Independent
14	Partido Liberal de Chile		Independent
15	Partido Ecologista Verde del Norte		Independent
16	Partido Fuerza del Norte		Independent
17	Partido Izquierda Cristiana de Chile		

The right to vote

65. Franchise or exercise of the right to vote, is considered to be the core of modern democracies, on account of its intrinsic value as a political right and its power to convey and represent the supreme will of the people. In Chile, the extension of voting rights has been reflected throughout the country's two centuries of history and has been associated with political and social struggles leading to improvements in the democratic system. The country moved from a census-based system of voting in 1810 to universal suffrage in 1874. The minimum voting age was set at 25 in 1822 and was extended in 1888 to persons aged 21 or older who were able to read and write,²⁵ age and literacy requirements that were retained in place in the Constitution of 1925. In 1970, those aged 18 or older were granted the right to vote, a right enshrined in the current 1980 Constitution, and in the institutional acts governing voting rights.

66. It should also be noted that Chile was one of the first countries in which women were granted the right to vote. In 1935, women's suffrage was approved for municipal elections, and in 1949 for presidential and parliamentary elections; the first presidential election in which women voted was held in 1952, when Carlos Ibáñez del Campo was elected President. From that date on, their participation in the electoral process increased gradually until they reached parity with male voters in 1970. Foreigners who can prove that they have lived in the country for five years have had the right to vote since 1980.

²⁵ This extension was preceded by a lowering of the voting age to 21 years for married men pursuant to the Election Act of November 1874.

67. Lastly, under the Act on Automatic Registration and Voluntary Voting (Act No. 20568, *Diario Oficial*, 31 January 2012), all Chileans and foreigners (legal residents) who have reached the age of 18 years by the day of the election may, by showing only a valid identity card, take part in the vote. The visually impaired and persons with other disabilities are provided with access to polling places and assistance in voting. Persons denied suffrage for reasons of insanity, those convicted of crimes incurring an afflictive punishment or of terrorist acts, those who have lost Chilean citizenship and those who have been sanctioned by the Constitutional Court for having sponsored parties, movements or other organizations incompatible with the democratic system of government are ineligible to vote.

Proportion of the population enjoying the right to vote

68. Under article 13 of the Constitution, all Chileans who have attained 18 years of age and “have not been found guilty of a serious offence” are deemed to be citizens and as such have the right to vote. With the entry into force of the Act on Automatic Registration and Voluntary Voting, all Chilean citizens will automatically appear in the electoral registers when they reach the age of majority. This reform eliminated the requirement of prior registration and compulsory voting. It was first applied during the municipal elections in 2012, at which time it was determined that voter turnout had fallen. It should be noted that in 1989 and until the presidential elections of 1993, the proportion of unregistered voters was 11 per cent. Starting with the municipal elections of 1996, the percentage gradually increased until 2008, when it attained 32 per cent of the population eligible to vote.

The 2008 parliamentary elections

69. A total of 8,110,265 persons (3,849,702 men and 4,260,563 women) or 67.68 per cent of the population aged 18 or older and eligible to vote, were registered to vote in the 2008 parliamentary elections. This figure includes 2,101 visually impaired persons (0.03 per cent), 174,551 illiterate persons (2.15 per cent) and 14,025 foreign nationals (0.17 per cent).

Table 22

Breakdown of voter age, 2008 parliamentary elections

<i>Age</i>	<i>Men</i>	<i>Women</i>	<i>Total</i>
18–19	23 297	22 748	46 045
20–24	115 034	122 127	237 161
25–29	195 276	176 157	371 433
30–34	308 838	292 062	600 900
35–39	464 866	472 771	937 637
40–44	559 754	595 458	1 155 212
45–49	526 262	567 016	1 093 278
50–54	434 038	475 593	909 631
55–59	340 488	380 109	720 597
60–69	497 396	581 566	1 078 962
70+	384 453	574 956	959 409

The 2009 presidential and parliamentary elections

70. For the 2009 presidential and parliamentary elections, the number of registered voters rose from the 2008 figure of 8,110,265 to a total of 8,285,186 (3,928,623 men and 4,356,563 women), or 68.02 per cent of all persons aged 18 or older and eligible to vote.

Table 23

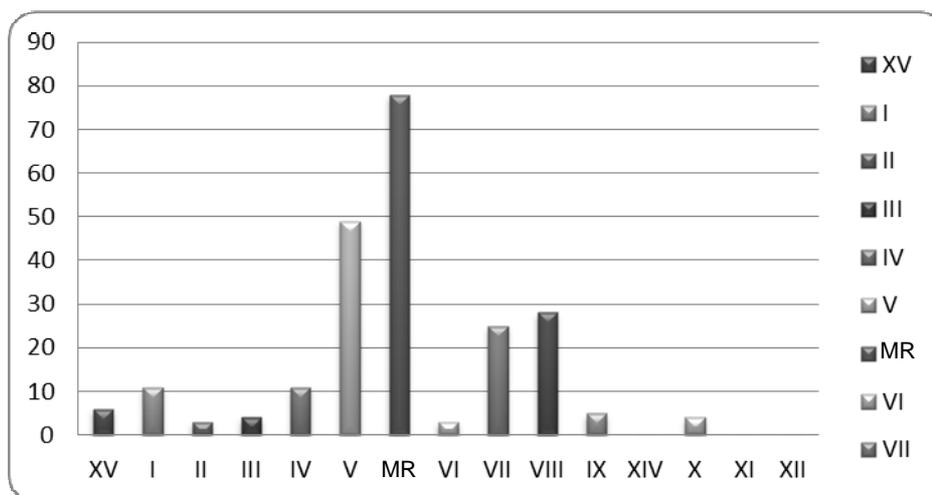
Breakdown of voter age, 2009 presidential and parliamentary elections

<i>Age</i>	<i>Men</i>	<i>Women</i>	<i>Total</i>
18–19	41 178	46 111	87 289
20–24	138 510	147 995	286 505
25–29	200 560	187 995	388 555
30–34	274 270	260 839	535 109
35–39	436 914	437 979	874 893
40–44	557 153	588 258	1 145 411
45–49	541 171	582 601	1 123 772
50–54	456 118	497 991	954 109
55–59	357 330	399 129	756 459
60–69	521 954	606 881	1 128 835
70+	403 465	600 784	1 004 249

Number of complaints registered in connection with elections

Table 24

2012 municipal elections, candidacies of mayors and municipal councillors challenged before the Elections Board



<i>Candidacies</i>	<i>Region</i>															<i>Total</i>
	<i>XV</i>	<i>I</i>	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>MR</i>	<i>VI</i>	<i>VII</i>	<i>VIII</i>	<i>IX</i>	<i>XIV</i>	<i>X</i>	<i>XI</i>	<i>XII</i>	
Appealed	6	11	3	4	11	49	78	3	25	28	5	0	4	0	0	227

Table 25
Complaints relating to electoral expenditures²⁶

Act No. 19884 on Transparency of, limits to and control of electoral expenditures	Type of election	Regions														Total	
		XV	I	II	III	IV	V	MR	VI	VII	VIII	IX	X	XI	XII		XIV
Violation of article 41	Mayoral	0	0	0	0	0	1	0	1	0	0	0	0	0	0	0	2
	Municipal councillor	2	0	0	1	6	5	3	9	4	8	5	0	1	0	0	44
Violation of article 44	Mayoral	1	0	0	0	0	0	3	0	0	0	1	0	1	0	1	7
	Municipal councillor	0	3	3	0	1	1	1	0	0	1	1	1	1	0	0	13
Total complaints relating to electoral expenditures (to 31 May 2013)																	66

Table 26
Complaints relating to electoral procedures

Complaints, 2013 municipal elections		Total
1.	Registration of candidacies	227
2.	Electoral register	12
3.	Petitions for annulments and recounts	59
Total		298

Table 27
2009 presidential and parliamentary elections, complaints on candidacies by region

Region	President	Senator	Deputy	Total	Region	President	Senator	Deputy	Total
XV			1	1	VII			1	1
I		1		1	VIII			1	1
II				0	IX				0
III			1	1	XIV			1	1
IV				0	X			1	1
V		1	2	3	XI				0
MR			4	4	XII			2	2
VI				0	Total	0	2	14	16

Table 28
Complaints relating to electoral expenditures

President	Senator	Deputy	Total
0	0	2	2

²⁶ Baseline figures through 31 May 2013, as the appeals relating to those petitions were still being heard by the Chilean Elections Board.

Legislative seats by party (2009 elections)

Table 29

Senators, 2010

	<i>PDC</i>	<i>PPD</i>	<i>UDI</i>	<i>PSCH</i>	<i>PCCH</i>	<i>PRSD</i>	<i>PRI</i>	<i>MAS</i>	<i>Independent</i>
	9	9	4	8	5	0	1	0	1

Table 30

Deputies, 2010

	<i>RN</i>	<i>PDC</i>	<i>PPD</i>	<i>UDI</i>	<i>PSCH</i>	<i>PCCH</i>	<i>PRSD</i>	<i>PRI</i>	<i>MAS</i>	<i>Independent</i>
	18	19	18	37	11	3	5	3	0	6

Percentage of women in parliament

Table 31

Women, 2010

	<i>Senators</i>	<i>Deputies</i>
Number	5	17
Percentage	13.20	14.20

Proportion of elections held at the national and lower levels per administrative unit

Table 32

2012 municipal elections, candidates per region²⁷

<i>Region</i>	<i>Total communes</i>	<i>Mayor</i>	<i>Municipal councillors</i>	<i>Total</i>	<i>Region</i>	<i>Total communes</i>	<i>Mayor</i>	<i>Municipal councillors</i>	<i>Total</i>
XV	4	20	147	167	VII	30	102	774	876
I	7	27	204	231	VIII	54	190	1 455	1 645
II	9	42	276	318	IX	32	98	855	953
III	9	34	277	311	XIV	12	32	294	326
IV	15	52	435	487	X	30	87	733	820
V	38	117	1 059	1 176	XI	10	28	224	252
MR (Santiago)	52	195	1 960	2 155	XII	10	32	229	261
VI	33	103	946	1 049	Total	345	1 159	9 868	11 027
					Seats		345	2 146	

71. In 2009, there were 4 candidates for the presidency, 53 candidates for 18 seats in the Senate and 429 candidates for 120 seats in the Chamber of Deputies.

²⁷ Figures, from the Chilean Electoral Service (SERVEL), are current as at June 2013 (Internet).

Average number of voters in elections held at the national and lower levels per administrative unit

Table 33
2012 municipal elections²⁸

<i>Region</i>	<i>Voters</i>	<i>Region</i>	<i>Voters</i>
XV	59 583	VII	437 068
I	85 769	VIII	812 566
II	144 990	IX	381 177
III	90 674	XIV	148 280
IV	229 107	X	291 652
V	613 046	XI	37 796
MR (Santiago)	2 027 632	XII	47 834
VI	364 198	Total	5 771 372

Table 34
2009 presidential and parliamentary elections

<i>Region</i>	<i>Voters</i>	<i>Region</i>	<i>Voters</i>
XV	82 550	VII	473 396
I	100 653	VIII	939 653
II	198 837	IX	421 272
III	114 601	XIV	174 500
IV	277 634	X	347 524
V	817 412	XI	43 734
MR (Santiago)	2 785 656	XII	72 144
VI	414 661	Total	7 264 136

Table 35
2010 presidential election

<i>Region</i>	<i>Voters</i>	<i>Region</i>	<i>Voters</i>
XV	80 877	VII	474 834
I	97 719	VIII	941 487
II	190 514	IX	424 151
III	113 204	XIV	174 998
IV	278 442	X	347 338
V	812 512	XI	42 588
MR (Santiago)	2 744 498	XII	66 969
VI	413 240	Total	7 203 371

²⁸ Idem.

3. Recognition of non-governmental organizations (NGOs)

72. In its first section, “Bases of Institutionalality”, the Constitution recognizes and protects the intermediate groups through which society is organized and structured. They are guaranteed the autonomy to achieve their specific objectives. The State is at the service of the individual, and its goal is to promote the common welfare. It is the duty of the State, among other things, to further the harmonious integration of all the sectors of the nation and to ensure the right of everyone to participate in the life of the nation with equal opportunities (art. 1, paras. 3, 4 and 5). These declarations are constitutional principles of the highest order.

73. Article 19, paragraph 15, on constitutional guarantees, stipulates that every individual is guaranteed the right to associate without prior authorization. In order to have legal status, associations must be organized in accordance with the law. This right is also a constitutional freedom, inasmuch as no one can be obliged to belong to an association. This guarantee, together with the freedom to express opinions, associate and disseminate information without prior censorship, among other freedoms, recognizes the dual dimension of pluralism – the pluralism of associations and of ideas. Special emphasis is placed on political parties: the bases of their institutional status is defined, as is the prohibition on their involvement in activities unrelated to their objectives or on their monopolization of civic participation. The only prohibited associations are those that are contrary to public morals, public order or the security of the State.

74. To protect the right to freedom of association, provision is made for the remedy of protection, judicial proceedings to uphold constitutional guarantees in the event that they are denied, interfered with or undermined (art. 20). Only in a state of exception in the event of a foreign war may the authorities restrict or limit the exercise of this freedom (art. 43, para. 1).

75. Intermediate groups of the community and their leaders must not abuse their autonomy by intervening unduly in activities unrelated to their specific objectives. Positions of leadership in trade unions are incompatible with leadership positions in political parties, and any violations of this rule shall be penalized in accordance with the law (art. 23).

76. The legal framework applicable to non-profit organizations is that established in respect of legal persons in the Civil Code.²⁹ Article 545 of the Code defines legal persons as artificial persons “capable of exercising rights, undertaking civic duties and being represented legally and extrajudicially”. Like natural persons, they are subjects of law. They are collective bodies that have their own legal personality which is independent of the individual personalities of the human beings that constitute them. They are legal persons under either public or private law, and those under private law are either for profit or not for profit. Not-for-profit legal persons may be established as corporations, as charitable foundations or as both. A corporation is an association of individuals established for the pursuit of a common end other than profit. A foundation is property that is used by one or more of its founders to carry out a project or achieve an end in the public interest.

77. In the Chilean legal order, NGOs or civil society organizations are categorized as entities that fall within the purview of either general law (the Civil Code) or special laws. The type of objectives they pursue or services they offer (having to do with mutual aid, the public interest or charitable work) has not been a distinguishing criterion. In this respect, only a reading of their statutory objectives makes it possible to tell them apart, and model articles of association exist to facilitate registration and the acquisition of legal personality.

²⁹ See Book One, Title XXXIII, of the Civil Code.

78. Development NGOs are a major type of NGO. Ministry of Justice Supreme Decree No. 292 of 19 March 1993 established model articles of association that may be used by prospective private-law corporations; it was the first legal recognition in Chile of such organizations. They may seek to promote development, particularly for persons, families, groups and communities living in poverty and/or in marginal conditions, in the following areas: education, culture, training, employment, health, housing, the environment, community development, micro-entrepreneurship, small-scale production, consumer spending, human rights, indigenous communities and sports and recreation, in both rural and urban areas.

79. Another type of NGO, residents' committees and other community organizations, is governed by Act No. 19418 (*Diario Oficial*, 20 March 1997),³⁰ which defines the former as territorial community organizations that represent the persons living in a single neighbourhood and have as their objective the promotion of community development, the defence of its interests and residents' rights, and collaboration with State and municipal authorities. Other community organizations are defined as non-profit organizations with legal personality whose objectives are to represent and promote the specific interests of the community within the bounds of the commune or respective association of communes.

80. A third type of NGO is governed by Act No. 20500 on associations and citizen participation in public affairs. The main objective of this Act is to provide guarantees for an inclusive democratic society that, by encouraging civic participation and transparency, seeks to afford citizens an opportunity to take an active and responsible part in political life. The Act standardizes the legal status of NGOs by granting them the status of *public-interest organizations*, organizations defined in article 15 as "non-profit legal persons, in particular those relying on the service of volunteers, whose objective is promotion of the public interest in the areas of citizens' rights, social welfare, education, health, the environment or any other common good".

81. Lastly, Act No. 19885 (*Diario Oficial*, 7 July 2003) regulates the proper use of the donations made by legal persons which give rise to tax benefits and directs them towards other social and public ends. It allows donations to be used to finance projects or programmes undertaken by non-profit corporations or foundations and makes tax-deductible a portion of the amounts donated to institutions providing direct services to low-income and disabled persons or to institutions from the Joint Fund for Social Support. Such deductions are capped at 50 per cent of first category tax for donations that do not exceed 4.5 per cent of net taxable income.

4. Administration of justice

Table 36

Number of persons arrested, indicted, tried, convicted and imprisoned for violent or other crimes

<i>Year</i>	<i>Arrests</i>	<i>Arraignments</i>	<i>Indictments</i>	<i>Sentences</i>	<i>Releases</i>
2005	5 429	7 108	1 300	2 843	1 528
2006	10 030	17 782	3 600	5 609	2 492
2007	14 973	23 984	6 128	8 132	3 474
2008	23 435	31 101	9 903	11 812	5 118

³⁰ As it appears in Ministry of the Interior Decree No. 58, which sets out the redrafted, consolidated and systematized text of Act No. 19418.

<i>Year</i>	<i>Arrests</i>	<i>Arraignments</i>	<i>Indictments</i>	<i>Sentences</i>	<i>Releases</i>
2009	28 540	34 112	12 009	12 952	6 210
2010	18 801	21 505	8 450	8 847	4 666

Table 37

Proportion of persons indicted or arrested who sought and received free legal aid in 2009

<i>Region</i>	<i>No information</i>	<i>Co-payment</i>			<i>Total</i>
		<i>0%</i>	<i>42%</i>	<i>100%</i>	
Tarapacá	0	6 316	3	0	6 319
Antofagasta	0	11 045	31	0	11 076
Atacama	0	6 251	11	0	6 262
Coquimbo	91	11 746	49	4	11 890
Valparaíso	12	26 037	23	7	26 079
O'Higgins	6	17 994	27	0	18 027
Maule	6	14 463	9	1	14 479
Bíobío	98	28 036	10	0	28 144
La Araucanía	10	12 830	23	0	12 836
Los Lagos	12	15 216	9	2	15 329
Aisén	0	2 283	6	0	2 289
Magallanes	0	3 035	28	5	3 068
Metropolitana Norte	1 086	53 278	827	26	55 217
Metropolitana Sur	48	53 669	247	2	53 966
De Los Ríos	61	5 729	1	0	5 791
Arica y Parinacota	0	4 461	4	0	4 465
Total	1 430	272 389	1 308	47	275 174

Table 38

Waiting time (in days) between the preliminary hearing and opening of the trial, by category defined

	<i>2009</i>			<i>2010</i>		
	<i>Women</i>	<i>Men</i>	<i>Total</i>	<i>Women</i>	<i>Men</i>	<i>Total</i>
Chilean	87.8	86.1	86.3	102.2	97.3	97.8
Foreign	95.6	88.5	90	93.5	101.3	99.5
Overall total	88.4	86.2	86.4	101.3	97.4	97.8
	<i>2009</i>			<i>2010</i>		
	<i>Women</i>	<i>Men</i>	<i>Total</i>	<i>Women</i>	<i>Men</i>	<i>Total</i>
Non-indigenous	88.5	86.2	86.5	101.6	97.6	98
Indigenous	74.3	74.3	74.3	50.3	67	65.1
Overall total	88.4	86.2	86.4	101.3	97.4	97.8

	2009		<i>Total</i>	2010		<i>Total</i>
	<i>Women</i>	<i>Men</i>		<i>Women</i>	<i>Men</i>	
Adult	92	90.9	91	102.4	103.3	103.2
Adolescent	54.9	55.1	55.1	89.2	54.2	56.6
Overall total	88.4	86.2	86.4	101.3	97.4	97.8

Table 39

Number of violent deaths and offences involving death threats reported per 100,000 population

<i>Classification</i>	2009		<i>Total</i> 2009	2010		<i>Total</i> 2010
	<i>Adults</i>	<i>Adolescents</i>		<i>Adults</i>	<i>Adolescents</i>	
Aggravated sexual abuse (with insertion of objects or use of animals), art. 365 bis	28	6	34	16		16
Sexual abuse of children aged 14 to 18 (statutory rape), art. 366, para. 2	16	7	23	6		6
Sexual abuse of children over the age of 14 (involving rape) art. 366, para. 1	20		20	9		9
Sexual abuse of children under the age of 14 (involving bodily contact) art. 366 bis	770	76	846	465	58	523
Sexual abuse, involving immoral conduct, of children aged 14 to 17 (without bodily contact) art. 366 quater, final paragraph	235	6	241	131	5	136
Sexual abuse, involving immoral conduct, of children under the age of 14	654	61	715	381	36	417
Castration and mutilation	2		2			
Homicide	1 388	236	1 624	777	106	883
Aggravated homicide	208	47	255	126	24	150
Homicide in a brawl or fight	21	3	24	5	2	7
Infanticide	8	2	10	6		6
Serious bodily harm	4 910	517	5 427	2 612	288	2 900
Lesser bodily harm	4 263	1 433	44 068	24 837	842	25 679
Parricide	173	4	177	95	4	99
Robbery with violence	4 591	1 999	6 590	2 332	885	3 217
Rape involving homicide	5		5	5		5
Rape of persons over the age of 14	35	4	39	21		21
Rape of persons under the age of 14	644	108	752	347	71	418
Overall total	56 343	4 509	60 852	32 171	2 321	34 492

Table 40
Rate of violent crimes entered into the system of Office of the Public Defender
 (per 100,000 population)

<i>Year</i>	<i>Number of violent crimes</i>	<i>Rate per 100,000 population</i>
2005	11 650	72
2006	26 993	166
2007	41 873	255
2008	53 791	324
2009	60 852	363
2010	34 492	306

Table 41
Most common non-custodial offences as at December 2010

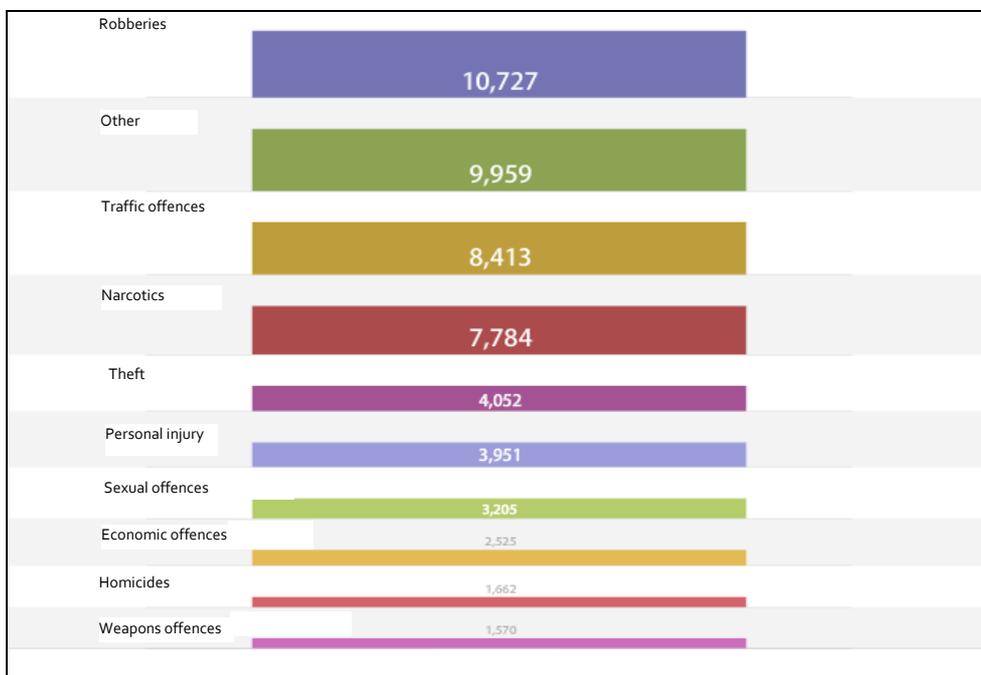


Table 42
Most common custodial offences as at 2010

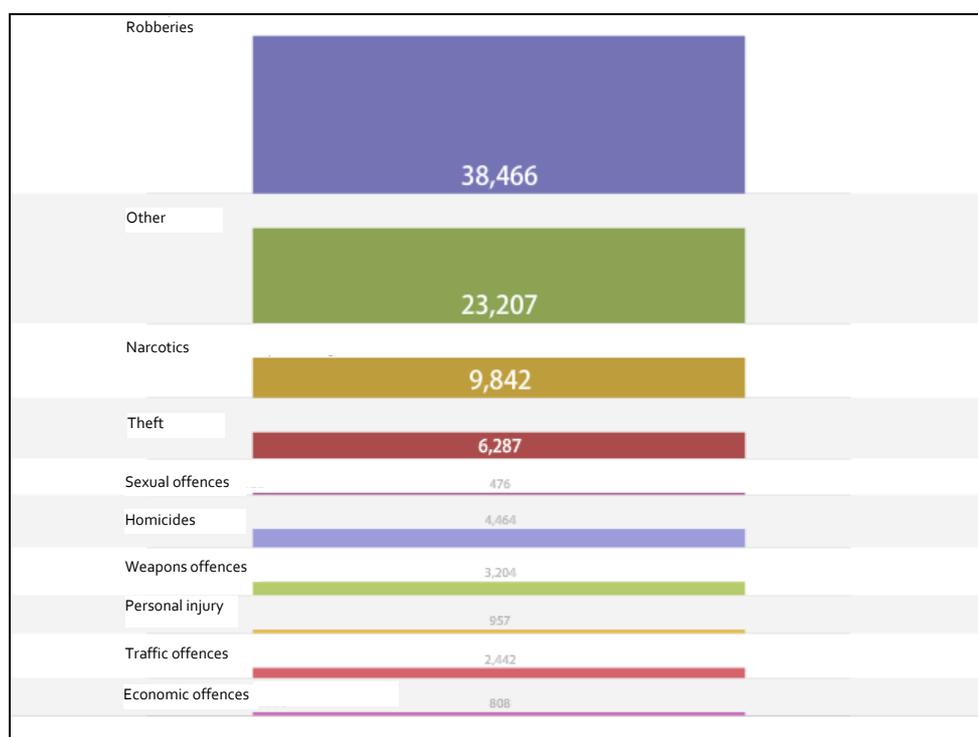


Table 43
Prison population

Statistics for the prison population supervised by the Chilean Prison Service 31 December 2010

Prison population supervised by subsystem

Type of population	Men			Women			Total	
	Adults	Minors	Total	Adults	Minors	Total	Population	Percentage
Total number of persons supervised	93 352	0	93 352	12 120	0	12 120	105 472	100.00
(A) custodial subsystem	46 864	0	46 864	4 577	0	4 577	51 441	48.77
Persons under arrest	144	-	144	16	-	16	160	0.15
Accused persons	67	-	67	4	-	4	71	0.07
Persons facing preliminary charges	9 368	-	9 368	1 378	-	1 378	10 746	10.19
Convicted persons	37 285	0	37 285	3 179	0	3 179	40 464	38.36
(B) Semi-custodial subsystem	645	-	645	41	-	41	686	0.65

Statistics for the prison population supervised by the Chilean Prison Service 31 December 2010
Prison population supervised by subsystem

<i>Type of population</i>	<i>Men</i>			<i>Women</i>			<i>Total</i>	
	<i>Adults</i>	<i>Minors</i>	<i>Total</i>	<i>Adults</i>	<i>Minors</i>	<i>Total</i>	<i>Population</i>	<i>Percentage</i>
Persons held in Education and Labour Centres (CET)	645	-	645	41	-	41	686	0.65
(C) Non-custodial subsystem	45 843	-	45 843	7 502	-	7 502	53 345	50.58
Alternative measures	44 093	-	44 093	7 370	-	7 370	51 463	48.79
Suspended sentences	29 400	-	29 400	5 321	-	5 321	34 721	32.92
Probation (adults)	9 875	-	9 875	1 707	-	1 707	11 582	10.98
Night-time confinement	4 818	-	4 818	342	-	342	5 160	4.89
Reintegration benefits	1 268	-	1 268	122	-	122	1 390	1.32
Supervised outings	739	-	739	71	-	71	810	0.77
Conditional release	529	-	529	51	-	51	580	0.55
Enforcement measures	482	-	482	10	-	10	492	0.47
Daytime detention	2	-	2	0	-	0	2	0.00
Night-time detention	480	-	480	10	-	10	490	0.46
Provisional figures								

82. The custodial subsystem consists of the population that is being held in one of the country's penal establishments while awaiting trial or serving a custodial sentence. It should be borne in mind that this subsystem includes the population of the semi-custodial subsystem, which is made up of convicts who have volunteered to serve their custodial sentences in Education and Labour Centres (CET).

Table 44
Number of persons in custody

Year	Persons in custody	Year	Persons in custody
1990	22 326	2000	34 589
1991	20 751	2001	33 544
1992	20 275	2002	34 270
1993	20 647	2003	35 615
1994	21 268	2004	35 644
1995	22 659	2005	36 672
1996	24 244	2006	39 302
1997	25 978	2007	43 458
1998	27 859	2008	47 449
1999	31 444	2009	53 038

Table 45
Number of persons in custody

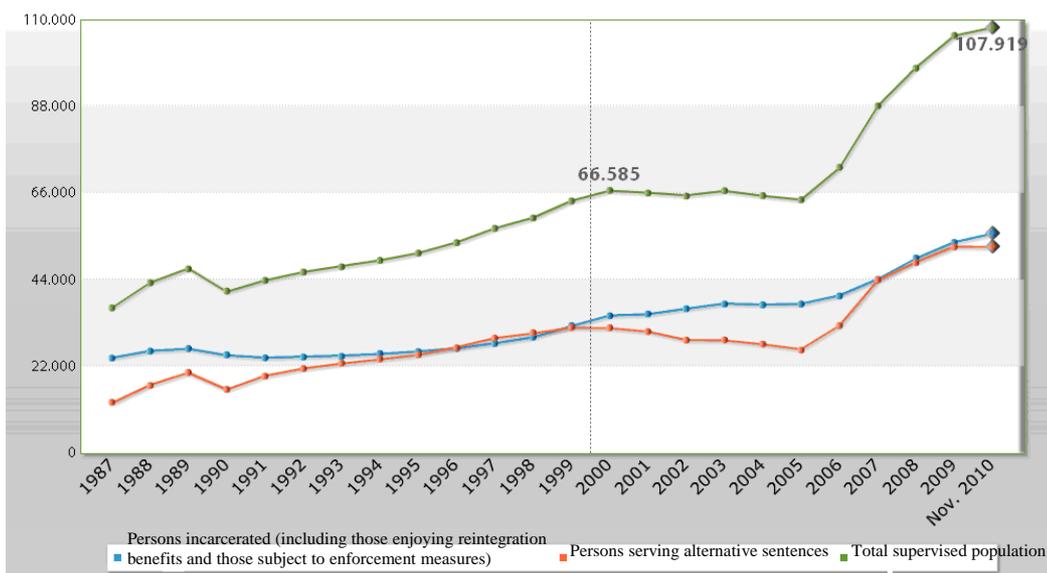


Table 46
Procedural status of persons deprived of liberty

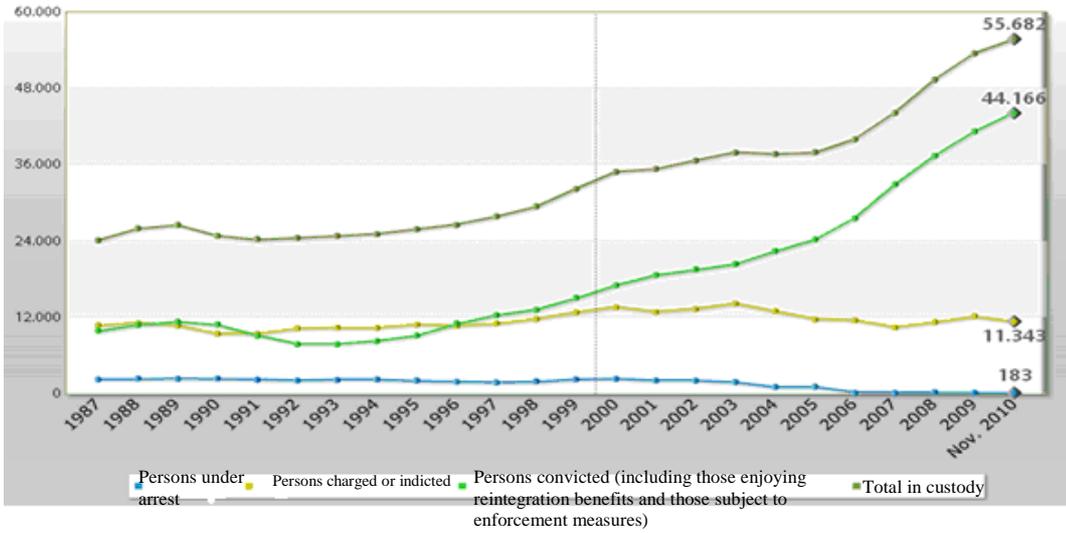


Table 47
Criminal involvement of the prison population

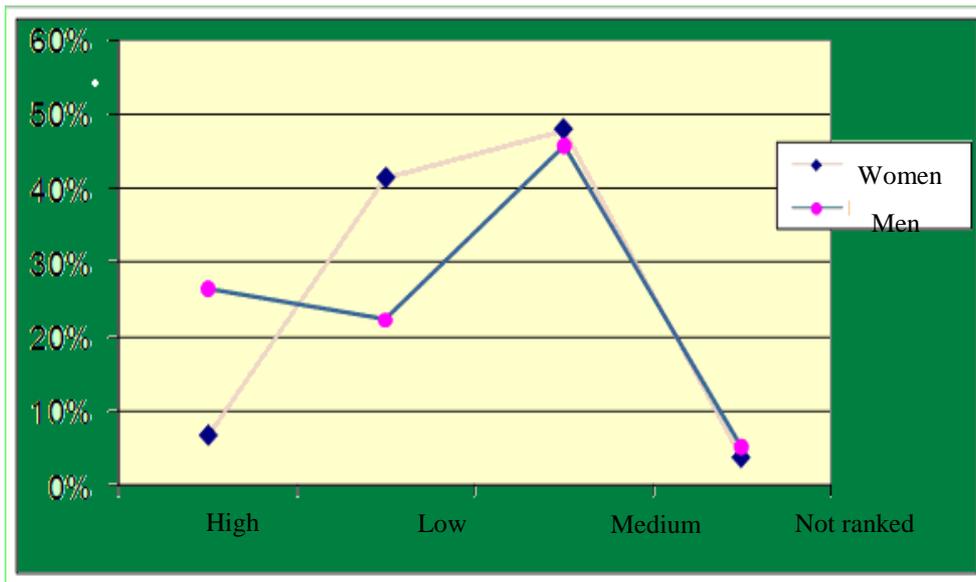


Table 48
Incarceration rate per 100,000 population

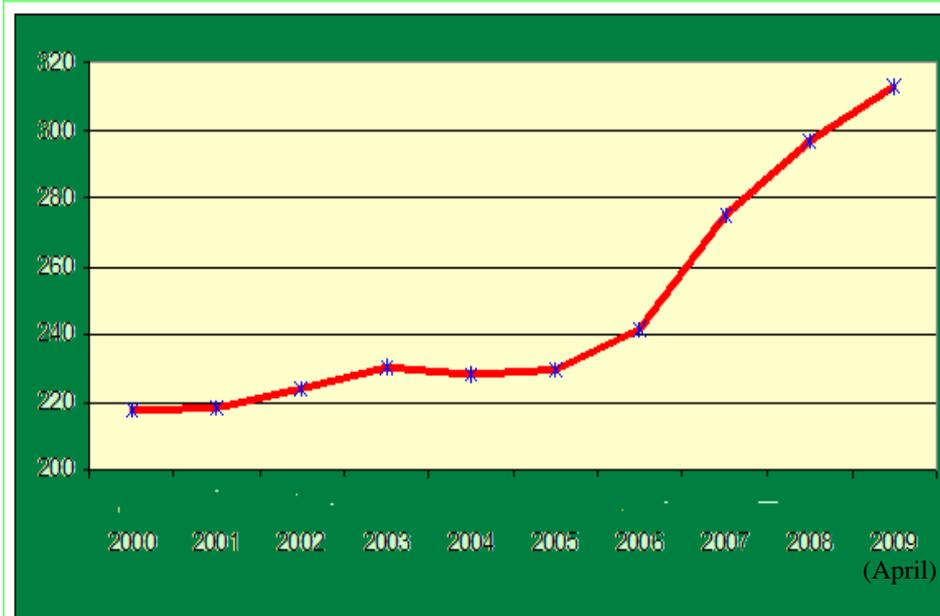


Table 49
Non-incarcerated convicts per 100,000 population

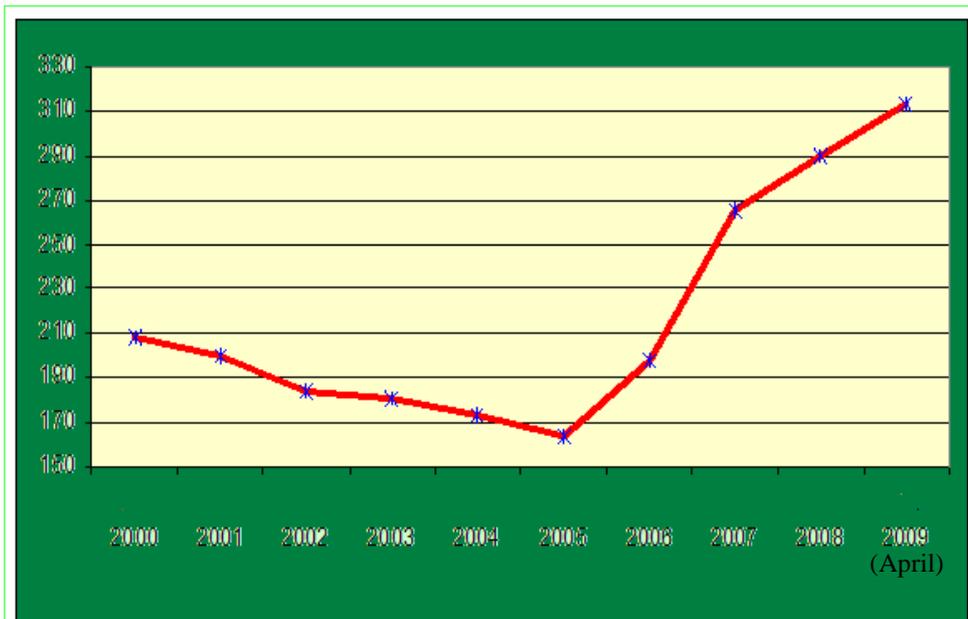


Table 50
**Change in the number of persons serving sentences other than custodial sentences,
 Act No. 18216**

Year	<i>Night-time confinement</i>	<i>Suspended sentence</i>	<i>Probation (adults)</i>	<i>Total under Act No. 18216</i>
	<i>Population</i>	<i>Population</i>	<i>Population</i>	<i>Population</i>
1987	563	11 528	594	12 685
1988	621	15 895	808	17 324
1989	709	18 421	1 252	20 382
1990	636	13 926	1 556	16 118
1991	688	17 118	1 794	19 600
1992	736	18 412	2 288	21 436
1993	810	19 165	2 708	22 683
1994	887	19 759	3 144	23 790
1995	920	20 525	3 463	24 908
1996	1 032	22 209	3 652	26 893
1997	1 206	24 309	3 657	29 172
1998	1 349	25 436	3 584	30 369
1999	1 511	26 274	4 028	31 813
2000	1 700	26 537	3 462	31 699
2001	1 812	25 507	3 494	30 813
2002	1 785	23 509	3 445	28 739
2003	1 755	23 138	3 694	28 587
2004	1 690	21 550	4 355	27 595
2005	1 816	19 223	5 330	26 369
2006	3 115	22 413	6 816	32 344
2007	4 488	30 569	8 772	43 829
2008	4 682	33 454	10 326	48 462
April 2009	5 904	35 607	11 409	52 920

Table 51
**The average length of custody was 127 days for released defendants and 388 days for
 convicted persons nationwide as at 31 December 2009**

Region	<i>Range of sentence and average number of days in custody</i>						
	<i>5–8 years</i>	<i>8–10 years</i>	<i>3–5 years</i>	<i>More than 10 years</i>	<i>More than 100 days and not exceeding 541 days</i>	<i>More than 541 days and not exceeding 3 years</i>	<i>100 days or less</i>
Tarapacá	2 131	3 328	1 499	3 859	311	803	27
Antofagasta	2 190	3 234	1 399	4 162	294	807	25
Atacama	2 232	3 255	1 463	4 157	309	818	16
Coquimbo	2 184	3 257	1 439	4 552	320	816	15

<i>Range of sentence and average number of days in custody</i>							
<i>Region</i>	<i>5–8 years</i>	<i>8–10 years</i>	<i>3–5 years</i>	<i>More than 10 years</i>	<i>More than 100 days and not exceeding 541 days</i>	<i>More than 541 days and not exceeding 3 years</i>	<i>100 days or less</i>
Valparaíso	2 141	3 289	1 468	4 468	303	796	19
O'Higgins	2 213	3 252	1 427	4 112	310	828	21
Maule	2 220	3 332	1 453	4 614	309	806	15
Bíobío	2 200	3 279	1 434	4 534	317	820	14
La Araucanía	2 197	3 285	1 435	3 938	323	801	14
Los Lagos	2 175	3 286	1 429	4 133	301	812	13
Aisén	2 333	3 265	1 433	4 613	306	806	18
Magallanes and the Chilean Antarctic	2 157	3 204	1 447	3 974	285	825	19
Metropolitan region (Santiago)	2 154	3 314	1 482	4 367	299	819	27
Arica and Parinacota	2 259	3 304	1 500	4 346	328	811	33
Los Ríos	2 208	3 286	1 455	4 546	309	811	17

Table 52
Causes of death among the prison population, 2010

<i>Cause of death</i>	<i>Deaths</i>	
	<i>Number</i>	<i>Percentage</i>
Accident	3	1.2
Illness	70	28.1
Homicide	38	15.3
Suicide	22	8.8
Other	116	46.6
Total	249	100

II. General framework for the protection and promotion of human rights

A. Acceptance of international human rights norms

1. Status of the major human rights treaties in Chile

Table 53

Status of the major human rights (United Nations) treaties

	<i>Treaty</i>	<i>Ratification</i>	<i>Entry into force</i>	<i>Reservations</i>
I	International Covenant on Civil and Political Rights	10/02/1972	29/04/1989	
	Optional Protocol, concerning communications from individuals	20/05/1992	28/08/1992	
	Optional Protocol, aiming at the abolition of the death penalty	26/09/2008	05/01/2009	Article 2, paragraph 1
II	International Covenant on Economic, Social and Cultural Rights	10/02/1972	27/05/1989	
	Optional Protocol	10/12/2008 (signature only)		
III	International Convention on the Elimination of All Forms of Racial Discrimination	20/10/1971	12/11/1971	
IV	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	30/09/1988	26/11/1988	Reservations to article 2, paragraph 3, 3, 28, and 30, paragraph 1, all withdrawn
	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	12/12/2008	14/02/2009	
V	Convention on the Elimination of All Forms of Discrimination against Women	07/12/1989	09/12/1989	
	Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	10/12/1999 (signature only)		
VI	Convention on the Rights of the Child	13/08/1990	27/09/1990	
	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	31/07/2003	27/12/2003	
	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	06/02/2003	06/09/2003	

<i>Treaty</i>	<i>Ratification</i>	<i>Entry into force</i>	<i>Reservations</i>
Optional Protocol on a communications procedure	28/02/2012 (signature only)		
VII International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	25/03/2005	08/06/2005	Article 22, paragraph 5, and article 48, paragraph 2
VIII Convention on the Rights of Persons with Disabilities	29/07/2008	17/09/2008	
Optional Protocol to the Convention on the Rights of Persons with Disabilities	29/07/2008	17/09/2008	
IX International Convention for the Protection of All Persons from Enforced Disappearance	06/02/2007	23/12/2010	

2. Other international human rights instruments

Instruments predating the establishment of the United Nations and the Organization of American States

83. Chile is a party to the following instruments:

- (a) International Convention for the Suppression of the Traffic in Women and Children. Ratification: 15 January 1929. Entry into force: 20 May 1930;
- (b) Convention regarding the Status of Aliens in the Respective Territories of the Contracting Parties. Ratification: 12 March 1934. Entry into force: 14 September 1934;
- (c) (Inter-American) Convention on the Nationality of Women. Ratification: 29 August 1934. Entry into force: 12 November 1934;
- (d) International Agreement intended to secure effective protection against the “White Slave Traffic”. Accession: 19 March 1935. Entry into force: 18 June 1935;
- (e) International Convention for the Suppression of the “White Slave Traffic”. Ratification: 19 March 1935. Entry into force: 18 June 1935;
- (f) Protocol relating to a Certain Case of Statelessness. Ratification: 20 March 1935. Entry into force: 16 April 1935;
- (g) International Convention for the Suppression of the Traffic in Women of Full Age. Ratification: 20 March 1935. Entry into force: 15 April 1935;
- (h) (Inter-American) Convention on Political Asylum. Ratification: 28 March 1935. Entry into force: 17 May 1935.

Inter-American Instruments

84. Chile is a party to the following instruments:

- (a) Inter-American Convention on the Granting of Political Rights to Women. Ratification: 10 April 1975. Entry into force: 29 May 1975;
- (b) Inter-American Convention on the Granting of Civil Rights to Women. Ratification: 10 April 1975. Entry into force: 26 April 1975;

(c) American Convention on Human Rights. Ratification: 21 August 1990, with declarations. Entry into force: 5 January 1991;

(d) Inter-American Convention to Prevent and Punish Torture. Ratification: 30 September 1988, with reservations. Entry into force: 26 November 1988. Instrument of withdrawal of reservations deposited: 21 August 1990. Entry into force: 13 January 1991;

(e) Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. Ratification: 15 November 1996. Entry into force: 11 November 1998;

(f) Protocol to the American Convention on Human Rights to Abolish the Death Penalty. Ratification: 4 August 2005, with a reservation. Entry into force: 16 October 2008;

(g) Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities. Ratification: 4 December 2001. Entry into force: 20 June 2002.

United Nations instruments

85. Chile is a party to the following instruments:

(a) Convention on the Prevention and Punishment of the Crime of Genocide. Ratification: 3 June 1953. Entry into force: 11 December 1953;

(b) Convention on the Political Rights of Women. Signature: 31 March 1953. Ratification: 18 October 1967. Entry into force: 30 October 1967;

(c) Convention relating to the Status of Refugees. Ratification: 28 January 1972, with reservations. Entry into force: 19 July 1972;

(d) Protocol relating to the Status of Refugees. Ratification: 27 April 1972. Entry into force: 20 July 1972;

(e) Slavery Convention; Protocol amending the Slavery Convention; Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. Accession: 20 June 1995. Entry into force: 7 November 1995;

(f) United Nations Convention against Transnational Organized Crime, its Protocol against the Smuggling of Migrants by Land, Sea and Air, and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Entry into force: 16 February 2005;

(g) Rome Statute of the International Criminal Court. Ratification: 29 June 2009. Entry into force: 1 August 2009;

(h) International Convention for the Protection of All Persons from Enforced Disappearance. Ratification: 8 December 2009. Entry into force: 23 December 2010.

International Labour Organization (ILO) instruments

86. Chile is a party to the following instruments:

(a) Weekly Rest (Industry) Convention, 1921 (No. 14). Ratified: 15 September 1925;

(b) Forced Labour Convention, 1930 (No. 29). Ratified: 31 May 1933;

(c) Right to Organize and Collective Bargaining Convention, 1949 (No. 98). Ratified: 1 February 1999;

- (d) Equal Remuneration Convention, 1951 (No. 100). Ratified: 20 September 1971;
- (e) Abolition of Forced Labour Convention, 1957 (No. 105). Ratified: 1 February 1999;
- (f) Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Ratified: 20 September 1971;
- (g) Employment Policy Convention, 1964 (No. 122). Ratified: 24 October 1968;
- (h) Minimum Wage Fixing Convention, 1970 (No. 131). Ratified: 13 September 1999;
- (i) Minimum Age Convention, 1973 (No. 138). Ratified: 1 February 1999;
- (j) Labour Relations (Public Service) Convention, 1978 (No. 151). Ratification: 17 July 2000;
- (k) Workers with Family Responsibilities Convention, 1981 (No. 156). Ratification: 14 October 1994;
- (l) Indigenous and Tribal Peoples Convention, 1989 (No. 169). Ratification: 15 September 2008;
- (m) Worst Forms of Child Labour Convention, 1999 (No. 182). Ratification: 17 July 2000.

UNESCO instruments

87. Convention against Discrimination in Education. Ratification: 26 November 1971. Entry into force: 30 November 1971.

Conventions of the Hague Conference on Private International Law

88. (a) Convention on the Civil Aspects of International Child Abduction, 1973. Chile's instrument of accession was deposited on 23 February 1994 (accession giving rise to an acceptance procedure). Entry into force: 1 May 1994;

(b) Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, 1993. Ratified: 13 July 1999. International entry into force: 1 November 1999.

Geneva Conventions and other treaties relating to humanitarian law

89. Chile is a party to the following instruments:

(a) Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 1949 (First Convention). Signed: 12 August 1949. Deposit of instrument of ratification: 12 October 1950;

(b) Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 1949 (Second Convention). Signed: 12 August 1949. Deposit of instrument of ratification: 12 October 1950;

(c) Geneva Convention relative to the Treatment of Prisoners of War, 1949. Signed: 12 August 1949 (Third Convention). Deposit of instrument of ratification: 12 October 1950;

(d) Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949 (Fourth Convention). Signed: 12 August 1949. Deposit of instrument of ratification: 12 October 1950;

(e) Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts, 1977. Signed: 12 December 1977. Deposit of instrument of ratification: 24 April 1991;

(f) Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts, 1977. Signed: 12 December 1977. Deposit of instrument of ratification: 24 April 1991;

(g) Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, 1997. Signed: 3 December 1997. Deposit of instrument of ratification: 10 September 2001.

B. Legal framework for the protection of human rights at the national level

1. Protection of human rights in the Constitution

90. Article 19 of chapter III of the Constitution, on constitutional guarantees, protects the human rights and fundamental freedoms that are set out in various international instruments. The Constitution guarantees: the right to life and to the physical and psychic integrity of the individual; freedom from any unlawful pressure; equality before the law; equal protection under the law in the exercise of rights; the right to a legal defence, to be tried by a court designated and previously established by law; the right to guarantees of rational and fair proceedings, and the right not to be punished with a penalty other than that provided for in a law enacted prior to the perpetration of the offence, unless the new law should favour the interested party; the right to respect for and protection of private and public life and the honour of individuals and their families; the inviolability of the home and all forms of private communication; freedom of conscience; the right to personal freedom and individual security, and the right to live in a pollution-free environment and to enjoy health protection; the right to education and to freedom of instruction; freedom of opinion and the right to disseminate information without prior censorship; the right of peaceful assembly without prior permission and unarmed; the right to submit petitions to the authorities; the right of association without prior permission and to political pluralism; freedom to work; access to all public positions and employment; the right to social security; the right to organize; the equal distribution of taxes; the right to engage in any economic activity, abiding by the legal norms regulating it; freedom from arbitrary discrimination by the State and its bodies in economic matters; freedom to acquire ownership; the right of ownership; copyright on creative intellectual and artistic works; and industrial property rights.

91. The provisions of article 19 of the Constitution are not exclusive, so the enumeration of rights in the article is not exhaustive. This is indicated by the reliable record of the norm, regarding which the drafters state: “We have contemplated a norm ensuring respect for every right inherent in the human person, notwithstanding that it may not be expressly designated in the text.”

States of exception

92. The Constitution (arts. 39 et seq.) provides for the following states of exception: (a) a *state of alert*, in the event of external war; (b) a *state of siege*, in the event of internal war or disturbances; (c) a *state of emergency* in serious cases of disturbance of the peace and damage or threat to national security, owing to internal or external causes; and (d) a *state of catastrophe*, in the event of a public calamity.

93. Article 19, paragraph 26, expressly guarantees that even in states of exception, the norms regulating or complementing the fundamental rights recognized in the Constitution cannot have their essence affected or be subject to conditions, taxes or any requirements impeding their free exercise. Only temporary restrictions or limitations of their exercise, as set out in the Constitution, may be considered.³¹

94. For example, the earthquake and tsunami experienced by the country on 27 February 2010 resulted in states of exception being declared in the regions of Maule and Bío Bío through Supreme Decrees Nos. 152 and 153; these states of exception, which lasted 30 days, were lifted on 31 March 2010. Similarly, under Decree No. 173, a state of exception was declared in the O'Higgins Region for a period of 20 days as of 11 March and also ended on 31 March 2010. The States parties to the International Covenant on Civil and Political Rights were informed of this situation in a timely manner through the Secretary-General of the United Nations, in accordance with article 4, paragraph 3, of the Covenant.

2. Incorporation of international law in the internal legal order

Customary international law and general principles of law

95. There is no explicit general norm establishing the automatic incorporation of customary norms or the general principles of law in Chile's internal legal order. The following possibilities must thus be distinguished: (a) when a rule of internal law refers expressly to international law in a specific situation, in which case the Chilean courts must apply it; or (b) where no such express reference exists, a situation in which the constant position of jurisprudence endorsed by legal writers has been to attribute validity to international law.

International treaties

96. The jurisprudence endorsed by legal writers takes the view that international treaties are incorporated into the internal legal order with their ratification, effected in three phases: adoption by the Congress, promulgation by the President and subsequent publication of the text in the *Official Gazette*. The basis for this view is to be found in article 50, paragraph 1, of the Constitution, which attributes to Congress the exclusive power to "adopt or reject international treaties submitted by the President for ratification. Adoption of a treaty shall be subject to the same procedures as those prescribed for a law."

97. Once the international treaty has been approved in accordance with the aforesaid steps, its provisions may be applied by the courts and administrative authorities and may be invoked before them.

98. In relation to other sources of internal law, the force of the international treaty is equivalent to that of the law. This is the conclusion to which, failing any express norm determining the matter, prevailing jurisprudence and the consensus of legal scholars lend themselves.

Hierarchy of international human rights treaties

99. The Constitution grants identical constitutional value in the internal legal order to international human rights treaties ratified and in force in Chile. The constitutional amendment of 1989 completed article 5, paragraph 2, of the Constitution, which stipulates that "the exercise of sovereignty recognizes as a limitation respect for the essential rights

³¹ The constitutional reform of August 1989 repealed the second subparagraph, which made it possible to suspend that guarantee during states of exception.

emanating from human nature”. The amendment added: “It is the duty of the organs of the State to respect and promote such rights as guaranteed by this Constitution and by the international treaties that have been ratified by Chile and are in force.”

100. The amendment sought to strengthen human rights in the country’s legal order and to establish for all bodies and authorities of the State the duty to respect and promote them. The range of human rights protected in the Constitution was extended, with explicit reference made to the fundamental rights, duties and guarantees covered by the international treaties that had been ratified and were in force in Chile, and these rights, duties and guarantees were placed on an equal footing with the constitutional guarantees established in article 19.

Provisions of human rights instruments that can and have been invoked before courts of law or other administrative bodies

101. Both domestic doctrine and the jurisprudence from the country’s higher courts have moved towards the position that the human rights guaranteed by international treaties form part of the material Constitution and thus circumscribe the norms and acts of State bodies and authorities.

102. By way of example, the Supreme Court has ruled that “... ultimately, the human rights guaranteed in a treaty are incorporated into the internal legal order, forming part of the material Constitution and acquiring full legal force and effect; no State body shall disregard them and all must respect and promote them as well as protect them by means of the set of constitutional guarantees intended to ensure full respect for rights. This obligation derives not only from the aforementioned article 5 of the Constitution but also from article 1, paragraphs 1 and 4, and article 19, paragraph 26, and from the international treaties themselves, including common article 1 of the Geneva Conventions, which establishes the duty of the States parties to respect and to ensure respect for international humanitarian law”.

103. Another ruling from the Criminal Chamber of the Supreme Court, concerning the right to a defence, states that: “article 19, section 3, paragraph 5, of the Constitution grants citizens the right to equal protection under the law in the exercise of their rights, inasmuch as all persons are entitled to a legal defence in the manner indicated by law and no authority or individual may impede, restrict or perturb the due intervention of an attorney, should it have been sought ...” The tenth preambular paragraph states: “Whereas, pursuant to the reference made in article 5 of the Constitution, the constitutional status accorded the right to a defence should be extended to the rights enshrined by the international treaties ratified by Chile and currently in force, as is the case of article 11, paragraph 1, of the Universal Declaration of Human Rights ...; article 14, paragraph 3, of the International Covenant on Civil and Political Rights ...; article 8, paragraph 2, of the American Convention on Human Rights”.³²

104. Insofar as the hierarchy of treaties is concerned, both the Constitutional Court and the Supreme Court have ruled that, in general, the domestic constitutional order takes precedence over international law, although where the constitutional and legal order does not conform to international law, the tacit abrogation of international law is not considered. In its opinion concerning the Indigenous and Tribal People’s Convention (No. 169) of the International Labour Organization, the Constitutional Court observed that a norm that established that the methods customarily practised by indigenous peoples for dealing with

³² Decision of the Supreme Court of Justice, Criminal Chamber, case No. 3125-04, 13 March 2007.

offences committed by their members should be respected was incompatible with the Chilean constitutional system of criminal dispute settlement and could not be implemented.

105. The Supreme Court has ruled in much the same vein when it has been called on to exercise legislative oversight retroactively in respect of certain rules of international treaties in 1997, when it dismissed an action of unconstitutionality on the grounds that the Convention on the Civil Aspects of International Child Abduction did not violate the Constitution. The court indicated that the expeditious proceedings provided for in article 11 complied with the guarantee of due process established in article 19, paragraph 3, of the Constitution. Consequently, a prompt ruling on the matter did not imply disregard for the right to a fair hearing or to submit evidence.

106. When, on the other hand, ordinary courts have had to decide whether to apply an international norm or to apply a law, the situation has been different, as the courts have tended to uphold the international norm if it affords broader and more effective protection of the right.

107. The Anti-Dumping Commission, created by Act No. 18525 of 1986, for example, mandated the application of an international treaty promulgated and published in accordance with the Constitution, even though there was a domestic law regulating the matter, as the law in question was in violation of the provisions of the Vienna Convention.³³

108. Similarly, in a ruling pertaining to the Convention on the Rights of the Child, ratified by Chile in 1990, which requires all State bodies, in all actions concerning children, to make the best interests of the child a primary consideration, it was determined that application of the international norm should prevail; the court noted that returning children to their place of birth could not be made compulsory if doing so would expose them to danger or an intolerable situation.³⁴

109. The courts also determined that an extrajudicial statement made by a defendant as evidence of involvement in an offence was devoid of any procedural value, since such statements were prohibited by such international treaties as the Pact of San José, Costa Rica, the International Covenant on Civil and Political Rights and others, all of which are in force in domestic law and are thus binding on the courts, in accordance with article 5, paragraph 2, of the Constitution, and without prejudice to the fact that they form an integral part of the right to rational and due criminal process.³⁵

110. In another case, the Supreme Court ruled that making payment of compensation a prerequisite to enjoying some of the benefits provided for by Act No. 18216, such as the suspension of custodial sentences, was not in violation of the Pact of San José, Costa Rica; accordingly, the domestic law cannot be considered to have been tacitly repealed by the Pact.³⁶

111. Regarding bail, most courts have considered that the legal provisions of the Current Accounts and Cheques Act, the Tax Code (in some cases) and the Customs Ordinance, which require, in addition to bail, the posting of collateral in an amount equal to the value of the fraudulent cheque or the duties or taxes evaded, are incompatible with the principles of articles 19, paragraph 7, (e), and 26 of the Constitution, which recognize the right to

³³ Santiago Court of Appeals, 22 January 1998, *R.O.J.* (Official case list), No. 211, p. 97.

³⁴ Valparaíso Court of Appeals, 3 June 1998, *R.O.J.* No. 216, p. 80.

³⁵ Santiago Court of Appeals, 11 April 1995, *R.O.J.*, No. 178, p. 136; Santiago Court of Appeals, 24 June 1997, *R.O.J.*, No. 204, p. 136; Santiago Court of Appeals, 11 April 1995, *R.O.J.*, No. 178, p. 136; Santiago Court of Appeals, 24 June 1997, *R.O.J.*, No. 204, p. 136; *R.D.J.*, vol. 94, sect. 4a, p. 114.

³⁶ Supreme Court, 4 December 1997, *R.O.J.*, No. 210, p. 93.

conditional release and the principle by which the essence of rights shall in no case be affected. In addition, the exercise of that right is guaranteed by international norms, that do not require the posting of collateral.³⁷

3. Judicial, administrative or other authorities with competence in the area of human rights

112. In the performance of their duties, all of the authorities of the country are under the obligation to promote and respect human rights. The Constitution establishes that the basis of constituted authority derives from the purpose of the State, which is to be “in the service of the individual”; to that end it must “contribute to creating the social conditions that permit each and every one of the members of the national community to achieve the greatest possible spiritual and material fulfilment, with full respect for the rights and guarantees established by this Constitution” (art. 1, subpara. 4). Furthermore, “the exercise of sovereignty recognizes as a limitation the respect for the essential rights originating from the nature of man” (art. 5, subpara. 1). As noted above, the constitutional amendment of 1989 added a second subpara., which reads: “It is the duty of State bodies to respect and promote such rights as are guaranteed by this Constitution, as well as by the international treaties that have been ratified by Chile and are in force”.

Comprehensive modernization of the justice system

113. The thorough strengthening and modernization of the Chilean system of justice that took place over the past decade encompassed the areas of criminal justice, family law, labour law and military law.

Reform of criminal procedure

114. With the adoption of the new Code of Criminal Procedure,³⁸ the written, secretive inquisitorial system, in which the judge acted as investigator and prosecutor and passed sentence, was replaced. Gradual implementation of the reform begun in 2000, and by 2005 it had been implemented nationwide. The reform introduced an oral adversarial procedure in which investigation and prosecution are the responsibility of the Public Prosecutor’s Office, an autonomous and independent body responsible for protecting victims and witnesses. The Office of the Public Defender acts on behalf of defendants who have no defence counsel of their own.

115. Under the new criminal justice system, 96 per cent of all cases are processed within 15 months, as compared with 87 per cent under the former system. The average length of proceedings is 90 days.

Juvenile criminal justice

116. A new juvenile criminal justice system has been in place since 2007.³⁹ It involves a special trial procedure for juvenile offenders, and the outcomes and proceedings, which are meant to provide real opportunities for social reintegration through State-run programmes, are different from those that apply to adults. It upholds the principle of proportionality of penalties, with deprivation of liberty considered to be a last resort.

³⁷ Supreme Court, 18 December 1991, *R.G.J.*, No. 138, p. 70; Supreme Court, 5 April 1993, *R.G.J.*, No. 154, p. 92.

³⁸ Act No. 19696 establishing the Code of Criminal Procedure (*Diario Oficial*, 29 October 2000).

³⁹ Act No. 20084 establishing a system of juvenile criminal responsibility (*Diario Oficial*, 8 December 2005).

117. Implementation of this reform is aimed at constantly improving the conditions in which juveniles are deprived of their liberty, enhancing inter-agency coordination through the establishment of working groups, increased staff specialization and the construction of 10 new high-quality centres for juvenile offenders.

Family courts

118. The new system of family courts came into operation in October 2005.⁴⁰ The reform involved the creation of a new procedural system based on oral arguments, specialization and the involvement of professionals from the fields of social services, psychology and mediation as well as an increase in the number of family judges to 258, as compared with 51 juvenile court judges under the former system. The reform required the creation of new courts capable of dealing with the principles of oral proceedings specialization and the significance of family matters, which have a direct impact on the most vulnerable populations, such as young children, adolescents, women and victims of domestic violence.

Labour law

119. Since 2009 a new procedure has been in place characterized by oral, open, concentrated and speedier proceedings that facilitate direct contact between the judge and the parties and the evidence produced.⁴¹ The new system likewise introduced procedures by which the fundamental rights of workers are protected. It brought in 84 specialized judges and additional support staff to provide any worker who cannot afford a dedicated professional legal defence, thereby ensuring equality before the law, due process and the necessary balance in the treatment of the parties.

Military justice

120. In 2005, the concept of improper sedition was removed from the Code of Military Justice; this concept had enabled military courts to try civilians who induced or incited military personnel to disorder, insubordination or failure to perform military duties.

Prison conditions and human rights

121. Various steps have been taken to improve conditions for prison inmates (of whom there are 50,230) with a view to establishing an efficient prison system that combines guarantees of security with inmate rehabilitation, in accordance with international standards. In creating or modifying penal establishments consideration was given to such criteria as the age and sex of prisoners, the type of offence committed, the seriousness of the crime, special security or health measures and the nature of any rehabilitation activities and programmes.

122. The new public-private system of prison concessions involved an initial investment of 280 million Chilean pesos (Ch\$) to build and equip 10 prisons around the country. A total of Ch\$ 115 million was allocated to cover operating costs in 2008. Likewise, Ch\$ 6,040,523,000 were budgeted for improvements in such areas as sanitary conditions (sewerage and drinking water systems, sanitary installations and taps), lighting (cells, courtyards, shared spaces and outside areas), bedding, food, medical services and spiritual assistance. The repair, renovation and improvement of bathrooms and sanitary facilities in every unit of the conventional penitentiary system was recently begun, with a total national investment of Ch\$ 944 million for 2010 and 2011.

⁴⁰ Act No. 19968 establishing family courts (*Diario Oficial*, 30 August 2004).

⁴¹ Act No. 20022 establishing labour courts and wage-collection and social security courts in specific communes (*Diario Oficial*, 30 May 2005).

123. On 30 September 2010, work was undertaken in 29 prisons in 10 regions of the country to create facilities for prison visits and ensure that inmates could have contact with members of their families at a total cost of Ch\$ 41 million. A toll-free telephone line for requesting visiting hours and for providing information to family members is also planned, as is the use of electronic equipment, effective but less invasive, to monitor visits. The total cost of this last measure is Ch\$ 1.935 million.

124. These measures are also intended to rationalize the system of detention and strengthen the alternative system, in which time is served outside prisons. These objectives are associated with the promotion of a culture of respect for the human rights of prisoners or serving afflictive sentences with a view to rehabilitating such individuals and reintegrating them into society. To improve the system for the release persons who have been incarcerated, emphasis will be placed on coordination with family members, and an assistance agreement with the Office of the Public Defender.

125. As part of its reintegration and rehabilitation policies, the Chilean Prison Service has incorporated training and employment programmes for offenders into its Centres for Education and Labour (CET). There are currently 20 such centres, divided into 6 areas of production in operation in the country and employing some 500 persons.

4. Entities responsible for monitoring constitutional supremacy and the implementation of human rights

126. The peremptory nature of constitutional norms relating to human rights and the duty of the authorities to protect those rights has its basis in the principle of constitutional supremacy, which makes the actions of State organs subordinate to the Constitution. In this sense, “the precepts of the Constitution are binding on all heads or members of such bodies as well as on every individual, institution or group. Violation of this norm shall entail responsibilities and sanctions to be determined by law” (art. 6). Below are listed the most important organs responsible for ensuring constitutional supremacy.

Constitutional Court

127. The Constitutional Court monitors the normative supremacy of the Constitution in a preventive manner during the development of legislation and as part of the law-making process. Such monitoring is compulsory in the case of institutional acts and the interpretation thereof. All other norms having the hierarchy of laws may be monitored when they raise an issue relating to the constitutionality of a bill submitted by the President of the Republic, the Senate, the Chamber of Deputies or one quarter of the serving members of either chambers.

128. The Court also has competence to declare unconstitutional any parties, movements or organizations whose objectives, acts or conduct do not respect the basic principles of a democratic regime, seek to establish a totalitarian system or advocate violence as a method of political action.

129. It should be noted that with the constitutional reform of 2005, article 80 of the Constitution, which attributed competence to hear cases of allegations of inapplicability to the Supreme Court, was repealed and that power was transferred to the Constitutional Court. Actions relating to the Constitution are now dealt with in paragraphs 6 and 7 of article 93, the purpose of which is to rectify the application of a legal precept that may be counter to the Constitution. In certain situations, it may be determined not only that a legal rule is inapplicable in a specific case but that the norm is unconstitutional in general.

Supreme Court

130. This court has the power to settle appeals brought against sentences handed down by the Appeals Court in proceedings relating to *amparo* and protection, described above.

Elections Board

131. This body reviews the vote count and determines the legitimacy of elections, hears any complaints arising therefrom and officially proclaims the winners. It is composed of five members, four of whom are elected by the Supreme Court and the fifth being a former President of either the Senate or the Chamber of Deputies who held that office for more than three years.

Office of the Comptroller-General of the Republic

132. This entity has competence to monitor the legality of administrative acts and the constitutionality of decrees having the force of law which are issued by the President by virtue of powers delegated by Congress. It is headed by the Comptroller-General of the Republic, who occupies the post permanently following appointment by the President of the Republic with the consent of a majority of the serving members of the Senate.

National Women's Service (SERNAM)

133. This body is responsible for collaborating with the Executive in the study and proposal of general plans and measures to promote the equality of rights and opportunities between women and men in the country's political, social, economic and cultural development, while respecting the nature and specificity that emanates from the natural differences between the sexes, including their appropriate embodiment in family relations.⁴² It was established under Act No. 19023 (*Diario Oficial*, 3 January 1991) in fulfilment of the international obligations assumed by Chile upon ratification of the Convention on the Elimination of All Forms of Discrimination against Women.

National Indigenous Development Corporation (CONADI)

134. This is a functionally decentralized public service having legal personality and its own assets which is under the supervision of the Ministry of Social Development. It was established by Act No. 19253 (*Diario Oficial*, 5 October 1993), which establishes norms for the protection, promotion and development of indigenous peoples. It also provides for sanctions against anyone engaging in blatant and intentional discriminatory behaviour against indigenous persons on account of their origin and culture.

135. The Corporation is responsible for promoting, coordinating and implementing State activities on behalf of indigenous persons and communities, particularly in the economic, social and cultural spheres, and encouraging their participation in national life. Its functions are to:

- (a) Promote recognition of and respect for indigenous ethnic groups, their communities and the individuals who comprise them and their participation in national life;
- (b) Promote indigenous cultures and languages and bilingual intercultural education in coordination with the Ministry of Education;
- (c) Stimulate the participation and comprehensive development of indigenous women, in coordination with SERNAM;

⁴² Act No. 19023, art. 2, 1991.

- (d) Take on, when requested, the legal defence of indigenous people and their communities in conflicts over land and water, and ensure conciliation and arbitration, as provided by law;
- (e) Ensure the protection of indigenous lands by means of mechanisms established by law and make it possible for indigenous people to have access to and increase their land and water through the Fund established for that purpose;
- (f) Promote the adequate exploitation of indigenous lands, endeavour to maintain their ecological balance for the economic and social development of their inhabitants through the Indigenous Development Fund and, in special cases, request the designation of Indigenous Development Areas;
- (g) Maintain a Register of Indigenous Communities and Associations and a Public Register of Indigenous Lands without prejudice to the general legislation on registration of real property;
- (h) Act as an arbitrator in disputes between members of an indigenous association relating to the operation of the association; this may include issuing warnings, imposing fines on the association and even dissolving it. In such cases, the Corporation shall be the final arbiter, and its decisions shall be without appeal;
- (i) Ensure the preservation and dissemination of archaeological, historical and cultural heritage of ethnic groups and promote studies and research in that area;
- (j) Make proposals to the President of the Republic regarding legal and administrative reforms needed to protect the rights of indigenous peoples;
- (k) Perform all other functions established by law.

136. In order to obtain its objectives, CONADI may join with the regional and municipal governments concerned in the formulation of policies and the implementation of plans and projects aimed at the development of indigenous individuals and communities.

137. Its governing body is the National Council, which is composed of: (a) the National Director of the Corporation, appointed by the President of the Republic, who acts as chairperson; (b) the Under-Secretaries or their representatives, specially designated for that purpose, of each of the following ministries: General Secretariat of Government, Social Development and Cooperation, Agriculture, Education, and National Property; (c) three advisers appointed by the President of the Republic; (d) eight indigenous representatives: four Mapuches, one Aymara, one Atacameño, one Rapa Nui and one residing in an urban area of the country. The latter are proposed by the indigenous communities and associations and appointed by the President of the Republic, in accordance with regulations established for that purpose.

138. The Council has established the Indigenous Land and Water Fund, administered by the Corporation and the Indigenous Development Fund, whose objective is to finance special programmes for the development of indigenous people and communities, including special credit plans, capitalization systems and the granting of subsidies to indigenous communities and individuals.

National Service for Older Persons (SENAMA)

139. The Service was established pursuant to Act No. 19828 (27 September 2002) as a functionally decentralized public service under the authority of the President of the Republic through the Ministry and General Secretariat of the Presidency. It is responsible for proposing policies destined to bring about the effective integration of older persons in their families and society, and the solution of problems affecting them. Specifically, it has the following functions: to study and propose policies, plans and programmes aimed at

identifying and solving problems faced by older persons, and to monitor and evaluate their implementation; to propose, promote, coordinate, follow up and evaluate specific programmes for older persons that are implemented through the State Administration; to stimulate private-sector participation in addressing these needs and finding a solution to problems related to ageing; to promote the integration of older persons within their families and the community, and their social integration in a way that allows them to remain active, to their own benefit and that of the community; to stimulate coordination between the private sector and the public sector in all activities related to improving the quality of life of older persons; and to promote the integration of older persons in the world of work.

140. SENAMA will be guided by an Advisory Committee chaired by the National Director of the Service and comprising seven scholars from universities operated by the State or recognized by it, who possess broad knowledge of gerontological issues, and by four persons from older persons' associations selected from a register of such persons maintained by the Service; all of these shall be appointed by the President and shall remain in their posts at his or her discretion. The Committee shall also include four representatives elected by the persons or institutions listed in the relevant register; those who serve for two years may be re-elected.

National Service for Disability (SENADIS)

141. This Service is a functionally decentralized public service with locations throughout the country which reports to the President of the Republic through the Ministry for Social Development and has as its purpose the promotion of equal opportunity, social integration, participation and accessibility for persons with disabilities. It was established by Act No. 20422 (*Diario Oficial*, 10 February 2010). It is organized through a National Directorate, a National Sub-Directorate and Regional Directorates located throughout the country. For all legal purposes, this entity is the legal successor to the National Fund for Disabilities (FONADIS).⁴³

142. This legal entity has also mandated the establishment of a Committee of Ministers on Disability, which was tasked with proposing to the President of the Republic the national policy for persons with disabilities, monitoring its implementation and ensuring its technical adequacy, coherence and intersectoral coordination. The Committee is still in the process of being established, and will consist of the Minister of Social Development, who will serve as presiding officer, and the Ministers of Education, Justice, Labour and Social Forecasting, Health, Housing and Urban Planning, and Transport and Telecommunications. Its secretariat will be located within the SENADIS National Directorate.

143. Its functions will include: coordinating all social activities and services provided by the various State entities that make a direct or indirect contribution to this effort; providing technical advice to the Committee of Ministers in the preparation of a national policy on persons with disabilities and in the periodic evaluation of all such activities and services carried out or provided by the various State entities having as their direct or indirect objective equal opportunity, social inclusion, participation and accessibility as these apply to persons with disabilities; promoting and developing activities that enhance coordination between the private and public sectors in all areas having to do with improving the quality of life of persons with disabilities; carrying out dissemination and sensitization activities; providing financing, either partial or total, for the technical assistance and support services required by persons with disabilities; and ensuring compliance with legal and regulatory provisions relating to the protection of the rights of persons with disabilities. This latter area of responsibility includes the power to bring complaints relating to non-compliance before

⁴³ Established by Act No. 19284 of 1994.

the appropriate legal bodies or courts and to initiate and participate in proceedings in cases of violations of the rights of persons with disabilities, in accordance with the law.

National Service for Minors (SENAME)

144. This Service was established under Act No. 20032 (*Diario Oficial*, 2 February 2005). Its functions are to contribute to the protection and promotion of the rights of children and adolescents who have been harmed in the exercise of those rights and the social reintegration of adolescents who have committed criminal offences. To this end, it has the special responsibility of designing and maintaining a range of specialized programmes for these children and adolescents and of stimulating, guiding and providing financial and technical support for the work done by those public or private institutions designated as accredited collaborators.

145. Its activities are specifically targeted at: (a) children and adolescents whose rights have been violated when this is primarily due to: the lack of a family or other person legally responsible for their care; acts and omissions by the parents or caretakers; the temporary or permanent inability of such persons to ensure that such children or adolescents enjoy their rights without assistance from the State; and the conduct of children themselves, when it jeopardizes their lives or their physical or psychological well-being; (b) adolescents charged with a criminal offence, including those who have been subject to measures that may or may not include deprivation of liberty ordered by a competent court or to a sentence as a result of having committed such an offence; (c) any children or adolescents, with a view to preventing situations in which their rights may be violated and to promoting those rights.

5. Remedies to guarantee the exercise of human rights

Remedy of protection

146. This process, which was established under article 20 of the Constitution, is intended to protect the fundamental rights specified therein in the event of their denial or infringement or of a threat to their legitimate exercise on account of arbitrary or unlawful acts or omissions. Although the constitutional provision does not say so, case law has determined that protection proceedings may be initiated in the event of infringements committed by the political or administrative authorities, individuals or bodies corporate. In keeping with the nature of the remedy, applications are dealt with by a court of appeal in summary manner and without formalities, with a view to affording effective protection. The facts and the evidence are assessed freely. The judgement of the court is final and may be appealed to the Supreme Court within a short period. The decisions of the courts must be handed down within specific time limits, and there are broad powers for immediately taking the necessary measures to restore the rule of law and ensure the protection of the person concerned.

147. This remedy applies to most of the rights guaranteed in the Constitution: the right to life and to physical and psychological integrity of the individual; equality before the law; the right to be tried not by special courts but by a court stipulated in law and previously established by law; respect for and protection of private and public life and the honour of the individual and his family; inviolability of the home and any form of private communication; freedom of conscience; the right to choose a health system; freedom of education; freedom of opinion and freedom to impart information, without prior censorship; the right to assemble peacefully without prior authorization and without arms; the right of association without prior authorization; freedom of work; the right to join a trade union; the right to engage in an economic activity; freedom to acquire property; the right to own

property; copyright; and the right to live in an unpolluted environment. Individual freedom and security are protected by the remedy of *amparo*.

Remedy of amparo

148. Article 21 of the Constitution uses this term to provide for habeas corpus. It is described as a special remedy for cases of deprivation of liberty in which the Constitution or the laws are infringed. Its purpose is to re-establish the rule of law and guarantee the person concerned proper protection, and it includes an investigation of the form of deprivation of liberty. It is governed by the Code of Criminal Procedure and the 1932 agreed order of the Supreme Court, which states how it is to be handled and decided. The remedy may be applied for by any person to the Court of Appeal, does not require any formalities and must be decided on within 24 hours. The court may order the detainee to be brought forward in person. In practice, the detainee's situation is ascertained by means of written communications and telephone calls to the arresting body. Its primary significance lies in the fact that it establishes a speedy and informal procedure for obtaining a decision on deprivation of liberty.

Administrative remedies

149. Under article 9 of Institutional Act No. 18575 establishing the general bases of the State administration,⁴⁴ "administrative acts shall be open to challenge by means of the remedies established by law. An application for reconsideration may always be made to the organ where the act in question originated and, where appropriate, to the next level of authority above it, without prejudice to such judicial action as may be required".

150. The Act establishing the Office of the Comptroller-General of the Republic (No. 10336, arts. 6 and 10)⁴⁵ stipulates that any decree issued through the administrative organs of the State shall be subject to constitutional review. Under this procedure the Comptroller-General's Office exercises broad powers of oversight in rulings, binding on the Administration, which are based on the full range of national legislation, including legislation to protect individuals' fundamental rights.

Compensation for injury caused during the commission of an offence

151. The Code of Criminal Procedure provides for reparation for the effects of the punishable offence through civil proceedings aimed at securing compensation for the injury caused by the offence. It likewise establishes the right to compensation for judicial error. The Constitution establishes, as a guarantee of personal freedom and security, the right to be compensated by the State, pursuant to a Supreme Court decision requested by the party concerned, for material and moral injury suffered as a result of having been wrongly tried or convicted (art. 19, para. 7 (i)).

6. Acceptance of the competence of a regional human rights court or other mechanism

152. At the regional level, Chile has accepted the competence of the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights. It should be noted that the American Convention on Human Rights, also known as the Pact of San José, Costa Rica, which entered into force in 1978, was ratified by Chile in 1997.

⁴⁴ Incorporating D.F.L. No. 1, containing a revised, coordinated and systematized text of Act No. 18575 on the constitutional organization of the general basis of the State administration (*Diario Oficial*, 17 November 2001).

⁴⁵ Version relating to Decree 2421 recasting the text of the Act constituting the organization and attributions of the Office of the Comptroller-General of the Republic (*Diario Oficial*, 10 July 1964).

153. The Commission is a principal and autonomous organ of the Organization of American States (OAS) with a mandate deriving from the OAS Charter and the aforementioned Convention; it acts on behalf of all States members of OAS. It is composed of seven independent members who serve in their personal capacity; they do not represent any particular country and are elected by the OAS General Assembly. They are entitled to, inter alia, receive, analyse and investigate individual applications alleging violations of human rights and to submit cases to the jurisdiction of the Court. The Court is an autonomous judicial institution of OAS which has as its objective the application and interpretation of the American Convention on Human Rights and other related treaties.

154. At the time the present report was prepared, of the cases that had been brought against Chile, five had been submitted to and judged by the Court: (a) case concerning “*The Last Temptation of Christ*”, judgement⁴⁶ issued on 5 February 2001; (b) case of *Palamara Iribarne v. Chile*, judgement⁴⁷ issued on 22 November 2005; (c) case of *Claudio Reyes et al. v. Chile*, judgement⁴⁸ issued on 19 September 2006; (d) case of *Almonacid Arellano et al. v. Chile*, judgement⁴⁹ issued on 26 September 2006; and (e) case of *Atala Riffo and daughters v. Chile*, judgement⁵⁰ issued on 24 February 2012. Chile has complied with the judgements in cases (a) and (c), and is in the process of complying with those in cases (b), (d) and (e). There are currently two cases being heard by the Court: the case of *Norín Catrín et al. (Lonkos, leaders and activists of the Mapuche indigenous people) v. Chile* and the case of *García Lucero et al. v. Chile*.

155. It should be noted that the judgements cited above and other recommendations of the Commission and the Court have resulted in modifications of the Constitution, legislation and public policy as well as the overturning of court sentences.

7. Bodies charged with clarifying and remedying human rights violations committed during the military regime

National Office for Returnees

156. This body was established to address the reintegration of returning Chilean exiles. It was in operation until August 1994. During its three years of operation it catered for a population of 19,251 returnees, or a total of approximately 56,000 persons if relatives are included.

National Commission on Truth and Reconciliation

157. The National Commission on Truth and Reconciliation was established by Supreme Decree No. 335 of 9 May 1990 of the Ministry of Justice to investigate the most serious human rights violations committed between 11 September 1973 and 11 March 1990, i.e. situations in which detained persons disappeared, were executed or died under torture and in which the State appeared to bear moral responsibility for the actions of its agents or persons in its service.

158. The report issued by this body after nine months of work concluded that there had been extremely severe violations of human rights resulting in the death of 2,279 persons between 1973 and 1990. Apart from those cases, some 614 have yet to be clarified, as the Commission was unable to reach a conclusion for lack of relevant information.

⁴⁶ See: www.corteidh.or.cr/docs/casos/articulos/seriec_73_ing.pdf.

⁴⁷ See: www.corteidh.or.cr/docs/casos/articulos/seriec_135_ing.pdf.

⁴⁸ See: www.corteidh.or.cr/docs/casos/articulos/seriec_151_ing.pdf.

⁴⁹ See: www.corteidh.or.cr/docs/casos/articulos/seriec_154_ing.pdf.

⁵⁰ See: www.corteidh.or.cr/docs/casos/articulos/seriec_239_ing.pdf.

National Compensation and Reconciliation Corporation

159. This body, which had a mandate that was extended until December 1996, was established by Act No. 19123 of 8 February 1992; it implemented the recommendations set out in the report of the National Commission on Truth and Reconciliation, particularly with regard to the classification of cases that the Commission had been unable to resolve, the investigation of the fate of those victims, and the provision of moral and material compensation to the victims of human rights violations and to members of their families.

160. At the conclusion of its work, the Corporation issued a final report summarizing the work it had carried out during its four and a half years of activity. It had considered and decided on 2,188 reported cases, of which 899 were classified as cases involving victims. The work carried out by the Corporation and the Commission included the investigation of 4,750 complaints and the declaration of 3,197 persons as victims (2,095 were determined to have died and 1,102 to have disappeared after their arrest).

161. The activities of the former Corporation relating to the investigation of the fate of victims and compensation of victims continues under the Ministry of the Interior, which also serves as the depository for the Corporation's archives, all pursuant to Supreme Decree No. 1005 of 2 April 1997.

Systems for the compensation and rehabilitation of victims

162. The compensation awarded by the State to the families of victims who did not survive human rights violations or political violence in the country from 11 September 1973 to 19 March 1990 is governed by Act No. 19123 of 8 February 1992, which established the National Compensation and Reconciliation Commission.

163. The aforementioned Act grants reparation benefits to family members of persons classified as victims by the National Commission on Truth and Reconciliation or by the National Reparation and Reconciliation Commission, whether they died or were victims of enforced or involuntary disappearance; the benefits are equal in both cases.

164. As noted above, investigations by the Commission and the Corporation led the State to recognize a total of 3,197 persons as victims, with the circumstances of death determined in 2,095 cases (65.53 per cent) and the circumstances of the enforced disappearance determined in 1,102 cases (34.47 per cent).

165. Act No. 19123 provides for two types of benefits payable: allowances and education benefits. A monthly reparations allowance is available to persons linked to the victims who can demonstrate the following degrees of kinship: (a) surviving spouse; (b) mother of the victim or, in her absence, the father; (c) mother or father of the victim's natural children; and (d) children of the victim, whether legitimate, natural, adopted or illegitimate (conceived out of wedlock and not recognized as natural children through the procedures prescribed by law). For the first three categories of relatives, the allowance is payable for life; for children, until the day of their twenty-fifth birthday, unless they are disabled, in which case it is payable for life.

166. Such allowances are readjusted annually, at the same time and by the same percentages as are the allowances provided under the general public social security scheme. They also cover payment of the health insurance premium (7 per cent), thereby enabling beneficiaries to subscribe to the medical care system of their choice and partially underwriting the cost of health-care services, either through the National Health Fund, a public entity, or through a private scheme.

167. In addition to the reparations allowance, the father and siblings of the victim are entitled, whether or not they receive an allowance, to free medical services provided by establishments attached to the National Health Care System.

168. Article 24 of Act No. 19123 expressly provides that the reparations allowance is compatible with any other allowance, regardless of type, that the beneficiary receives or may be entitled to receive, and is thus compatible with any other social security benefit established by law.

169. Education benefits consist of the payment of all enrolment and monthly fees for establishments of higher education, universities, professional institutes and technical training institutes at which the children of victims study, with payment made directly to the educational establishment, and in the payment of a monthly enrolment fee subsidy, which is paid during school months directly to the children of victims who are studying in establishments of secondary or higher education. Unlike the monthly reparations allowance, which, as noted above, expires on the last day of the year in which the child turns 25, the age limit for receiving education benefits is 35 years. These benefits are mutually compatible and are also compatible with the monthly reparations allowance.

170. As at 30 September 1997, the Social Security Institute, a State body responsible for receiving applications and administering the allowance system, had received 6,089 applications for allowances, of whom 5,589 were considered to be eligible, with 230 found ineligible for failure to demonstrate the requisite degree of kinship with the victim or, in the case of children, being over the age of 25. As at the same date, of those recognized as beneficiaries, some 5,726 had been granted allowances, with another 133 applications pending until the applicants could provide the necessary documentation required for proof of eligibility.

C. Framework for the promotion of human rights at the national level

1. Promotion of human rights by the State

171. Chile is firmly committed to human rights and to the work of international institutions dedicated to their promotion and protection, and it addresses all natural, economic, political and cultural challenges with solidarity and respect for the fundamental rights of each and every citizen.

172. Thus Chile's international commitment to the promotion and protection of human rights does not stop in the various international forums to which it belongs, but is reflected in the numerous activities and policies at the national level which, while ensuring compliance with international instruments, have been undertaken on behalf of vulnerable groups and groups that have suffered discrimination, especially children, women, indigenous peoples, persons with disabilities and older persons. These efforts have improved the public institutions active in these areas and ensure greater protection of the rights of the country's citizens and better living conditions for Chileans. It is this conviction that has led the country to become a party to the major international human rights treaties.

173. Chile has been a member of the Human Rights Council since 2008 and will remain on the Council until 2014, when its second term expires. In June 2009, Chile was elected to the Vice-Presidency of the Council for one year, having been the candidate from its regional group. In May 2009, Chile presented its universal periodic review, in the preparation of which various Chilean NGOs took part. The report focused on three major themes: completion of the country's democratic transition; the search for truth, justice and reparation for the human rights violations of the past; and the establishment of the necessary bases for the creation of a social system characterized by a market economy with greater equity and strong emphasis on social welfare.

174. Chile engages in ongoing cooperation with the human rights supervisory mechanisms of both the United Nations system and the inter-American regional system of the Organization of American States. While undergoing its universal periodic review in

2009, Chile extended a standing invitation to visit the country to the special procedures of the Human Rights Council. Moreover, it regularly submits its reports to the treaty bodies, committees and special procedures, acting on their recommendations and concluding observations with a view to integrating them in and adapting them to its internal legislation.

175. Similarly, Chile has implemented the recommendations and judgements of the inter-American human rights bodies, which in one case meant revising the Constitution (case concerning “*The Last Temptation of Christ*” v. Chile), and in another drafting the Public Information Transparency and Access Act⁵¹ (case of *Claude Reyes et al. v. Chile*), which sets out procedures and remedies and establishes a body with specific competency in the matter, the Transparency Council.

Dissemination of human rights instruments

176. Among the various ways in which human rights instruments are publicized, the publication of the Human Rights directorate in the Ministry of Foreign Affairs, which contain updated, periodic information on the universal and inter-American human rights systems, merit particular attention.⁵² All of the United Nations treaties and optional protocols ratified — and signed — by Chile, the periodic reports submitted to the treaty bodies and the recommendations and concluding observations made by those bodies have been published.

177. The initial report submitted to the Human Rights Council in the context of the universal periodic review (2009), as well as the progress or midterm report, presented in 2012, have likewise been published. Where the inter-American system is concerned, it is possible to consult treaties that have been ratified, final reports issued by the Inter-American Commission on Human Rights and information on the judgements of the Inter-American Court of Human Rights in cases brought against Chile.

Promotion of human rights through educational programmes and Government-sponsored public information

178. In 2011, the Office of the Secretary-General of Government (SEGEOB) publicized the following events on its website (www.participemos.gob.cl): (a) International Women’s Day (8 March); (b) International Day against Homophobia (17 May); (c) International Day of Older Persons (1 October); (d) International Day for the Eradication of Poverty (17 October); (e) Universal Children’s Day (20 November); (f) International Day of Persons with Disabilities (3 December), and (g) International Migrants Day (18 December).

Promoting human rights among public officials and other professionals

179. Mention should first be made of the awareness-raising efforts of the Human Rights Directorate of the Ministry of Foreign Affairs. The Directorate disseminates the concluding observations made by each Committee or treaty body every time a periodic report is considered. The subjects covered by each recommendation are evaluated and reviewed, and the recommendations are then conveyed to the appropriate public agencies with a view to having them reflected in public policy. In many cases, follow-up is given to the recommendations the State considers to be of priority in order to ensure that they are implemented.

180. With regard to the drafting of periodic reports in fulfilment of treaty obligations, seminars and information meetings are held for public officials, civil society or both in

⁵¹ Act No. 20285 on access to public information, 20 August 2008.

⁵² See: http://www.minrel.gob.cl/prontus_minrel/site/edic/base/port/derechos_humanos.php.

order to raise awareness of the ways the mechanisms work, the importance of the conventions, the status of implementation and the content of reports in the light of the various observations and recommendations. The aim of these activities is to provide information about the time frame involved and the modalities of civil society participation, while also preparing an assessment of the progress made and the obstacles identified that can be reflected in each report.

181. The Office of the Secretary-General of Government is also responsible for promoting respect for social diversity, multiculturalism and non-discrimination among public agencies and civil society, by training civil servants so that they can promote activities aimed at the eradication of arbitrary discrimination and by disseminating information about diversity and non-discrimination in public information centres. Training in the methodological tools for overcoming arbitrary discrimination is available to civil servants. The objective of such training is to work with public institutions to raise awareness of and promote practices for the integration of all persons, regardless of their social, economic, racial or other status, by providing specific information and general background on the ways discrimination affects the most vulnerable groups and by setting up spaces where public officials and civil society can engage in dialogue and reflection.

182. A total of 11 seminars for public servants from 9 ministries were scheduled for the period April-September 2011, as indicated in the following tables.

Table 54

2011 training seminars

<i>Region</i>	<i>Date</i>	<i>Themes</i>
RM (Santiago)	7 April	Respectful treatment of older persons (SENAMA) Act No. 20422 establishing standards on equal opportunities and social inclusion for persons with disabilities (SENADIS)
RM (Santiago)	14 April	“My opinion counts” national survey (SENAME) Domestic violence (SERNAM)
RM (Santiago)	28 April	Immigration and public policy: Integration of the immigrant population resident in Chile (Department of Aliens and Migration) Principal findings of Sixth National Youth Survey, discrimination and young people (National Youth Institute)
X	23 May	Domestic violence (SERNAM) Act No. 20422
VII	2 June	School harmony policy: training aspects and safeguarding of rights (MINEDUC) Act No. 20422
VI	17 June	Act No. 20422 Respectful treatment of older persons (SENAMA)
V	15 July	Respectful treatment of older persons (SENAMA) Immigration and public policy: integration of the immigrant population resident in Chile (Department of Aliens and Migration)

<i>Region</i>	<i>Date</i>	<i>Themes</i>
IV	26 July	Immigration and public policy: integration of the immigrant population resident in Chile (Department of Aliens and Migration) Arbitrary discrimination against the urban indigenous population (CONADI)
RM (Santiago)	14 September	Stigma and discrimination as an obstacle to AIDS prevention and to an improved quality of life for persons with HIV (National Commission on AIDS) “My opinion counts” national survey (SENAME)
RM (Santiago)	22 September	Domestic violence (SERNAM) Respectful treatment of older persons (SENAMA)
RM (Santiago)	29 September	Principal findings of Sixth National Youth Survey, discrimination and young people (National Youth Institute) Stigma and discrimination as an obstacle to AIDS prevention and to an improved quality of life for persons with HIV (National Commission on AIDS)

Table 55
Employee participation by ministry

<i>Ministry</i>	<i>Number of employees trained</i>	<i>Men</i>	<i>Women</i>
Justice	52	9	43
Planning and Cooperation	37	9	28
Office of the Secretary-General of Government	30	13	17
Health	26	10	16
Agriculture	24	4	20
Economy, Development and Tourism	23	8	15
Interior and Public Security	21	7	14
Labour and Social Security	21	5	16
Housing and Town Planning	18	2	16
Total	252	67	185

Reporting process at the national level

183. Under Supreme Decree No. 323 of 2006, drafting of reports for treaty bodies is the responsibility of the Human Rights Directorate of the Ministry of Foreign Affairs. The Directorate coordinates the presentation of these reports; to this end it compiles earlier reports and arranges for contributions from all of the relevant sectors, including the ministries that comprise the executive branch and their respective departments, law enforcement agencies, autonomous entities, municipal and regional authorities, the judiciary and the legislature.

184. Article 1 of Supreme Decree No. 323 establishes the Coordinating Commission in order to fulfil the Chilean State’s obligations under international human rights law; in accordance with international requirements, the Commission acts as the body coordinating the submission of information to be provided by various public agencies for the preparation

of the replies that Chile must transmit, through the Ministry of Foreign Affairs, to the bodies responsible for the monitoring, promotion and protection of international human rights law. The Commission is made up of the following institutions: the Ministry of Foreign Affairs, which chairs it, the Ministry of the Interior, the Ministry of Defence, the Office of the Minister and Secretary-General of the Presidency, the Office of the Minister and Secretary-General of Government, the Ministry of Education, the Ministry of Justice, the Ministry of Labour and Social Security, the Ministry of Health, the Ministry of Social Development, the National Service for Women (SERNAM), the Public Prosecution Service, the Carabineros (police), the investigative police, the Office of the Public Defender, the Chilean Prison Service and the National Service for Minors (SENAME).

185. That interministerial Commission met until early 2012, when it was replaced by a tripartite committee formed by the Human Rights Advisor to the President of the Republic, the Human Rights Coordinator of the Ministry of Justice and the Human Rights Directorate of the Ministry of Foreign Affairs. Under this new model, the completion of the first draft of each periodic report required under human rights treaties is associated with a single ministry and/or secretary-general's office (or both). The tripartite committee monitors compliance with international standards and ensures inter-institutional coordination. The Human Rights Directorate of the Ministry of Foreign Affairs is responsible for the continuity of the reporting process, presenting the reports and representing Chile at international organizations.

186. Also involved in the preparation of reports is the National Human Rights Institute, which is given an advance copy of the final draft of the report before it is submitted to the United Nations so that it can make contributions and observations or take any step it deems appropriate. Civil society participates through the information, communication and dissemination activities undertaken by the Ministry of Foreign Affairs, which may include round tables, seminars, updates sent by e-mail and distribution of summaries of draft reports. These efforts make it possible to disseminate the work of the treaty bodies as well as to promote and benefit from the contributions of both civil society and the National Human Rights Institute when the reports are considered by the treaty bodies as reflected in the concluding observations of those bodies.

187. It should be noted that the concluding observations of the treaty bodies are transmitted to the relevant government departments for follow-up. These recommendations lead to the development of public policies and legislation necessary for the fulfilment of international human rights obligations. These documents are also posted on the official website of the Ministry of Foreign Affairs so that citizens and civil society actors can consult them freely. Follow-up of the recommendations that the State considers to be a priority is undertaken yearly.

National Congress

188. Within the legislative branch, both the Chamber of Deputies and the Senate have specialized human rights commissions.

2. National Human Rights Institute

National Human Rights Institute (INDH)

189. The National Human Rights Institute was established by Act No. 20405 (*Diario Oficial*, 10 December 2009) as an autonomous body under public law. Its role is to promote and defend the human rights of all persons living in Chile, in accordance with the Constitution and the international treaties in force.

190. Its main responsibilities are to:

- (a) Prepare an annual report on its work and on the human rights situation in the country and to make recommendations on ways to safeguard and respect those rights. The report is submitted to the President of the Republic, the National Congress and the President of the Supreme Court. It may also be sent to the United Nations, the Organization of American States and human rights organizations;
- (b) Convey to the Government and State organs its views regarding human rights situations in the country. To this end, it may request reports from the relevant body;
- (c) Recommend measures to State bodies to encourage the promotion and protection of human rights;
- (d) Ensure that domestic legislation is compatible with the international treaties signed by Chile so that they can be effectively implemented;
- (e) Initiate, within its area of competence, legal proceedings that may include actions for crimes against humanity, torture and enforced disappearance; apply for remedies of protection and of *amparo*;
- (f) Serve as repository for the records collected by the National Commission on Truth and Reconciliation (the Rettig Commission), the National Commission on Political Prisoners and Torture (the Valech Commission), the National Compensation and Reconciliation Board, the Human Rights Programme and those being collected by the new Valech Commission, established in 2010 by Act No. 20405;
- (g) Collaborate with the Ministry of Foreign Affairs and other public bodies in the preparation of reports to be submitted to the United Nations or the Organization of American States;
- (h) Cooperate with the United Nations and other related organizations in and outside the region in the promotion and protection of human rights;
- (i) Disseminate information on human rights, encourage the teaching of human rights at all educational levels, including the training given to members of the Armed Forces, conduct research, issue publications, award prizes and foster a culture of respect for human rights in the country.

191. The Institute is governed by a Council made up of: (a) two members appointed by the President who must come from different regions of the country; (b) two members elected by four sevenths of Senators in office; (c) two members elected by four sevenths of the Deputies in office; (d) one member appointed by the deans of the law schools of universities belonging to the Council of Rectors and autonomous universities; and (e) four members elected by human rights institutions. The Director of the Institute shall be elected by the Council, by absolute majority, from among Council members. Deputies, senators, mayors, municipal councillors, regional councillors, judges, prosecutors from the Public Prosecution Service and officials from the civil service, the Armed Forces, the Carabineros and the investigative police are not eligible to be Council members.

192. The Institute is advised by a National Advisory Board on which are represented social and academic organizations for the promotion and defence of human rights.

3. Civil society

Citizen participation and the role of civil society

193. Act No. 20500 (*Diario Oficial*, 16 February 2011) on Associations and Citizen Participation in Public Affairs guarantees the right of individuals to participate, with equal opportunities, in the life of the nation, as provided for in article 1 of the Constitution, inasmuch as citizen participation is considered to constitute the central pillar of a modern

democracy. The Act seeks to encourage versatility, efficiency and transparency in the creation of associations and their participation in the social, economic, cultural and political life of the country. It seeks to ensure that such participation takes place in an environment of freedom, pluralism, tolerance and social responsibility; it also recognizes the importance of such associations as agents of change and social transformation, in keeping with the principle of subsidiarity upheld by the country's legal order.

194. The most important provisions of the Act are: (a) its recognition of the right of persons to associate freely for lawful purposes and the duty of the State to promote and support such initiatives; (b) its definition of such concepts as "public interest organizations" and "voluntary organizations" and its identification of management procedures they must follow, such as having articles of association, a board of at least three members and disclosing their financial records when they receive public funds for their activities; (c) the stipulation that the Civil Registry and Identity Service must maintain a national registry of non-profit legal entities (operational as of 16 February 2012) containing information on the establishment, modification, dissolution or termination of such associations, and on the bodies that manage or administer them; (d) the establishment of the Fund to Strengthen Public Interest Organizations, which is intended to finance national and regional projects and programmes involving such organizations. The Fund is to be governed by a national council that will, inter alia, approve the application requirements for proposed projects and select the national programmes from among the annual applications; (e) its amendments of the Institutional Act establishing the Framework of the State Administration, stipulating that each body within the State administration must establish how persons and organizations may participate in areas within its field of competence. These modalities should be kept up-to-date and published electronically or by other means. In addition, these bodies must give a public account of their actions, plans, policies, programmes and budgets, and they must announce matters of public interest on which they wish to obtain the public's opinion by means of consultations that must be informed, pluralistic and representative. The views collected must be evaluated and considered by the relevant body, and the administrative bodies must establish advisory civil society councils made up of a diverse, representative sample of members of non-profit associations working in the relevant area of competence; (f) its amendments of the Institutional Act on Municipalities by identifying the ways and subject areas in which citizen groups can participate in management at the communal level, such as, for example, urban planning or the mayor's annual report.

Constitutional reform bill incorporating citizens' initiatives

195. This bill concerns the incorporation of citizens' initiatives into the Chilean legal order: (a) it stipulates that citizens' initiatives, are also matters of law; (b) it states that laws may originate not only with the President, the Chamber of Deputies or the Senate but also with the people; (c) lastly, it establishes that the prerequisites to the exercise of a citizens' initiative, the matters of law pertaining to them, their admissibility, the process by which they may be held and all matters that make the exercise of this right possible shall be governed by the Institutional Act establishing Congress. It has been under consideration in the first reading in the Chamber of Deputies since 2 October 2007 (Bulletin, 5221-07).

D. Equality and non-discrimination

1. A general and binding principle

196. Article 1, paragraph 1, of the Constitution explicitly establishes equal treatment and non-discrimination when it states: "People are born free and equal in dignity and rights." That statement is strengthened by the constitutional guarantees set forth in article 19, particularly in paragraph 2, which states that "in Chile there are no privileged persons or

groups”, and “neither the law nor any authority may establish arbitrary differences”. Likewise, with regard to the exercise and protection of the freedom to work, article 19, paragraph 16, subparagraph 2, states that “any discrimination that is not based on personal skills or ability shall be prohibited”. The Constitution provides guidance for an extensive legal framework encompassing various special laws (pertaining chiefly to the right to health, the right to work, the rights of persons with disabilities, gender equality, minority rights and consumer rights) that draw on instruments of international and comparative law dealing with non-discrimination.

197. As regards penalties for discrimination, it should be noted that the ban on unreasonable or subjective inequality of legal treatment, which is established in the Constitution, is directed above all at the public authorities and at those who make the law and the judges who apply it. This does not rule out the possibility of the law or the public authorities providing for positive or affirmative action on behalf of vulnerable groups in order to compensate for situations of historic inequality, and only for as long as such situations last. In this way, the State fulfils its mandate as a guarantor of individual liberties, favouring equality of opportunity for the most vulnerable groups, and creating clear and accessible ways and means of participation.

198. The only possible limitations to equality of treatment arise from objective criteria that are proportional to the end sought and based on personal skills or ability, age limits or nationality requirements (Constitution, art. 19, para. 16).

Equality and education

199. The principles of non-discrimination and respect for diversity were never explicitly guaranteed in the earlier Institutional Act on Education (Act No. 18960, *Diario Oficial*, 10 March 1990). As a result, the primary objective of the law that replaced it, Act No. 20370 on Education (*Diario Oficial*, 12 September 2009), was to make explicit that “it shall be the duty of the State to encourage integrity, to develop education at all levels and in every way and to promote the study and knowledge of the essential rights inherent in human nature; to foster a culture of peace and the absence of arbitrary discrimination; to encourage scientific and technological research and innovation, artistic creation, the practising of sports and the protection and preservation of the country’s natural and cultural heritage as well as its cultural diversity” (art. 5).

200. The Act further stipulates that the duties of education professionals are to teach in a proper and responsible manner and to treat students and other members of the educational community with respect and without arbitrary discrimination. The duties of students are likewise to treat all members of the educational community in a humane, respectful and non-discriminatory manner.

201. Education must reflect the observance and recognition of human rights and fundamental freedoms, multicultural diversity and peace as well as Chilean national identity, teaching people how to live their lives fully, to live together in harmony, to participate in the life of the community in a responsible, tolerant, supportive, democratic and active manner, to work and to contribute to the development of the country. The system should promote and respect the diversity of institutional educational processes and projects no less than it does the cultural, religious and social diversity of the persons entrusted to it. The overall objectives of basic education shall be recognition of and respect for cultural, religious and ethnic diversity and the differences between individuals, as well as the equal rights of men and women, and the development of a capacity for empathy.

202. With regard to affirmative actions and measures, it is explicitly stated that pregnancy and motherhood shall in no case constitute an obstacle to admission to or continuation in educational institutions at any level; such institutions must provide the academic and

administrative facilities to make admission and continuation possible. For persons with disabilities, special measures, such as curricular modifications for specific educational needs, are taken, with similar modifications made in such situations as intercultural learning contexts, prison schools and hospital schools. For members of indigenous communities, bilingual intercultural education celebrates diversity of culture and origin; the language, world view and history of the indigenous community are taught and passed on, thus making harmonious dialogue in society possible.

Equality with regard to the right to health

203. Act No. 19966 (*Diario Oficial*, 3 September 2004), known as the AUGE Plan, provides for a system of explicit guarantees of access to health care, a step towards the gradual realization of the right to health insofar as it guarantees all persons, regardless of their socioeconomic status, sex, age or other status, equal access to health care, thereby eliminating the stigma of receiving inferior health care which faces lower-income populations.

204. For beneficiaries of the private health-care system, the new legislation puts an end to the discrimination suffered by women of childbearing age and older persons, who had to endure constant increases in the prices of their health plans. By law, the price of specific health-care services is the same for all participants in a single health-care scheme, regardless of the factors mentioned above. In addition, these guarantees can be invoked before administrative and judicial authorities.

Equality with regard to the right to work

205. The prohibition against discrimination established in the Constitution is further elaborated in article 2 of the Labour Code. Acts of discrimination are distinctions, exclusions or preferences based on race, colour, sex, age, marital status, union membership, religion, political opinion, nationality, national extraction or social origin that have the purpose of nullifying or impairing equality of opportunity or treatment in a person's employment or occupation. This provision is consistent with international norms, above all those set forth in the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which Chile signed and ratified in September 1970.

206. Thus in Chile, any distinction, preference or exclusion effected on the basis of the criteria mentioned above is a violation of the constitutional right to non-discrimination in employment. In this respect, labour law states that "in light of the foregoing, and without prejudice to other provisions of this code, an offer of employment made by an employer directly or through a third party or any medium, stipulating as a prerequisite for application any of the conditions mentioned in the third paragraph, is deemed to be a discriminatory act" (art. 2, para. 5). Accordingly, an objective violation of labour law needs no additional element, such as a motive, a specific end or a specific victim, in order to exist.

2. Human rights situation of persons belonging to vulnerable groups

207. Chile demonstrates its unwavering commitment to the human rights situation of persons belonging to vulnerable groups in the population by including specific information in the periodic reports submitted in accordance with the international treaties that it has signed and that are in force. In this connection, the following reports submitted by Chile may be consulted:

(a) Combined nineteenth to twenty-first periodic reports of Chile on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/CHL/19-21);

(b) Fifth periodic report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/CHL/5); the subsequent (sixth) report is to be submitted in December 2013;

(c) Combined fifth and sixth periodic reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/CHL/5-6);

(d) Third periodic report on the implementation of the Convention on the Rights of the Child (CRC/C/CHL/3) and its two Optional Protocols (CRC/C/OPAC/CHL/1 and CRC/C/OPSC/CHL/1); the following report (the combined fourth and fifth reports) was to have been submitted on 12 September 2012;

(e) Initial report on the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/CHL/1).

208. Without prejudice to the foregoing, the major features of measures taken in favour of gender equality, persons with disabilities, indigenous peoples, children and adolescents, and consumers are summarized below.

Gender equality and women's rights

209. Women's rights have figured prominently in Chilean foreign policy, and Chile has played an active role in the promotion of those rights. For more than a decade Chile sponsored resolutions of the Commission on Human Rights on the integration of the human rights of women throughout the United Nations system. Its most recent submission, in 2007, was co-sponsored by more than 70 countries from all areas of the world and was adopted by consensus. The resolution introduced a gender perspective into all parts of the United Nations system, particularly in the Human Rights Council and the treaty bodies.

210. Within the framework of that resolution, Chile organized a series of panel discussions on women's issues, including: the panel discussion on the integration of a gender perspective in the work of the special rapporteurs (September 2008); the panel discussion on the integration of a gender perspective in the universal periodic review (September 2009); the panel discussion entitled "Empowering Women through Education" (June 2010); the panel discussion on integrating a gender perspective in the work of the Human Rights Council: lessons learned, obstacles and challenges (24 September 2010).

211. Chile also worked with Estonia to facilitate the adoption of Economic and Social Council resolution 2009/12, on mainstreaming a gender perspective into all policies and programmes in the United Nations system, which sought recognition of the equality of women and girls in dignity and full enjoyment of their rights. Since its election in 2007, Chile has been one of the five members of the Advisory Committee of the United Nations Development Fund for Women, now part of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women). It represents the Group of Latin American and Caribbean States on the Committee where it has succeeded in ensuring the provision of resources on a regular basis for the regional offices in Latin America and the Caribbean.

212. As part of its long tradition of support for the coherence of the system, Chile has since 2006 worked for the creation of a new entity working for women's empowerment, UN-Women, and it was actively involved in the negotiations, organizing parallel supporting events aimed at securing the consensus that ultimately bore fruit with the decision to create the new body.

213. Chile has also worked extensively to make progress in the prevention and in the social and criminal sanctioning of gender-based violence. Chile was one of the original sponsors of General Assembly resolution 61/143, on intensification of efforts to eliminate

all forms of violence against women, and it is currently a member of the Group of Friends of that resolution, which promotes activities of the system aimed at preventing that scourge.

214. Chile was the first Latin American country to have an action plan for Security Council resolution 1325 (2000), on women, peace and security, a plan that calls for the comprehensive and cross-cutting implementation of measures to protect women and girls in the event of armed conflict, as well as the creation of incentives for them to take part in peacebuilding and democracy-building.

215. Chile has been a tireless promoter of the right to health and the attainment of Goals 4 and 5 of the Millennium Development Goals. The country sponsored “Deliver Now”, the global campaign for the health-related Millennium Development Goals, and organized and co-chaired a presidential event on Goals 4 and 5 of the Millennium Development Goals, “Commitment to Progress for Mothers, Newborns and Children”, which was held in New York on 25 September 2008 and at which several States, NGOs and companies made new pledges in this area, thereby giving impetus to the current global strategy.

216. Chile has also organized and sponsored a series of parallel events within the framework of the Commission on the Status of Women: “Financing for Gender Equality and the Empowerment of Women” (2008); “Deliver Now for Women and Children” (2008); “On the Road to ECOSOC 2009: Chronic Diseases and Women’s Health”, sponsored jointly with Bangladesh and the United Republic of Tanzania in 2009; and “Health of Women and Men in the Americas”, organized jointly with the Pan American Health Organization in 2009. Chile is likewise a founding member of the Council on Gender-based Health at the United Nations, which brings together Member States and actors from civil society.

217. In addition, Chile is a signatory to the Convention on the Rights of Persons with Disabilities and has played an active role in meetings of the Conference of States parties to the Convention.

218. In the area of children’s rights, Chile has ratified the Optional Protocols to the Convention on the Rights of the Child and endorsed the Paris Principles. In March 2009, Chile was a sponsor of a motion urging the Human Rights Council to take decisive measures to address the serious health problem of maternal mortality.

219. Lastly, the appointment of the former President of Chile, Michelle Bachelet, as the first Executive Director of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), is a source of pride for the Government of Chile.

220. That appointment, made by the Secretary-General, was recognition of Ms. Bachelet’s remarkable record in the defence and promotion of women’s rights, particularly in her position as the first woman President of Chile.

Gender equality with regard to remuneration

221. Act No. 20348 of 19 June 2009, which upholds the right to gender equality in respect of remuneration, incorporates the principle of equal pay for men and women into the Labour Code in the following ways: (a) it introduces a new article 62 bis that expressly provides that “employers shall respect the principle of equal pay for men and women performing the same work; objective differences in pay that are based on ability, qualifications, suitability, responsibility or productivity shall not be considered to be arbitrary”; (b) it establishes a legal basis for lodging complaints of violations of the principle of equal pay; (c) it establishes that companies with over 200 workers must incorporate a register into their in-house regulations that contains a description of the various jobs and responsibilities within the company and their essential technical characteristics with the aim of providing objective parameters for comparing remuneration

levels; (d) it provides for an incentive for employers who do not establish arbitrary differences in remuneration for employees having similar jobs and responsibilities. Such employers are able to apply for a 10 per cent reduction in any fines arising from the application of the previous paragraphs, provided that the fines are not based on anti-trade-union practices or violations of fundamental rights; and (e) in the area of public-sector employment, a provision of the Administrative Regulations for Civil Servants⁵³ stipulates that, for contracted workers, there must be no kind of “discrimination that could undermine the principle of equal treatment for men and women”.

Advances in the rights of children and adolescents

222. With the entry into force of the Convention on the Rights of the Child, the State reoriented its youth policies, making a series of legislative changes informed by the new view of children as subjects of rights.

223. The major reforms are the Filiation Act,⁵⁴ which abolished the different categories of children established in civil law and the discriminatory treatment to which they were subject in matters regarding kinship, the right to maintenance, parental authority and inheritance, and the changes made to the regime governing the adoption of minors, which established, inter alia, that: adopted children enjoy equal rights; Chilean married couples willing and able to adopt are preferred to aliens; and the wrongful receipt of payment for the delivery of a child for purposes of adoption shall constitute an offence. The labour of children less than 15 years of age was likewise made unlawful.

224. The ratification of the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) is consistent with these reforms.

225. With regard to the right to education, the constitutional reform raising the number of years of compulsory schooling to 12 and extending the school age to 21 is significant, as are the new General Education Act establishing a new institutional framework for education in Chile and the recently promulgated Act on the Quality and Equity of Education.

226. In the area of health, Act No. 19966 (*Diario Oficial*, 3 September 2004) guarantees access to high-quality treatment for a range of childhood diseases as well as free treatment for HIV/AIDS.

Advances in the rights of aboriginal or indigenous peoples

227. Act No. 19253 (*Diario Oficial*, 5 October 1993), the Indigenous Peoples Act, establishes norms for the protection, advancement and development of indigenous peoples as well as the creation of the National Indigenous Development Corporation (CONADI), the Land and Water Fund and the Fund for Indigenous Development. From 1994 to August 2013 it made possible the acquisition of 690,872 hectares of land, which have been transferred to or reclaimed for indigenous persons and communities, benefiting 23,410 families.

228. Other advances are the promulgation of Act No. 20249 (*Diario Oficial*, 16 February 2008) establishing the Aboriginal Peoples’ Marine and Coastal Zone and the establishment in 2001 of the Origins Programme, which has invested nearly US\$ 109 million in local development projects in approximately 1,200 indigenous communities.

⁵³ Executive Order No. 29, published in the *Diario Oficial*, 16 March 2005. Coordinated, consolidated and standardized text of Act No. 18835 – Administrative Regulations.

⁵⁴ Act No. 19585 of 26 October 1998, amending the Civil Code and other legislation on parental relationships.

229. Chile has ratified the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) (*Diario Oficial*, 15 September 2008) and has signed the United Nations Declaration on the Rights of Indigenous Peoples; the country is thus bound by a duty to consult and to afford opportunities for participation in this area. For this reason, in March 2011 the Government launched a consultation for the establishment of a consensual mechanism for indigenous consultations based on the standards set out in ILO Convention No. 169. As a first step, more than 100 workshops involving more than 5,000 participants were held throughout the country and the consultation concluded in August 2013 in a National Indigenous People's Congress, where discussion centred on the agreements that had been reached and the three articles on which there had been no agreement: direct impact, measures requiring consultation, and projects or activities to be submitted to the Environmental Assessment Service. The draft regulations that emerged from this process and the report on the consultation were sent to the President of the Republic for consideration and, if appropriate, promulgation of the new regulations.

230. The Chilean Constitutional Court has ruled that the above consultation is automatically enforceable and is applicable by all State agencies, including the National Congress, from the moment the Convention enters into force.

231. The State of Chile has likewise committed to undertaking a constitutional reform, currently under consideration in the National Congress, that recognizes "the existence of the indigenous peoples who live on its territory and the right of indigenous peoples, communities and individuals to conserve, develop and strengthen their identity, languages, institutions and social and cultural traditions and to take part in the consultation referred to in article 6 and in the economic, social, political and cultural life of the country in the manner provided for by the national legal order".

232. Other special measures taken in favour of indigenous peoples include: (a) the New Deal Policy; (b) the Social Covenant for Multiculturalism ("*Re-conocer*"); (c) Decree No. 124 of the Ministry of Planning and Cooperation⁵⁵ of 2009, which sets out the regulations for implementing Act No. 19253 and ILO Convention No. 169 with a view to regulating indigenous consultation and participation; (d) Decree No. 101 of the Ministry of Planning and Cooperation (*Diario Oficial*, 7 June 2010), establishing the Council of Ministers for Indigenous Affairs; and (e) special legislation concerning Easter Island.

233. The mandate of the Council of Ministers for Indigenous Affairs is to advise the President of the Republic on the design and coordination of public policy concerning indigenous peoples. The Minister of Social Development, the Minister of the Interior, the Minister and Secretary-General of the Presidency, the Minister for Foreign Affairs, as well as the Ministers of Education, Culture, National Resources, Agriculture and Economic Affairs, Development and Reconstruction are members of the Council. Its functions are to: (a) make recommendations regarding draft legislation on indigenous affairs that is submitted to the President; (b) coordinate the activities carried out in different sectors to implement policy relating to indigenous affairs; (c) collaborate in and serve as a forum for the evaluation of policies and programmes directed at indigenous peoples and coordination of the work of the ministries and government offices that implement cross-cutting policies or programmes with an impact on rights or on indigenous communities; (d) provide guidance in the setting of priorities for the expenditure of public resources earmarked for indigenous communities; and (e) propose guidelines for sectoral programme initiatives that affect or may affect indigenous communities.

⁵⁵ The current Ministry of Social Development.

234. The mission of the Indigenous Affairs Coordination Unit of the Office of the Minister and Secretary-General of the Presidency is to collaborate in the design, coordination and assessment of policy pertaining to indigenous affairs and to ensure the proper implementation of that policy. Its objectives are to: (a) define broad policy lines that guarantee indigenous peoples full participation in the life of the nation; (b) create the conditions that can enable them to achieve the greatest possible spiritual and material fulfilment, with full respect for their rights; (c) foster a multicultural perspective that facilitates recognition of their cultural values and their contribution to the national community; and (d) advise CONADI. Its functions are to: (a) design and propose indigenous policy, coordinate the implementation and follow-up of that policy with the relevant State institutions or government agencies and conduct periodic assessments of national indigenous policy; and (b) develop and propose plans and programmes for the economic, social and cultural development of indigenous peoples, contribute to the identification of criteria relating to indigenous affairs that should be incorporated into the policy and planning processes of other ministries and State agencies, and coordinate the activities they undertake.

Advances in the rights of persons with disabilities

235. Act No. 20183 (*Diario Oficial*, 7 June 2007) amended Institutional Act No. 18700 on Popular Votes and Vote Counts to guarantee persons with disabilities the right to assistance when voting. New article 61 states that persons having a disability that prevents them from exercising their right to vote or makes it difficult to do so may be accompanied to the polling place by another adult and may request assistance with voting. If they wish to be assisted, they shall inform the chief polling officer orally, in sign language or in writing that a trusted adult of either sex will enter the voting booth with them, and neither the polling officer nor any other person may impede or obstruct their exercise of the right to assistance.

236. Following ratification of the Convention on the Rights of Persons with Disabilities (*Diario Oficial*, 27 July 2008), and with a view to incorporating its norms and standards, Act No. 20422 (*Diario Oficial*, 10 October 2010) establishing rules governing equal opportunities and social inclusion for persons with disabilities was promulgated. This framework act provides a new definition of persons with disabilities, one that, in keeping with the new model adopted by the World Health Organization in the International Classification of Functioning, Disability and Health, takes into account the participation restrictions and activity limitations these persons experience in everyday life.

237. The regulatory changes set out in this Act reflect the principles established in the Convention. They include the prevention of multiple discrimination and improvements to the system of judicial remedies and sanctions. The National Service for Persons with Disabilities (SENADIS) has been given such new functions as labour mediation and defence of the rights of persons with disabilities when collective or general interests are compromised. SENADIS now has a decentralized structure, with the law providing for the establishment of a regional head office in each region of the country.

Equality with regard to the rights of migrant workers

238. The Aliens and Migration Department of the Ministry of the Interior, in coordination with other ministries and government agencies, oversees the immigration system. The activities of State agencies in this area are informed by the treaties to which Chile is a party: the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the United Nations Convention against Transnational Organized Crime, as well as the Protocol against the Smuggling of Migrants by Land, Sea

and Air and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplement the latter Convention.

239. As of 2008, there were 290,901 foreign nationals resident in Chile, an increasing proportion (55 per cent) of whom were women, particularly from other countries in South America. It is estimated that some 10 per cent of that total were in an irregular situation.

240. All foreigners and refugees whose situation has been regularized have access to health care. The Ministry of Health, together with the National Health Fund and the Aliens and Migration Department, has put in place special programmes for special situations affecting groups of vulnerable migrants in irregular situations; these programmes are intended for all pregnant women and children under the age of 18. Similar measures have been taken to guarantee access to education.

241. In 2007, regularization of the status of foreign nationals who were in the country in an irregular situation made it possible for more than 50,000 persons to gain access to these benefits. For more information, see Chile's initial report on the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/CHL/1) and the September 2011 concluding observations of the Committee on Migrant Workers (CMW/C/CHL/CO/1).

Advances in consumer rights

242. Act No. 19496 (*Diario Oficial*, 7 March 1997), which is likewise of an essentially protective character, seeks to right the natural imbalance between suppliers and consumers, the two main market agents. This framework act applies only to the legal acts that, under the Commercial Code and other special provisions, are of a commercial character for the supplier and of a civil character for the consumer; one of the consumer rights it provides for is the right to freedom from arbitrary discrimination on the part of providers of goods and services. Discrimination is considered arbitrary when it is irrational or when it strips consumers of their dignity, as when it is based, for example, on social class or political preference.

243. With the Consumer Protection Act, the collective rights of consumers and users are also being realized; it is now possible for the rights and interests common to a group of individuals to be protected by the courts by means of a single action.

3. Steps taken to prevent and combat discrimination in all its forms

Act establishing measures to combat discrimination

244. On 24 July 2012, Act No. 20609 establishing measures to combat discrimination was published in the *Official Gazette*. The Act instituted a judicial mechanism that makes it possible to effectively restore the rule of law whenever an act of arbitrary discrimination is committed. It establishes that the State has an obligation to develop policies and take the action required to ensure that individuals are not subject to discrimination in the enjoyment and exercise of their fundamental rights.

245. The Act defines arbitrary discrimination as any unreasonable distinction, exclusion or restriction effected either by agents of the State or by private individuals that entails deprivation of, interference with or threats to the legitimate exercise of the fundamental rights established in the Constitution or in the international human rights treaties ratified by Chile that are in force, particularly when such unreasonable actions are based on such grounds as race or ethnic background, nationality, socioeconomic status, language, political views or ideology, religion or belief, membership or non-membership of a trade union or professional organization, sex, sexual orientation, gender identity, civil status, age, filiation, personal appearance, illness or disability (art. 2).

246. It is for the courts, when considering a “special non-discrimination action” that a complainant may bring before either the court of his or her place of residence or that of the defendant, to rule on the arbitrary discrimination.

247. Furthermore, if the motivation for committing or participating in the offence was the victim’s ideology, political opinion, religion or beliefs, the nation, race or ethnic or social group to which the victim belonged, or the victim’s sex, sexual orientation, gender identity, age, filiation or personal appearance, or any disease or disability from which the victim might suffer, this shall constitute an aggravating circumstance (Criminal Code, art. 12, para. 21).

The Diversity and Non-Discrimination Section of the Division of Social Organizations (DOS) of the Office of the Minister and Secretary-General of Government (SEGEOB)

248. The principal objective of the Diversity and Non-Discrimination Section is to “develop and encourage initiatives, with the support of governmental, legislative and social institutions and international organizations, for the gradual elimination of all forms of *discrimination and intolerance*, thereby helping to build a more democratic, inclusive and intercultural society that respects its diversity”.

249. Among the strategic objectives of the Government’s programme “one of the most important elements is to furnish an agenda for the future. Chile is bound to the international community by its treaty obligations. Chile’s integration in the world of international relations entails challenges, decisions and policies to enhance the protection of human rights”. The Section also seeks to promote among public institutions and civil society respect for social diversity, the interaction of cultures and freedom from discrimination in any of its forms.

250. The Section’s projects include: (a) “Training civil servants in the use of methodological tools for overcoming arbitrary discrimination”, the objectives of which include designing and implementing modules that make it possible to address the prejudices, biases and stereotypes that civil servants in direct contact with the persons and groups affected by arbitrary discrimination may have and reviewing the implications for diversity and non-discrimination of the current policies, programmes and projects being implemented by public bodies at the national and regional levels; (b) the Diversity and Non-Discrimination Day organized with school councils, the aim of which is to “promote a policy of respect for all, regardless of religious, political or sexual orientation or ethnic or racial origin, ensuring that there is no arbitrary discrimination against minorities”. The project enjoys the support of the United Nations Children’s Fund (UNICEF), and seven such days were held in the Santiago Metropolitan Region in 2010; (c) the 2010 Good Practices Contest – “For the Chile We Dream Of”. This contest, which brings together public and private institutions and civil society actors, seeks to identify and award prizes for good practices that promote respect for and inclusion of individuals and groups affected by discrimination and social intolerance: children, persons with disabilities, persons living with HIV/AIDS, the poor, the elderly, migrants, refugees, indigenous persons, women, homeless persons, persons of African descent, persons undergoing social rehabilitation and reintegration, and sexual and religious minorities.

Advances in national migration policy

251. Since 2008, the Aliens and Migration Department of the Ministry of the Interior has been responsible for the implementation of national migration policy. The integration of immigrants, through efforts to ensure their acceptance in society and respect for their cultural specificities, is one of the main focuses of government action. Consideration is given to such fundamental principles as residence and freedom of movement, freedom of thought and of conscience, the social integration and protection of immigrants, respect for

the labour rights of foreign workers in Chile, non-discrimination and involvement of the public in migration management.

252. The Ministry of the Interior is currently working on a migration bill, the aim of which is the comprehensive regulation of migration in accordance with international standards. The bill seeks to implement the recommendation made by the Committee on Migrant Workers when it considered the report of Chile on its implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Advances in the collection and analysis of statistical data

253. With regard to indicators of discrimination, mention should be made of the National Statistical Institute's studies of groups vulnerable to discrimination, which drew on data from the 2002 census. They include disaggregated data and studies on indigenous peoples,⁵⁶ the elderly and gender statistics.

Steps taken to reduce disparities between rural and urban areas

254. In addition to the information included in Chile's fourth periodic report on the implementation of the International Covenant on Economic, Social and Cultural Rights, it should be noted that the Office of the Minister and Secretary General of Government brought together public and private institutions and civil society actors to take part in the 2011 Good Practices Contest — "For the Chile We Dream Of" — in an effort to highlight best practices regarding diversity and freedom from arbitrary discrimination — i.e., actions or initiatives that have a positive effect on the involvement and integration of persons and/or groups vulnerable to discrimination. The primary objective of the competition was to identify, publicize and reward the initiatives that contributed the most to the gradual diminishing of the different forms of intolerance. President Sebastián Piñera gave the Division of Social Organizations a mandate to "pursue a policy of respect for all, regardless of religious, political or sexual orientation or ethnic or racial origin, ensuring that there is no arbitrary discrimination against minorities", and the 2011 contest was based on these ideas.

255. It is important to note that the contest drew on those international treaties ratified by Chile whose provisions refer to diversity and arbitrary discrimination, including: the ILO Indigenous and Tribal Peoples Convention, 1999 (No. 169); the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

256. Examples of good practices were submitted using the entry form attached to the terms and conditions for the contest (available on www.participemos.gob.cl). When the submission period closed, assessment committees made up of representatives of civil society and public institutions were created to determine which initiatives would be awarded prizes in each category. The 2011 Good Practices Contest had a total of 169 projects and initiatives submitted from all over the country. Participants were public institutions, businesses, civil society organizations and municipalities, all of which submitted interesting initiatives encouraging practices, behaviour and attitudes that promoted respect for diversity and freedom from arbitrary discrimination. Innovation,

⁵⁶ See: www.ine.dicanales/Chile_estadistico/estadisticas_sociales_culturales/etnias/etnias.php.

impact, social inclusiveness and successful replication of the project in other institutions were among the criteria for selection.
