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Chile

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I. Introduction

1. The Administration of President Sebastián Piñera hereby submits the report of Chile for the third cycle of the universal periodic review. The report highlights the human rights advances made and challenges encountered over the period from 2014 to 2018. The submission of this report is a reaffirmation of the full commitment of Chile to human rights and the universal system of protection.

II. Methodology and consultation process

2. This report was prepared by the Ministry of Justice and Human Rights, Office of the Undersecretary for Human Rights, with support from the Ministry of Foreign Affairs and in cooperation with State institutions such as the judiciary, the Public Prosecution Service, the Office of the Minister and Secretary General of the Presidency, the Ministry of Social Development, the Ministry of the Interior and Public Security, the Ministry of Women's Affairs and Gender Equity, the Ministry of Health, the Ministry of Education, the Ministry of Labour and Social Security, the Office of the Minister and Secretary General of Government, the Ministry of the Environment, the Ministry of National Property, the Ministry of Defence, the Ministry of Economic Affairs, Development and Tourism, the Ministry of Housing and Town Planning, the Office of the Undersecretary for Children, the Office of the Superintendent of Pensions, the Carabineros (uniformed police), the Investigative Police, the Public Criminal Defender Service, the Prison Service, the Civil Registry and Identity Service, the National Service for Minors, the Legal Assistance Agency and the National Service for Persons with Disabilities.¹

3. The recommendations accepted by Chile have been divided into categories for the purpose of reporting on them by thematic area. The numbers of the recommendations being referred to are indicated in brackets and in bold; these numbers correspond to the recommendations listed under paragraph 121 of the Working Group's report.

4. In addition, on 10 October 2018, a dialogue was held with 32 civil society organizations in order to hear their views on the advances made and challenges encountered in Chile.²

III. International commitments of the State

5. Chile has become a party to a number of international treaties (**18**). For example, in 2015 it ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (**3, 10, 11**); the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness were approved by Congress and are in the process of being published (**17**); and in 2016 Chile ratified the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189) (**8, 9**). It is also in the process of promulgating the Agreement on the Status and Functions of the International Commission on Missing Persons, signed in 2014 (**21**).

6. The Kampala amendments to the Rome Statute of the International Criminal Court were ratified in 2017 (**14, 15, 19**). In addition, a bill on the amendment of Act No. 20.357, which defines crimes against humanity, the crime of genocide and war crimes and offences, to incorporate the crime of aggression and extend the definition of war crimes to non-international conflicts (bulletin No. 10665-07), was introduced by motion on 11 May 2016 and is now at the first stage of consideration in the Senate (**20**).

7. A bill on the ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (**2, 4, 5, 6, 7**) and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (**16**) is now under consideration in Congress.

8. The Office of the United Nations High Commissioner for Human Rights (OHCHR) provided technical support to the Office of the Undersecretary for Human Rights with respect to the national human rights plan and training for public officials on the preparation of reports to treaty bodies and the conduct of human rights workshops (**50**).

9. Since 2014, Chile has submitted periodic reports to a number of treaty bodies: the Human Rights Council, the Committee on the Rights of the Child, the Committee on the Rights of Persons with Disabilities, the Committee on the Elimination of Discrimination against Women and the Committee against Torture. In 2016, Chile submitted its first report to the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The report was made public, along with the report of the Subcommittee's visit to Chile. In 2019, dialogues will be held with the Committee on Enforced Disappearances, the Committee on the Elimination of Racial Discrimination and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. Since 2014, the State has hosted visits by numerous Special Rapporteurs. In addition, in 2017 Chile was elected a member of the Human Rights Council.

10. With regard to action against torture, Chile is a leader in its region, working through the Convention against Torture Initiative to promote ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In addition, the offences of torture and cruel, inhuman or degrading treatment have been defined in accordance with international standards and have been included in the country's Criminal Code (Act No. 20.968) (74, 75).

11. That Act also amended Act No. 20.477 to specify that civilians and adolescents may in no case be subject to the jurisdiction of military courts, either as victims or as defendants (109).

IV. Human rights institutions (23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 41, 42, 43, 44, 45, 46, 79)

12. With regard to government institutions, the Office of the Undersecretary for Human Rights went into operation in 2017 (Act No. 20.885). Its mission is the effective promotion and protection of human rights through the design, implementation and evaluation of policies, plans and programmes.

13. The Office's responsibilities include the drafting of the four-year national human rights plan, the design of policies to ensure the observance, promotion and protection of human rights and the coordination of the implementation, monitoring and evaluation of such policies. The first national human rights plan (2017) includes over 600 agreed actions, grouped under 50 targets and 15 chapters. The Office of the Undersecretary has coordinated the implementation of the plan.

14. All the functions and powers deriving from transitional article 10 of Act No. 20.405 and from Supreme Decree No. 1005 of 1997 on the national human rights programme, including those corresponding to the functions or activities assigned to the National Reparation and Reconciliation Board, have been transferred from the Ministry of the Interior and Public Security to the Office of the Undersecretary. Thus, overall authority in relation to human rights has been concentrated in that Office.

15. Act No. 20.820 (2015) created the Ministry of Women's Affairs and Gender Equity; Act No. 21.045 (2017) created the Ministry of Cultures, Arts and Heritage; and Act No. 21.090 (2018) created the Office of the Undersecretary for Children.

16. With regard to autonomous institutions, the national human rights institution currently has a presence in 13 regions of the country. Act No. 21.067 (2018) created the Office of the Ombudsperson for Children.

17. A bill on the designation of the national human rights institution as the national mechanism for the prevention of torture is now at the second stage of consideration in Congress. The bill would establish a committee of experts within the national human rights institution, endowing it with operational and financial independence pursuant to the Paris Principles. It would give the committee of experts the authority and the resources to carry out regular preventive visits to persons deprived of their liberty.

V. Advances, grouped by thematic area

A. Indigenous peoples

Araucanía Plan (39, 163, 164, 165, 178)

18. In September 2018, the current Administration unveiled the National Agreement for Development and Peace in Araucanía. It is based on the principles of comprehensive and inclusive development; recognition and appreciation of diversity; and commitment to dialogue, consensus and peace.³ It includes measures such as the constitutional recognition of indigenous peoples. The Agreement also envisages public investment amounting to US\$ 8.043 billion in the Araucanía Region for the period from 2018 to 2026. In addition, the measures contained in the plan are expected to attract private investment amounting to US\$ 16 million over that period.

Free, prior and informed consultation (38, 67, 163, 164, 165, 166, 169, 170, 171, 172, 173, 174, 175, 178)

19. Since 2009, there have been 59 consultation processes, and another 24 are under development. These consultations on legislative and administrative measures have been held at the local and national levels by the Ministry of Social Development, the Ministry of the Interior and Public Security, the Ministry of National Property, the Ministry of the Environment, the Ministry of Cultures, Arts and Heritage, the Ministry of Health, the Ministry of Energy, the Ministry of Economic Affairs, Development and Tourism and the Ministry of Public Works. Moreover, Supreme Decree No. 66 of the Ministry of Social Development (2014) has entered into force; national consultations were held on this decree, which lays down rules governing the process of consultation with indigenous peoples.

20. In 2017, a nationwide process of consultation with indigenous constituents was held on the topics of constitutional recognition and political participation.⁴ The executive branch is working on a bill concerning the constitutional recognition of indigenous peoples.

21. Since July 2018, the Ministry of Education has been carrying out a consultation on the proposed curricular framework for the subject “Language and culture of indigenous peoples”, which will be taught to pupils in the first to sixth grades.

22. Between 2015 and 2017 the Ministry of Health conducted a nationwide consultation on a set of regulations establishing the right of persons belonging to indigenous peoples to receive culturally appropriate health care.⁵

23. The Ministry of National Property has carried out two consultation processes: one on Salar del Huasco National Park (Tarapacá Region, July 2016 to July 2017), in which Quechua and Aymara people were invited to take part; and one on the reclassification and expansion of the Alacalufes forest reserve (2017), in which Kawésqar communities were invited to take part. The communities indicated that they were in favour of the measures proposed.

24. In the first half of 2018, the Ministry of the Environment carried out 18 consultations. In addition, the Environmental Assessment Service issued instructions on the implementation of consultations with indigenous peoples (2016), in line with the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).⁶

Economic, social and cultural rights (39, 58, 65, 67, 154, 155, 176, 177, 181)

25. In the field of education, in 2014 the Ministry of Education established a Secretariat for Indigenous Intercultural Education, which is responsible for developing the concept of interculturalism for the school system. This is significant, considering that, according to the 2017 national social and economic survey, the average number of years of schooling completed by indigenous people is 10.3 years, while the average for non-indigenous people is 11.2 years.

Table 1. Education grant programme for indigenous students⁷

	<i>Investment (millions)</i>	<i>Number of students</i>	<i>Male</i>	<i>Female</i>
2014	5 191	22 202	9 773	12 429
2015	5 846	22 881	10 105	12 776
2016	6 290	23 919	10 408	13 511
2017	6 427	24 336	13 756	10 580
2018*	6 582	24 722	10 668	14 054

* Planned investment.

26. The Ministry of Education has formalized the teaching role of traditional educators by issuing new rules recognizing individuals who have expertise acquired through the knowledge and practices handed down by indigenous peoples with regard to their language, customs, traditions, history and world view.

27. In the field of health, in 2017 the authorities adopted general technical regulation No. 189 on the release of the placenta (Exempt Decree No. 208) to ensure women's right to take possession of their placenta, thus respecting their cultural practices and their indigenous world view. In 2016, technical guidelines were issued on an intercultural approach to mental health care for indigenous peoples.

28. The Ministry of Health incorporates the intercultural approach into its care model, as shown by initiatives such as the "Health and indigenous peoples" policy, in force since 2006; the "Health and indigenous peoples" programme, implemented in all health districts; and the culturally appropriate obstetric care provided in hospitals in the regions with the largest indigenous populations.

29. Through the special health-care programme for indigenous peoples, the State funds health initiatives aimed at enhancing equity, interculturalism and participation in health care for indigenous peoples, in order to reduce health inequities. The programme covers all of the country's 29 health districts.

30. Since 2012 the authorities have been implementing the Araucanía Plan, which has driven improvements in health centres that carry out intercultural health activities. The improvements include a gradual increase in indigenous health-care services and Mapuche spiritual assistance, among other actions.

31. With respect to the right to live in a pollution-free environment, in 2015 a Coastline Unit was created within the National Indigenous Development Agency. The Unit has prepared 23 customary use reports, conducted 18 consultations under Act No. 20.249, and allocated 140,146 hectares of land.

32. With regard to decent housing, in 2016 the Ministry of Housing and Town Planning, the Ministry of Social Development and the National Indigenous Development Agency concluded a cooperation agreement under which they have joined forces to carry out actions on habitability and housing, targeting families of indigenous people in urban and rural areas.

33. With regard to employment, the Ministry of Labour and Social Security is implementing a programme to improve the employability of traditional craftspeople in rural areas, carried out by the Fundación Artesanías de Chile. There is a requirement that 50 per cent of the trainees must belong to indigenous peoples.

34. The State is complying with the Inter-American Court of Human Rights ruling in *Norín Catrimán et al.*, including with regard to education and health plans.

Promotion of indigenous peoples' rights (65, 66, 67, 68, 160, 161, 162)

35. The results of the national social and economic survey reveal that the proportion of indigenous people who perceive that they have been discriminated against has declined.⁸

36. The National Indigenous Development Agency carries out programmes for the promotion and protection of indigenous peoples' rights, such as a legal defence programme that provides advisory and legal defence services in judicial and non-judicial proceedings

and in alternative dispute settlement procedures related to the use, enjoyment and development of indigenous lands.⁹

37. In 2017 the information programme on the rights of indigenous peoples, which is intended to make it easier for indigenous persons living in geographically remote areas to obtain information and carry out the necessary formalities for obtaining public and private benefits, provided services on 32,447 occasions. On 19,284 occasions (59 per cent of the total), the services were provided to women.

38. The number of women who have received benefits under the economic development programme has increased, with the result that in 2017 women accounted for 66 per cent of the total number of beneficiaries. Regarding education, figures for 2018 indicate that 4,604 indigenous boys and girls are enrolled in kindergartens where indigenous languages and cultures are taught.

39. The Public Criminal Defender Service has set up pilot offices for the defence of indigenous foreign women who are being held in custody in the Region of Tarapacá. It has also developed protocols to guide officials' interaction with such women. In addition, it has 11 intercultural facilitators who provide support in the preparation of the defence and in interactions with indigenous clients.

Women (165, 166)

40. In 2018 an agreement was signed between the National Indigenous Development Agency and the Latin American Centre for Rural Development, in the framework of the policy agenda on employment for indigenous women in Chile, a United Nations-led initiative. The purpose of the agreement is to promote the empowerment of indigenous women leaders representing the nine peoples recognized by law.

Children and adolescents (162)

41. The National Plan of Action for Children and Adolescents (2018–2025) provides for activities geared towards child and adolescent victims of discrimination and social exclusion, in particular indigenous children and adolescents.

42. For 2018, a protocol to ensure that basic services are provided to indigenous families, with a special focus on land restitution, is envisaged. The actions being taken to ensure access to education include the development of a specially agreed protocol for indigenous children and adolescents who are called upon to serve as *machi* (Mapuche medicine practitioners) and require special arrangements to complete their formal education. Finally, under the programme "Chile Grows with You", guides for pregnant women are to be adapted for use by indigenous peoples, and educational materials are to be developed.

Access to land (175)

43. Between January 2014 and August 2018, 14,122.02 hectares were allocated, benefiting 2,040 families, under the subsidy scheme for the purchase of land by indigenous persons, communities or segments of communities when the land area of the community in question is insufficient (art. 20 (a)). Over the same period, a total of 44,945 hectares were returned to 136 indigenous communities consisting of 4,680 families, under the scheme for the restitution of ancestral lands (art. 20 (b)).

44. With regard to places of cultural significance, the State has handed over 42 hectares, benefiting 28 communities consisting of 833 families, in the Araucanía Region. In addition, 62,446.60 hectares were awarded by way of transfers of State holdings, benefiting 505 families. A total of 164 indigenous communities, consisting of 8,058 families, have received a total of 121,555.42 hectares.

45. Between 2014 and 2017, under the programme on the administration of State property for indigenous peoples, the Ministry of National Property allocated a total of 690,365,363.98 m² of State holdings to such peoples nationwide.¹⁰ These allocations were made in settlement of 1,655 claims.

46. In 2018, the previous programme was reformulated, although the commitment to give priority to claims from indigenous peoples on State property was maintained. A total of 350 cases have been finalized. In addition, a component was added on the conduct of

surveys of State properties with high heritage and/or environmental value, focusing on units of the national system of protected forest areas in which indigenous peoples have an interest and properties with significant heritage features such as geoglyphs or archaeological sites, among others.

Economic and financial development (165 and 166)

47. According to the national social and economic survey, the percentage of the indigenous population that was living in poverty in 2015 was 18.3 per cent, compared with 11.0 per cent for the non-indigenous population. In 2017 those percentages fell to 14.5 per cent of the indigenous population and 8.0 per cent of the non-indigenous population. Extreme poverty among persons belonging to indigenous peoples stood at 6.6 per cent in 2015 and at 4.0 per cent in 2017. Multidimensional poverty among persons belonging to indigenous peoples currently stands at 30.2 per cent, compared with 19.7 per cent among persons who do not belong to such groups.

48. In view of this situation, the authorities, with support from the Inter-American Development Bank, created the Indigenous Development and Promotion Programme to lead processes of openness and dialogue aimed at providing access to financing for indigenous productive development projects in the form of economically and socioculturally sustainable business initiatives proposed by indigenous organizations in the agriculture, forestry, non-conventional renewable energy, tourism and aquaculture sectors.¹¹

49. Under the national human rights plan, the National Industrial Property Institute has undertaken to lead efforts concerning the protection of genetic resources and traditional knowledge by means of intellectual property tools. Another employment initiative for indigenous communities is the “designation of origin” programme, especially in the Araucanía Region.

50. The Productive Development Agency has promoted the socioeconomic development of indigenous peoples by improving access to financing for indigenous productive development projects. In 2015, a programme on integrated development initiatives was adopted, including, in particular, a programme for indigenous productive and business development.¹²

51. In 2016, the Indigenous Development and Promotion Committee was created to help increase income generation among indigenous peoples by supporting economically and socioculturally sustainable business initiatives. The system has received 103 applications, 46 of which have been granted subsidies under the programme to support the formulation of high-impact production projects by indigenous peoples.

52. The Productive Development Agency supported the creation of a contingent coverage or subsidy fund to improve access to financing for sustainable indigenous production initiatives or projects. For the first time, the State has begun to offer a guarantee of up to 90 per cent for high-impact production projects carried out by indigenous peoples, with the aim of encouraging financial institutions to provide financing to indigenous communities, organizations and cooperatives.

53. Other financing channels include the indigenous peoples’ investment support fund, established in 2017, and the indigenous suppliers’ development programme.

54. The National Tourism Service and the Office of the Undersecretary for Tourism are implementing indigenous people-focused programmes to strengthen entrepreneurship, human capital, quality tourism services, ethics and other areas.¹³

Implementation of Act No. 18.314 (22, 167, 168, 169)

55. The implementation of Act No. 18.314 reflects the general nature of this law and does not target any particular group. With regard to the cases tried at first instance that involved persons whom the Public Prosecution Service charged with terrorist activity (2015–2018), six judgments have been identified in which this law appears to have been applied.¹⁴ It should be noted, however, that the law has been applied in other cases to accused persons who do not belong to any indigenous people.¹⁵

56. A recent Supreme Court judgment¹⁶ reaffirms the general scope of the law by requiring courts to ensure that the reasons they provide for their decisions do not include

any analysis that takes the ethnic origin of the accused into account as a factor to be considered in the imposition of penalties.

57. A bill on the definition of terrorist activity and the applicable penalties and on the amendment of the Criminal Code and Code of Criminal Procedure (bulletin No. 9.692-07, combined with No. 9669-07) is now at the first stage of consideration in the Senate. The initiative would restructure the predicate offences and establish objective forms of conduct that amount to the perpetration of terrorist offences, without reference to their purpose.

Persons of African descent

58. In 2015, the Action Plan for the Afrodescendent Population of Arica: 2015–2018 was adopted for the Arica y Parinacota Region. In addition, a survey to profile the Afrodescendent population of the Arica y Parinacota Region was carried out and the findings were presented in 2014.

Rapa Nui

59. A partnership agreement was signed in 2016 between the National Forestry Agency and the Ma'u Henua indigenous community, an entity representing the Rapa Nui people, for the joint administration of public use sites within Rapa Nui National Park. The purpose of the agreement is to include the Rapa Nui people, represented by the Ma'u Henua indigenous community, in the joint administration of public use areas. In 2018, Act No. 21.070 was adopted to regulate the exercise of the rights to reside in, stay in and travel to and from Easter Island.

B. Women

Gender-based violence (86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97)

60. One area of special focus in the second cycle was gender-based violence and violence against women. The total number of cases filed on possible offences of violence against women¹⁷ between 2009 and May 2018 was 92,701. The offence of habitual ill-treatment (family violence) accounts for the largest share of these cases (34,134, or 37 per cent of the total), followed by sexual abuse involving contact with a minor under 14 years of age, as defined in article 366 bis (18,564 cases, or 20 per cent of the total). Between 2014 and 2016, the number of cases in the first category rose from 3,809 to 5,972. In 2017, however, there was a significant decline, to 4,591. This trend has been proportionally maintained in 2018 (1,542 cases as of May). It should be noted that 75 per cent of the cases filed between 2015 and 2018 have been completed, while the rest are divided between those that are still under way and those that have been suspended. With regard to femicide, the number of cases increased in the period 2014–2017, from 83 in 2014 to 148 in 2015, 177 in 2016 and 193 in 2017.

61. In addition to the establishment of the Ministry of Women's Affairs and Gender Equity and the National Service for Women and Gender Equity, important steps have been taken in terms of legislation, such as Act No. 21.013 (2017), which defines the new offence of ill-treatment.¹⁸ In 2017, the executive branch introduced a bill on the right of women to a life free of violence; the bill is now at the first stage of consideration in the Chamber of Deputies.¹⁹ A bill on violence in intimate partner relationships without cohabitation (bulletin No. 8851-18) is at the second stage of consideration in the Senate.²⁰ Another noteworthy measure is the 2014–2018 National Plan of Action on Violence against Women.²¹

62. In 2016 the Supreme Court established the Technical Secretariat for Gender Equality and Non-Discrimination, which has worked on initiatives such as a handbook of good practices in mainstreaming the gender perspective in the administration of justice and a procedure for preventing, reporting and addressing sexual harassment in the Chilean judicial system. In addition, the Public Prosecution Service has developed guidelines and a protocol on family violence²² and has strengthened its institutional framework by establishing the Specialized Unit on Human Rights, Gender-based Violence and Sexual Offences.²³

Political participation (38, 72, 124, 125, 126, 127)

63. The authorities have promulgated Act No. 20.840 (2015), which replaces the system of binomial voting with an inclusive proportional system that makes the Congress more representative. Since 2017, this change has required political parties to ensure that at least 40 per cent of the candidates they put forward for congressional elections are women. In the congressional election of 2017, women's representation in the Senate increased from 15.8 per cent to 23.2 per cent, while their representation in the Chamber of Deputies rose from 15.8 per cent to 23.9 per cent. The quota law will continue to apply in relation to the elections of 2021, 2025 and 2029.

64. Acts Nos. 20.900 and 20.915 (2016) amending the Constitutional Act on Political Parties establish a gender parity requirement under which women must account for at least 40 per cent of the members of party structures. Act No. 20.940 (2017) modernizing the labour relations system establishes the obligation to ensure that organizations' statutes provide for mechanisms for the inclusion of women on their executive boards, and Act No. 20.881 (2016) includes a gender requirement for the governing boards of cooperatives, thus ensuring that they reflect the gender composition of the membership.²⁴

Sexual and reproductive rights (133, 134, 135, 136, 138, 139, 140, 141, 142, 143)

65. Act No. 21.030, promulgated in 2017, decriminalizes voluntary termination of pregnancy in three circumstances: danger to the woman's life, fetal non-viability, and pregnancy due to rape.²⁵ It provides that women shall have the right to a support programme both during and after the decision-making process. It also allows for conscientious objection on the part of health-care personnel who would normally be on duty for surgical procedures and for objection on the part of an institution, under certain conditions.

66. The Ministry of Health has updated the national standards on the regulation of fertility²⁶ to encourage the provision of guidance to users. In addition, it has amended the regulations on voluntary surgical contraception to ensure informed consent. The national policy on sexual and reproductive health (2018) establishes guidelines for the healthy and comprehensive development of individuals' sexual and reproductive health. Decree No. 49 (2015) on rules for the exercise of the right to education, information and guidance on fertility regulation has been amended to eliminate the rule that contraceptives, including emergency contraception, may be obtained or dispensed only with a health professional's prescription.

Equality and non-discrimination (33, 34, 35, 47, 56, 59, 60, 61, 62, 63, 64, 69, 129, 130, 131)

67. In May 2018, the current Administration introduced a gender equity agenda consisting of 12 specific measures for promoting gender equity in both the public and the private sectors. These measures include, among others: (1) a constitutional amendment providing for equality between men and women;²⁷ (2) a bill on the extension of maternity leave rights to members of the armed forces and law enforcement; (3) universal access to crèches;²⁸ and (4) greater participation by women in leadership positions.

68. A bill on the establishment of measures to protect breastfeeding and its exercise²⁹ and a bill on the amendment of the Labour Code to provide for equal pay between men and women³⁰ are currently at the second stage of consideration in the Chamber of Deputies. In addition, the Directorate of Labour has issued a number of administrative decisions in this area.³¹

69. A bill on the amendment of the Civil Code to remove impediments to remarriage is currently at the second stage of consideration in the Senate (bulletin No. 11.126-07). In addition, a bill on the amendment of the marital property regime to enable women to administer marital property and dispose of their own property without the husband's permission is at the second stage of consideration in the Senate.³²

70. In terms of public policies, the national gender equality plan for 2018–2030³³ is intended to address key gaps between de jure and de facto equality. The authorities are also continuing to implement the gender parity initiative,³⁴ which is intended to increase women's participation in the workforce, to detect and reduce wage gaps based on gender

and to increase the proportion of senior management positions held by women. The Agenda for Women promotes women's increased participation in senior decision-making positions in both the public and the private sectors, and expands the coverage of the "4 to 7" programme, which is intended to facilitate the workforce participation of mothers or female caregivers of children between the ages of 6 and 13 years. Programmes on women heads of household³⁵ and good labour practices with gender equity³⁶ are being carried out through the National Service for Women and Gender Equity in order to promote women's economic empowerment.

71. In the area of labour and social security, the National Training and Employment Service administers applications for the women's employment subsidy, financed by the Ministry of Social Development, to increase the rate of formal labour-market participation among women belonging to vulnerable groups. The programme provides a financial incentive to enable them to earn the same pay levels as men.³⁷ Since 2009, women have received a per-child subsidy to increase their pensions. In 2017, more than 550,000 women received this subsidy.

C. Children and adolescents

Institutional framework (36)

72. The existing institutions for the protection of children and adolescents have been found to be inadequate and the country has fallen short in this regard. It is for that reason that President Sebastián Piñera has identified this area as a priority and has taken a number of measures, including the establishment of a working group on children's issues consisting of parliamentarians of different political parties, government ministers and civil society experts. In May 2018 the working group presented a "national compact for children". Its report puts forward a series of measures designed to provide appropriate protection to children and adolescents in general, to those at risk of violations of their rights and to those whose rights have already been violated.³⁸

73. This effort by the executive branch has translated into administrative measures that are now being implemented and, in turn, a comprehensive legislative agenda, including a bill on the comprehensive protection of children's rights (now at the second stage of consideration); the establishment of the Juvenile Social Reintegration Service and the Child Protection Service, which replace the current National Service for Minors; an increase in the amount of the subsidy payable by the State to residences run by partner organizations; reform of the adoption system; and amendments eliminating the statute of limitations for sexual offences against children.

74. Lastly, the State is currently taking the measures recommended by the Committee on the Rights of the Child in its 2018 report.

Child labour (98, 105)

75. The bill on the comprehensive protection of children's rights provides for recognition of the right of the child to protection against violence and refers to sexual abuse and to the right of the child to be protected from economic exploitation and child labour.

76. In addition, the National Plan of Action for Children and Adolescents (2018–2025) contains commitments to put an end to all forms of violence against children and adolescents, sexual abuse, all forms of child labour and commercial sexual exploitation of children and adolescents, among other actions. The Plan includes a strategy for eradicating the sexual exploitation of children and adolescents, in line with the third framework for action in this regard, covering the period from 2017 to 2019.

77. A central register on the worst forms of child labour has been introduced and contains information supplied by the Carabineros, the Directorate of Labour and the National Service for Minors, and 18 specialized projects are being carried out to meet the needs of victims of commercial sexual exploitation of children and adolescents. Between January 2014 and August 2018, services were provided to 2,764 victims, most of whom are girls.

78. In 2014 the Ministry of Labour and Social Security established the Child Labour Observatory, a body that collects data related to child labour.³⁹ In addition, a national

strategy for the eradication of child labour and the protection of adolescent workers was drawn up for the period 2015–2025.

79. Act No. 20.281 on the participation of children and adolescents in public performances has been amended. In compliance with the ILO Worst Forms of Child Labour Convention, 1999 (No. 182), the list of hazardous types of work that adolescents are not allowed to perform has been updated.⁴⁰

Corporal punishment of children and adolescents (34, 35, 106, 107, 108)

80. Act No. 21.013 (2017), which defines a new offence of ill-treatment and increases protection for persons in special situations, expressly prohibits the physical ill-treatment of children and provides for harsher penalties in cases where the person who commits such ill-treatment has a particular duty of care.⁴¹

81. The National Service for Minors has implemented 264⁴² targeted prevention projects involving preventive action against serious ill-treatment and sexual abuse, and 153 specialized protection programmes against criminal ill-treatment and abuse. The projects benefited 103,104 children and adolescents between January 2014 and August 2018,⁴³ and the programmes benefited 49,057 child and adolescent victims (rehabilitation measures). Steps were also taken to strengthen procedures for the timely reporting of any rights violations in residential centres administered by the National Service for Minors and partner organizations, in compliance with official letters Nos. 2308 and 2309 of 2013.

82. Measures are being taken to remove young children from places of detention and to ensure their protection through care in a family setting, such as that provided by the foster families programme run by the National Service for Minors since 2016, and by partner organizations pursuant to Act No. 20.032.

Access to justice (33, 34, 35, 56, 118, 119, 120)

83. In relation to the right to be heard, the judicial branch has implemented a project to equip 51 family courts (representing 85 per cent of the total) with Gesell chambers, thereby ensuring that interviews can be conducted in an appropriate setting and avoiding the revictimization of children and adolescents. In August 2018, the Supreme Court established a working group to draw up a policy for giving effect to the rights of children and adolescents.⁴⁴

84. With respect to specialization in juvenile justice, in 2017 the National Service for Minors implemented coordination⁴⁵ and training activities for the various actors of the juvenile justice system, including staff of the Service and professionals from organizations that work with the Service. A total of 259 staff of detention centres and 298 professionals from organizations that work with the National Service for Minors were trained in such areas as procedures to be followed in response to acts that could constitute offences against children and adolescents, and the management of critical conflicts within detention centres. These actions have continued in 2018 and have been extended to public and private institutions.

85. In 2018, the National Service for Minors drew up rights-based guidelines for dealing with adolescents and young people in closed facilities⁴⁶ in order to provide specialized training to staff working in such facilities to ensure that they recognize the rights and guarantees to which adolescents are entitled. This subject was addressed in workshops held in four regions of the country.

86. The Prison Service has an Adolescent Criminal Responsibility Unit, which has carried out training workshops for staff working in local Prison Service facilities and in prison juvenile wings. Between 2014 and 2017, 27 training courses were held in different regions, involving 881 participants. Thus far in 2018, 40 staff have received training in such workshops.

87. In 2018 the Public Prosecution Service updated its general instructions⁴⁷ on procedures to be followed in relation to adolescent criminal responsibility.

88. Since the entry into force of the Adolescent Criminal Responsibility Act in 2007, the Judicial Academy has trained more than 576 judges and officials on adolescent criminal responsibility.

89. Act No. 20.802 (2015) amended the Act establishing the Public Criminal Defender Service in order to create specialized criminal defence positions for cases involving adolescents, thereby institutionalizing the system of juvenile criminal defence.⁴⁸

D. Migrants

Legislation (178, 179, 180, 182)

90. A migration and aliens bill (bulletin No. 8.970-06) is currently at the first stage of consideration in the Chamber of Deputies. It is intended to promote safe, orderly and regular migration; the humane treatment of migrants, with equality of rights and obligations; and integration. The bill provides for a Council on Migration Policy and a National Migration Service.

Economic, social and cultural rights (39, 156, 180, 145, 181)

91. In the area of employment, since 2016, the ChileValora occupational skills certification system and the National Training and Employment Service have implemented the institutional policy on services for migrants.⁴⁹ In 2017, a total of 1,271 migrants took part in National Training and Employment Service courses under the programme of grants for job training. The Directorate of Labour launched the Migrant Labour Plan of Action 2017–2018 and, in the first half of 2018, imposed a total of 1,352 penalties on employers for violations against migrant workers.⁵⁰

92. In education, the number of migrants in the school population has increased. Migrants enrolled in schools totalled 30,625 in 2015, 61,086 in 2016, 77,608 in 2017 and 113,585 in 2018, accounting for 3.2 per cent of total enrolment. In May 2018, the Ministry of Education introduced a national policy on foreign students for the period 2018–2022.

93. In 2017 the so-called “RUT 100” identification number was eliminated and replaced with the “provisional school identifier”.⁵¹ As a result of this measure, students retain the same identification number throughout their schooling or until such time as their immigration status is regularized and they are assigned a national identity card number, with which they can obtain certificates and gain access to benefits from the National School Support and Scholarships Board.

94. In the area of health, the establishment of the Health and Migration Sectoral Advisory Board in 2014 led to the promulgation, in 2017, of the health policy for international migrants, for which a plan of action will be drawn up.

95. In 2015 and 2016, health initiatives for migrants were piloted in some regions of the country, enriching the health-care access programme for migrants that was created in 2014 to overcome the barriers to health-care access faced by such persons. The programme is being implemented in 13 health districts and 23 communes.

96. Supreme Decree No. 67, issued in 2016, stipulates the conditions and mechanisms for certifying the eligibility of persons without resources for public health insurance from the National Health Fund, with access to all covered services free of charge. Under this Decree, migrants in an irregular situation, without a visa or without documents can qualify for benefits under the same conditions as nationals.

Access to justice (178)

97. The high courts of justice have taken on a role in protecting the fundamental rights of migrants in relation to expulsion decisions. In particular, the courts take into consideration the protection of the family,⁵² the principle of legality and the obligation to state the basis for decisions.⁵³ The same is true with regard to the conditions of detention of migrants.⁵⁴ The Public Criminal Defender Service has a specialized defence unit for migrants, which provides legal assistance in criminal proceedings.

98. With regard to the children of non-resident foreigners, the Supreme Court has consistently upheld the nationality claims of children born in Chile to parents who are foreign nationals and whose immigration situation was irregular at the time of such children’s birth. On the basis of these rulings, the standard approach now taken is to find that Chilean-born children of migrants in an irregular situation are Chilean.

Trafficking in persons and smuggling of migrants (99, 100, 101, 102, 103, 104)

99. By December 2017, 33 cases involving a total of 214 victims had been brought under Act No. 20.507, which defined this offence in 2011. Of these, 121 victims (57 per cent) are men, all of whom were being trafficked for purposes of labour, and 93 (43 per cent) are women, most of whom were being trafficked for purposes of sexual exploitation. Of this total, 16 victims are children or adolescents and 123 victims have been granted temporary residence permits.

100. Public policy in this area is coordinated by the Intersectoral Panel on Trafficking in Persons, established in 2008 by the Ministry of the Interior and Public Security. The Panel is responsible for the implementation of the National Plan of Action against Trafficking in Persons, 2015–2018. As part of this effort, handbooks have been prepared on good practices in the criminal investigation of the offence of trafficking in persons (2015), the identification and referral of victims of trafficking in persons (2016) and operating procedures for intersectoral inspections on trafficking in persons (2017).

101. The Public Prosecution Service has created a system of specialized prosecutors for the investigation of this offence and has established procedures for such investigations⁵⁵ and protocols for investigators. For the sake of protecting victims and witnesses, a risk assessment is carried out promptly and the necessary measures are taken. They are also provided with differentiated and specialized guidance, protection and support.

102. In 2013, an intersectoral agreement to approve the national plan of action against trafficking in persons was signed. It includes actions by the State, international agencies and civil society organizations. The agreement also includes an intersectoral protocol on assistance to victims of trafficking in persons.

103. With regard to female victims, the National Service for Women and Gender Equality continues to run shelters for women victims of trafficking in persons and migrants in situations of exploitation.⁵⁶ Since 2012, these shelters have accommodated more than 45 women. Procedures for the timely identification of signs of trafficking in children and adolescents were developed and disseminated in 2015. The National Service for Minors runs about 300 residential centres and specialized mobile projects as part of its assistance and protection network. In addition, 18 specialized protection projects for victims of commercial sexual exploitation of children and adolescents were launched pursuant to Act No. 20.032 and provided assistance to 40 children and adolescents, most of whom were in situations suggestive of internal trafficking, between January 2014 and August 2018.

Statelessness (123)

104. Chile is a party to the conventions on statelessness. In addition, it has implemented the “Chile Recognizes” programme to reduce the risk of statelessness for persons born in Chile whose parents are foreign nationals and who were erroneously registered as being the children of non-resident aliens. The Constitution provides that all persons born in Chile are Chilean (art. 10) unless they are the children of non-resident aliens. Both the Supreme Court and the Aliens and Migration Department have indicated that non-resident aliens are persons who have no intention of remaining in Chile (tourists or crew members), thus changing the previous understanding of which categories of persons are considered to have irregular immigration status. It should be noted that, according to the Civil Registry and Identity Service, more than 99 per cent of all births in Chilean territory have been registered (0.47 per cent have not been registered).

E. Persons with disabilities**Institutional framework (72, 157)**

105. A number of laws have been adopted, including Act No. 21.015, which encourages the inclusion of persons with disabilities in the workforce (all State enterprises and agencies with 100 or more employees must ensure that persons with disabilities account for at least 1 per cent of their staff); Act No. 20.844, which establishes the rights and duties of attendees and organizers of professional football matches (preferential access must be given to persons with disabilities); Act No. 20.940 (2016), which modernizes the labour relations system to include disability as a category of discrimination; Act No. 21.021 (2017), which

is intended to provide reparation and assistance in rehabilitation and social inclusion to victims of accidents caused by mines or explosive devices of the armed forces; Act No. 21.089 (2018), which requires that playgrounds in private and public spaces be accessible to children with disabilities; Act No. 20.978 (2016), which recognizes sports adapted for persons with disabilities; and Act No. 20.957 (2016), which amended the Courts Organization Code to remove the provisions barring persons who are “deaf”, “dumb” or “blind” from serving as judges or notaries.

106. The second national disability study was conducted in 2015. Its design was informed by the outcome of 17 public dialogues held in 15 regions of the country. In 2014 the National Fund for Inclusive Projects began to invite applications to fund initiatives that contribute to the inclusion of persons with disabilities in various areas.

Access to justice (157, 158, 159)

107. The judicial branch has taken measures to ensure access to justice. An online translation service for deaf persons is being piloted nationwide. It enables the user to contact a sign language interpreter through a monitor in real time. With regard to blind persons, the judicial branch has licences for the Non-Visual Desktop Access (NVDA) digital tools and the “Jaws” software.

108. In the same vein, initiatives to train staff and raise their awareness have been implemented. The Infrastructure and Maintenance Department of the Administrative Office of the Courts has implemented a policy under which the design specifications of justice facilities must meet the three criteria of transparency, information and accessibility.

109. The Legal Assistance Agency has an “Access to Justice” programme for persons with disabilities, which provides free assistance in all regions of the country.

Education and health (145)

110. In terms of education, Act No. 20.845 (2015) guarantees free primary and secondary education and ensures equitable access to education, including by ensuring that all regular educational institutions are accessible to students with disabilities. Act No. 21.091 (2018), the Higher Education Act, reflects the principles set out in the Convention on the Rights of Persons with Disabilities and requires universities to ensure that they are accessible to persons with disabilities. Decree No. 83/2015 requires the gradual incorporation of regular education in special schools, together with the use of universal design and curricular adjustments.

111. The programme of additional support to educational institutions for the inclusion of students with disabilities is intended to enable such students to participate in their teaching and learning process, thereby enhancing educational inclusiveness in schools that have implemented projects with the National Service for Persons with Disabilities. For 2018, the amounts awarded represent a total investment of US\$ 560,394, benefiting 64 initiatives financed at the national level.⁵⁷

112. The support programme for students with disabilities in institutions of higher education, introduced in 2017, provides technical aids and support services to empower students with disabilities and enhance their independence.

113. In the area of health, since 2014 a programme to support the implementation of community rehabilitation centres has been carried out in coordination with the Ministry of Health.

114. In 2018, rehabilitation teams in primary health-care facilities were given training on the subject of the sexual and reproductive rights of persons with disabilities.

F. Sexual diversity

Laws and public policies (52, 54, 55, 67, 70, 71, 72, 73, 113)

115. Act No. 20.830 (2015) created a legal institution known as a civil union agreement and allowed persons of the same sex to enter into such unions. In October 2018, under the current Administration, a bill was adopted to “recognize and protect the right to gender

identity” (bulletin No. 8924-07). It establishes a regulation under which persons over the age of 14 are allowed to change the entries on their Civil Registry and Identity Service records concerning their sex and given name when this information does not correspond or is not consistent with the requester’s gender identity. The Ministry of Justice and Human Rights established a committee of experts to draft a new Criminal Code. In drafting the legislation, the committee has not included any provisions that would penalize conduct offensive to decency or morality, in line with the demands of the lesbian, gay, bisexual, transgender and intersex community.

116. In 2017 the Ministry of Education and the Office of the Superintendent of Education published a circular on the rights of transgender children and young people in the field of education, which sets out guiding principles for the educational community, school board members and school principals. It also published guidelines for the inclusion of lesbian, gay, bisexual, transgender and intersex persons, which offer suggestions for safeguarding the rights of transgender students, in addition to educational topics and learning goals for addressing this issue.

117. The Public Prosecution Service, along with sexual diversity organizations,⁵⁸ has formed an “Observatory on Violence against Lesbian, Gay, Bisexual, Transgender and Intersex Persons”.

G. Older persons

118. The State is taking forward the action plan *Adulto Mayor, Adulto Mejor* (“Older Life, Better Life”), which has four core programme areas: health, safety, participation and institutions. A citizens’ council of older persons was founded in 2018. It will meet twice a year and will be chaired by the First Lady and coordinated by the National Service for Older Persons. In addition, the State is implementing the judgment of the Inter-American Court of Justice in the *Vinicio Poblete* case (2018).

H. Persons deprived of their liberty

Prison system (83, 84, 85)

119. The Chilean prison system has a population of 112,248 persons deprived of their liberty,⁵⁹ of whom 50,944 are in the closed subsystem⁶⁰ and 61,306 are in the open subsystem.⁶¹ Nationwide, prison units are at 100.4 per cent of their design capacity (overcrowded by 0.4 per cent). This percentage is not the same in facilities for women and facilities for men, with overcrowding in the latter (which are at 106.4 per cent of capacity).⁶² The use of alternative sentencing, which was introduced by Act No. 20.603 (2012),⁶³ has been growing since 2014.⁶⁴

120. The National Prison Service has proposed 12 guidelines to steer the institution’s work in the coming years, with emphasis on improving the prison system in terms of habitability, reintegration, modernization of prison regulations (incorporating the human rights perspective based on international recommendations in this area), improvement of educational processes, modification of the classification system and provision of dignified conditions for conjugal visits, among other measures. Also worthy of note is the Life of Dignity Plan, which is designed to improve prison conditions through measures such as the acquisition of new mattresses, blankets and bunk beds, and provision of better food and better sanitary conditions.

121. A national investment plan is being drawn up with a view to moving forward with the upgrading of units in the closed system. To date, 420 initiatives have been covered, at an estimated value of US\$ 253,431. Moreover, the national infrastructure plan includes six programmes based on the prioritization of correctional facilities and the national infrastructure survey.⁶⁵

122. In parallel, a new inmate classification form has been developed to serve as a dynamic assessment tool.

Use of force in prisons (78)

123. The National Prison Service regulations on the use of force are contained in three protocols adopted in 2014.⁶⁶ Over the period 2015–2018, a total of 256 complaints of human rights violations and ill-treatment in places of detention were filed. Of these, 10 were filed by women and 246 by men. The Human Rights Protection and Promotion Unit processes complaints of rights violations at the national level.⁶⁷

Access to justice (85)

124. The 16 regions of Chile have a prison ombudsperson system, with 55 ombudspersons and 43 social workers. There is a pilot plan⁶⁸ under which ombudspersons provide guidance to convicted persons serving non-custodial sentences in order to prevent the revocation of this privilege and the conversion of the sentence to a term of imprisonment. The Public Prosecution Service has appointed human rights officers to advise prosecutors with regard to offences committed against persons deprived of their liberty.⁶⁹

Education (33)

125. The education provided in prisons follows the curriculum for adult basic and secondary education.⁷⁰ Access is voluntary and is governed by the fundamental learning goals and mandatory minimum content established for adult education.⁷¹ Teaching takes place in schools within 76 facilities in the closed subsystem, which are attended by about 54 per cent of the prison population each year. For access to higher education, arrangements are made to enable inmates who wish to do so to take the university entrance examination.

Women deprived of their liberty (33)

126. The programme “Growing Together”⁷² is geared towards women who are pregnant and those who are breastfeeding children up to 2 years of age who live with them in prison. The programme provided services to 1,507 women between 2015 and 2018. Between 2014 and 2017, the programme’s coverage increased by 39 per cent.

127. With regard to access to education, women’s prisons have their own educational facilities and educational offerings;⁷³ and in relation to access to health, women deprived of their liberty have access to a variety of services.⁷⁴

I. Economic, social and cultural rights

128. In October 2018, President Sebastián Piñera unveiled an agenda of national commitments aimed at partnering with civil society in order to seek solutions for persons in the 16 most vulnerable population groups, including people living in camps, people in street situations, older persons and persons with disabilities, among others. Working groups will be set up and tasked with the design of public policy proposals for the benefit of persons in situations of multidimensional poverty.

129. With regard to poverty reduction (**40**), the 2017 national social and economic survey found that poverty has decreased steadily, from 14.4 per cent of the population in 2013 to 8.6 per cent in 2017. Anti-poverty actions and measures are taken through the Security and Opportunities subsystem and the Ethical Family Income programme, which includes specific programmes for older persons, children and adolescents, and persons in street situations.

130. Between 2014 and 2017, the State invested over US\$ 1.547 billion to combat extreme poverty, and the Security and Opportunities subsystem assisted 181,099 families living in extreme poverty and 65,354 people belonging to vulnerable groups.

131. The State has made significant strides in the area of education (**38, 57, 58, 65, 67, 73, 132, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153**). On the legislative front, it adopted the School Inclusion Act, No. 20.845 (2015), which creates conditions in which children, adolescents and adults who attend State-subsidized schools can receive a quality education.⁷⁵ It also adopted Act No. 21.040 (2017), which creates a new system of public

education. Educational institutions will be gradually transferred from the municipalities to 70 new local school districts, thereby forming a new national public education system as a means of improving quality.

132. With regard to acts of discrimination, the Office of the Superintendent of Education is responsible for safeguarding the right to education and for dealing with complaints of discrimination in this area. A total of 758 complaints of discrimination were recorded in 2017; this represented an 18-per-cent increase over the number recorded in 2016. This upward trend has continued in 2018. In response, the Office has created a “Good School” search engine⁷⁶ to allow easy access to the regulatory requirements that educational institutions must meet. The Ministry of Education promotes the incorporation of inclusiveness-enhancing actions in management tools such as the educational improvement plan drawn up by each school. It also provides guidance for the building of inclusive school communities, such as technical guidance for the educational inclusion of foreign students (2017).⁷⁷

133. The Ministry of Education has introduced a school quality assurance plan for the period 2016–2019, in order to develop a shared vision of education quality and to coordinate, at the territorial and national levels, the institutions that make up the quality assurance system. A national programme on education quality has been under way since 2018; its purpose is to improve education quality and accessibility at all levels, with a focus on the classroom.

134. Also in 2018, the authorities began to implement a national plan on digital languages, under which computational thinking and programming are taught in the classroom, and the “Everyone to the Classroom” national plan, which is intended to reduce the administrative burden in schools.

135. The Agenda for Women includes an initiative to design a plan to provide technical assistance and support to universities, professional institutes, technical training centres and schools with a view to the inclusion, in their regulations, of standards of conduct and protocols for preventing abuse, harassment, discrimination and ill-treatment and for establishing effective complaint procedures.

136. Of the 3,454 schools in rural areas, about 2,000 have multigrade classrooms where children and adolescents of different grade levels are taught together. For 2018, the objective has been to develop methodological proposals for achieving quality learning outcomes that will enable students to continue their education in regular schools.

137. The education system has special schools, inclusion programmes in regular schools and hospital schools and classrooms. Currently, there are 2,235 special education schools with an enrolment of 182,097 students,⁷⁸ 5,652 regular schools with inclusion programmes and 46 hospital schools. Thus, as a general estimate, there are more than 7,000 educational facilities providing specialized support to over 500,000 students with special educational needs, whether temporary or permanent and whether or not these needs are associated with disabilities.

138. In the area of health, as indicated in the midterm report, the National Health Investment Plan 2014–2018 was launched. A new plan was developed for the period 2018–2022⁷⁹ and is aimed at strengthening the health-care network through the construction, replacement, maintenance and improvement of health-care infrastructure.

139. Other noteworthy initiatives include Act No. 20.850, which creates a system of financial protection for high-cost diagnostic procedures and treatments⁸⁰ and has universal coverage; Act No. 21.063, which establishes compulsory insurance for working parents of children who have a serious health condition;⁸¹ and the law on food labelling,⁸² among others.

140. Finally, the current Administration has submitted a bill that would allow parents to bury a stillborn child under his or her own name and in dignified conditions.⁸³

141. In the area of employment (**58, 65, 128**), in 2018 a national employment strategy was launched, one of whose themes is “An inclusive Chile that welcomes everyone”; the aim is to bring more people into the labour market. Act No. 20.786 (2014) modifies the working hours, time off and pay structure for domestic workers and prohibits the requirement that a uniform be worn in public places.⁸⁴

142. With respect to housing (58, 65), the Ministry of Housing and Town Planning has adopted a rights-based approach in the areas of housing, neighbourhoods and cities, with a view to improving access for the most vulnerable groups. Examples include the operation of nine long-stay establishments for older persons and the inclusion of specific considerations related to indigenous peoples in rural habitability programmes, the Solidarity Fund for Housing Choices programme, the Integrated Housing Subsidy Scheme and the Family Property Protection Programme.

143. The agreement between the Ministry of Housing and Town Planning, the Ministry of Social Development and the National Indigenous Development Agency is being implemented in order to make further progress in offering housing solutions to indigenous peoples living in urban and rural areas. In addition, steps have been taken to eliminate barriers that were hindering foreigners' access to housing subsidies. For example, the requirement to certify five years' permanent residence in the country has been eliminated; applicants need only show that they are currently permanent residents. The rental subsidy programme has been adapted to eliminate the age limit; this has made it possible to support the access of migrants, older persons and other population groups to suitable housing. Between 2014 and June 2018, a total of 8,197 migrants received housing subsidies for permanent housing, rental housing or home improvement.

144. With regard to the environment (177, 184), Chile has an environmental impact assessment system administered by the Environmental Assessment Service. Under this system, investment projects and activities likely to have environmental impacts are assessed and scored. If the environmental impact study finds that a project will have significant impacts on the environment, the study will include a mitigation, reparation and compensation plan in relation to the adverse environmental effects of the project.

145. In the area of environmental justice, the Supreme Court has established legal precedents with regard to the preservation, conservation and protection of the environment in areas such as the concept of environmental damage,⁸⁵ the level of due diligence required in order to avoid causing such damage,⁸⁶ the establishment of mitigation measures⁸⁷ and the means of determining environmental impact.⁸⁸

J. Act on anti-discrimination measures (51, 52, 53, 54)

146. With regard to the implementation of Act No. 20.609 on anti-discrimination measures, in the period between 2012 and 2016, 234 cases were brought before courts of first instance, while 87 appeals were brought before courts of appeal and 10 before the Supreme Court; some 64 per cent of these cases have been completed. The Act has generally been invoked in relation to discrimination on grounds of illness or disability, ideology or political opinion, or sexual orientation.⁸⁹ In 9 per cent of all completed cases, the payment of fines was imposed.

147. The Office of the Minister and Secretary General of Government is now implementing the second nationwide public consultation on non-discrimination. The findings will serve as inputs for the development of amendments to Act No. 20.609.

K. Systematic, widespread and institutionalized violations (1973–1990) (114, 115, 116, 117)

148. The judicial branch has taken various actions to ensure victims' right to justice, such as the establishment of a support team for the judge in charge of coordinating cases involving human rights violations.⁹⁰ These officials are responsible for registering and processing these cases and reassigning them to judges of various courts of appeal, most of whom investigate these cases on a full-time basis.

149. With regard to cases concerning human rights violations that occurred during the dictatorship, as at 31 December 2017 a total of 1,351 cases were being processed by 13 inspecting judges. In 2017, 195 judgments were handed down at first instance. The Supreme Court issued 41 judgments in these cases under criminal and civil law.

150. Decree-Law No. 2.191 has not been applied for the past 10 years because the courts have uniformly and consistently held that statutory limitations are not applicable to the

crimes against humanity committed during the dictatorship.⁹¹ Moreover, since 2011 the Supreme Court has held that civil actions related to such crimes are not time-barred.

151. With regard to the nature of the confidentiality requirement established by Act No. 19.992, the State, in line with the finding of the Inter-American Court of Human Rights in *Omar Humberto Maldonado Vargas et al. v. Chile* (2015), affirms that this requirement meets the criterion of proportionality.⁹²

L. Police violence (77, 78, 80, 81, 82)

152. Between January 2014 and June 2018, the Public Prosecution Service filed charges for excessive use of force by police officers under two criminal offences: torture or ill-treatment committed by public servants, for acts committed prior to the entry into force of Act No. 20.968, and the offence of torture, for acts committed after the entry into force of the Act.⁹³ Between 2015 and May 2018, a total of 1,309 cases were filed with the justice system in relation to complaints concerning the offences of torture, other cruel, inhuman or degrading treatment, other harm inflicted by public officials and abuses against individuals.⁹⁴

153. To investigate these cases, the Investigative Police carries out an administrative investigation to determine responsibility and penalties, without prejudice to the criminal investigation. The Investigative Police is working on the development of a record-keeping mechanism with regard to cases of torture committed by its officials, together with a national registry of cases linked to rights abuses committed by such officials.

154. In addition, at the request of the Public Prosecution Service,⁹⁵ the Investigative Police investigates complaints of human rights violations in police procedures, including those alleged to have been committed in the context of social and student demonstrations.⁹⁶ Cases where the alleged victims are members of indigenous communities are likewise investigated.⁹⁷

155. The Carabineros have implemented three mechanisms for detecting any misconduct on the part of their officers.⁹⁸ In all cases, if an officer's misconduct constitutes a criminal offence, there is a legal obligation to report it to the criminal prosecution authority.⁹⁹

M. Human rights education and training (48, 49, 76, 77)

156. In 2013, the Carabineros launched a new education programme on the subject of human rights as part of its education, professional development and training processes.¹⁰⁰ In 2017 it established a national training plan to upgrade professional skills in the area of human rights and police intervention techniques.¹⁰¹ Moreover, in 2016 it began to implement a programme of human rights training in police stations.¹⁰² Lastly, three instruments have been developed to ensure that human rights are embedded in policing.¹⁰³

157. Since 2013, 168 officials have completed the diploma course on human rights promoted by the National Prison Service among its officials, both civilian and uniformed, and its Human Rights Protection and Promotion Unit has carried out a number of training initiatives on the subject.¹⁰⁴

158. The School for Investigative Police has reformulated curricular content to include subjects that have been identified as priorities under the first national human rights plan. Since 2013, an international diploma course on human rights has been offered, and the "Ethos" programme has been implemented to provide ethics and human rights training to all Investigative Police personnel nationwide.

159. Human rights training in the judicial branch is carried out through the Judicial Academy, which offers training, professional development and certification programmes and, since 2009, various training courses on human rights.

160. Since its inauguration, the Office of the Undersecretary for Human Rights has participated in a variety of human rights training activities for police officers. It is designing an online course on the prevention of torture,¹⁰⁵ which is aimed especially at public officials with law enforcement responsibilities who use force in the conduct of their work.

VI. Key national initiatives and commitments

161. The Government of Chile reiterates its unqualified commitment to international human rights law and submits this report as a testament of international good faith and of its resolve to intensify its efforts to secure the full exercise of human rights without discrimination.

162. The Administration of President Sebastián Piñera is accordingly striving to promote a human rights agenda with high social impact by supporting groups whose rights have historically been violated. It is doing so through measures such as: (a) the national compact for children; (b) the Araucanía Plan (for the Mapuche people); (c) the *Adulto Mejor* plan (for older persons); and the Agenda for Women. Moreover, under the agenda of national commitments, work will be carried out with 16 social groups in situations of extreme vulnerability.¹⁰⁶ All these initiatives will be implemented in the framework of the national human rights plan.

163. Lastly, the State underscores its commitment to democracy, the rule of law and economic growth, which are preconditions for the emergence of a fully developed culture of promoting and protecting human rights.

Annex

Se adjunta un “Anexo” que complementa el informe:

1. Siglas
2. Acta Encuentro Sociedad Civil
3. Acuerdo Nacional por el desarrollo y la paz en la Araucanía
4. Protocolo Intersectorial de Atención a Víctimas de Trata de Personas
5. Anexo GENCHI Lineamientos
6. Anexo GENCHI Población penal
7. Estadísticas PJUD Ley 20609

Notes

- ¹ Ver en anexo el glosario de siglas.
- ² Se adjuntan las actas de dicha jornada como anexo.
- ³ En las instancias de diálogo de esta iniciativa han participado más de 300 actores (autoridades gubernamentales, empresarios, autoridades tradicionales, dirigentes indígenas, víctimas de violencia, y representantes de las iglesias).
- ⁴ Fueron más de 300 encuentros en todo el país y 10.000 participantes en la etapa de deliberación interna, más un encuentro nacional con los delegados de los pueblos indígenas. La consulta estuvo precedida por un Proceso Participativo Constituyente para Pueblos Indígenas, ejecutado el 2016 y donde participaron 17.016 personas.
- ⁵ Participaron los 9 pueblos indígenas reconocidos por Ley, con 9.018 representantes de pueblos indígenas y 1.308 organizaciones. El proceso concluyó con un acuerdo sobre la versión final del Reglamento.
- ⁶ Ver http://www.sea.gob.cl/sites/default/files/migration_files/instructivos/of._ord._ndeg_161116.pdf.
- ⁷ Fuente: MINEDUC.
- ⁸ En 2017, el 15,5% de la población indígena indicó haber percibido un trato discriminatorio, frente al 19,3% del año 2015. En cuanto a la población no indígena, en 2017 el 13,5% se sintió discriminado, mejorando el porcentaje de 2015 que se ubicó en 14,6%.
- ⁹ En 2014 se realizaron un total de 15.025 atenciones a personas indígenas y comunidades, de los cuales 52,9% son mujeres indígenas. En el 2017, de las 17.291 atenciones, el 56% se realizaron a mujeres. En el año 2018 se constatan 7.987 atenciones (enero a agosto).
- ¹⁰ Salvo la Región de Valparaíso.
- ¹¹ El programa incluye apoyo técnico y sociocultural, que incluye el financiamiento de actividades de consultoría y asistencia técnica a organizaciones indígenas, propiciando especialmente la participación de mujeres en tres ámbitos: (i) diálogo inicial y apertura sociocultural; (ii) elaboración y análisis de propuestas de valor; (iii) elaboración y análisis de anteproyectos de inversión. El apoyo técnico para la formulación de proyectos de alto impacto, contó con una inversión estimada de 1.575 millones de dólares a diciembre de 2017.
- ¹² El objetivo es desarrollar una validación de experiencias de negocio productivos reales, inclusivas y replicables, donde las comunidades indígenas sean parte de las decisiones y propiedad de dichas experiencias, bajo un esquema sostenible de largo plazo. En 2016, y con la finalidad de disminuir la brecha de desarrollo que existe entre indígenas y no indígenas se firmó un contrato de préstamo con el BID.
- ¹³ Algunos ejemplos son “Código de Ética de Turismo Comunitario”, “Fortalecimiento Integral de la Oferta Turística / Componente: Inversión y Competitividad”, “Fortalecimiento de la oferta de productos de Turismo Indígena”, “Elaboración de manual y levantamiento de iniciativas para el desarrollo de Turismo Indígena”, entre otros.
- ¹⁴ De ellas, 4 de competencia del Tribunal Oral en lo Penal de la ciudad de Temuco y 2 de Tribunales de Santiago. De las sentencias del Tribunal de Temuco, en todos los procesos los acusados tenían ascendencia mapuche. De las acusaciones formuladas ante este tribunal, 23 terminaron en absolución, 3 resultaron con condena por delito terrorista y 2 con condena no terrorista.
- ¹⁵ 6° Tribunal Oral en lo Penal de Santiago. Causa RUC N°1400674179-8, RIT N°64-2017. Sentencia de 15 de marzo de 2018.
- ¹⁶ Corte Suprema, causas acumuladas ROL 40.863-17, 40.860-17, 40.862-17 y 40.864-17 de fecha 19 de octubre de 2017.
- ¹⁷ Oficio N° 3795 enviado el 28 de junio de 2018 del Director de la Corporación Administrativa del Poder Judicial. Según consta en el referido oficio “...en el sistema de apoyo a la gestión judicial (SIAGJ), el sexo de los participantes no es un campo de registro obligatorio, por lo tanto, no se puede precisar si la víctima de la causa, corresponde a una mujer.”
- ¹⁸ La Ley aumenta la pena para proteger a las mujeres (también a NNA, personas con discapacidad y personas mayores), tipifica como nuevo delito el maltrato corporal único relevante. Elimina la precalificación del maltrato habitual establecido en la Ley N° 20.066 de violencia intrafamiliar, por parte de los tribunales en materia de familia, dando cumplimiento recomendaciones previas (CEDAW).
- ¹⁹ Boletín N° 11077-07. El proyecto contiene una definición de violencia contra las mujeres que adopta los estándares internacionales en la materia, reconoce los ámbitos en que puede ocurrir dicha violencia (tanto el ámbito público como el privado) y enuncia las formas que ésta puede adoptar, comprendiendo la violencia física, psicológica, simbólica, económica, sexual e institucional.
- ²⁰ Las conductas sancionadas en el proyecto se refieren a: (1) Maltrato no constitutivo de delito; (2) Delito de maltrato habitual; (3) Femicidio; (4) Violencia entre adolescentes.
- ²¹ Su objetivo es promover el derecho a una vida libre de violencias contra las mujeres en Chile, tanto en el ámbito público como privado. Para ello se contemplaron cuatro líneas de acción estratégicas: (1)

Prevención de la VCM; (2) Articulación y fortalecimiento del Sistema de Atención en VCM; (3) Acceso a la Justicia y Sanción Efectiva; e (4) Información y Conocimiento en VCM. El Plan refuerza los mecanismos existentes de atención de mujeres que sufren violencia, a través de avances como: (1) Nuevas casas de acogida para mujeres a nivel nacional, y nuevos centros de la mujer para prevención y atención en violencia; (2) 7.650 trabajadoras/es de salud capacitadas/os en violencia de género; (3) 891 funcionarias/os públicas/os capacitadas/os en “herramientas para el abordaje de la violencia contra las mujeres”; (4) Incorporación de la PDI y el SML al Circuito Intersectorial de Femicidio; (5) Instalación de 15 circuitos regionales de femicidios que incorpora a sus funciones la prevención de femicidios frustrados; (6) Capacitaciones a funcionarios/as de Carabineros y PDI sobre la pauta unificada de evaluación inicial de riesgo de violencia contra las mujeres en contexto de pareja; (7) Salas de acogida a víctimas de violencia sexual en 16 hospitales de alta complejidad del país; (8) Atención a hombres en centros de reeducación para agresores (15 centros para HEVPA — hombres que ejercen violencia de pareja- a nivel país). Entre 2014 y 2017 se ha atendido a 4.913 hombres y 123.241 mujeres en los distintos dispositivos de atención. A esto se suma el trabajo de SERNAMEG y sus programas (Atención, Protección y Reparación en VCM; Prevención en Violencia contra las Mujeres; y Línea de Violencia Extrema en femicidios y Casos de Violencia contra las Mujeres de Connotación Pública.

- ²² La “pauta unificada de evaluación inicial de riesgo” es aplicada por personal de las policías y del MP (según donde se denuncie). Es un cuestionario estructurado por ítems que contienen preguntas con puntaje asignado, cuyo propósito es obtener, directamente de la afectada, información sobre la existencia de factores de riesgo asociados a la situación de violencia que se ha denunciado. La pauta arroja un nivel cuantitativo de riesgo que se calcula automáticamente según un algoritmo predefinido. Este permite calificar esa situación de riesgo estableciendo si éste es vital/alto, medio o bajo. Una vez obtenido el nivel de riesgo a partir de la aplicación de la pauta, se deben adoptar medidas y acciones de protección, de acuerdo a cada nivel de riesgo, según lo que se define en el protocolo que se diseñó para este fin.
- ²³ Resolución FN/MP N° 2078 de octubre de 2017. La nueva Área de Violencia de Género ha especializado las investigaciones criminales en los casos de violencia personas LGBTI y en delitos cometidos en contexto de violencia intrafamiliar.
- ²⁴ Si en 2013 un 5% de mujeres tenía participación en los directorios de empresas estatales; actualmente, esa cifra es de un 40%.
- ²⁵ Con esto se da cumplimiento a las recomendaciones efectuadas, entre otras, por los Comités CEDAW (CEDAW/C/CHL/CO/5-6, párr. 35.d), de Derechos Económicos, Sociales y Culturales (E/C.12/CHL/CO/4, párr. 29.a) y de Derechos Humanos (CCPR/C/CHL/CO/6, párr. 15), entre otros.
- ²⁶ Publicadas en el Diario Oficial el 05 de Enero de 2018.
- ²⁷ Fue aprobado por la Cámara de Diputados, y ahora se espera la aprobación del Senado. (Boletín N° 11758-07).
- ²⁸ El proyecto de ley crea un “Fondo Solidario para Beneficio Social de Educación Parvularia en Nivel de Sala Cuna”, que les dará cobertura a hijos entre seis meses y dos años de trabajadores dependientes e independientes que cumplan con ciertos requisitos. El monto del beneficio asciende a una suma de \$245.000 mensuales, más el costo de la matrícula.
- ²⁹ Boletín N° 9303-11 que se encuentra en segundo trámite constitucional en la Cámara de Diputados.
- ³⁰ https://www.camara.cl/pley/pley_detalle.aspx?prmID=9734&prmBoletin=9322-13
- ³¹ Dictamen N° 1300/30, de 21.03.2017, de la Dirección del Trabajo. Sin reconsideración. En actual aplicación: <http://www.dt.gob.cl/legislacion/1624/w3-article-111404.html>
Ordinario N° 3164, de 12.07.17, de la Dirección del Trabajo.
<http://www.dt.gob.cl/legislacion/1624/w3-article-112357.html>
Ordinario N° 3257, de 17.07.2017, de la Dirección del Trabajo.
<http://www.dt.gob.cl/legislacion/1624/w3-article-112425.html>
Órdenes de Servicio y Circulares: Orden de Servicio N° 2, de 29.03.17, de la Dirección del Trabajo, que regula el procedimiento administrativo en materia de denuncia por vulneración de derechos fundamentales: www.dt.gob.cl/transparencia/OS-N2_29-03-2017.pdf
Circular 28, de 03.04.17, de la Dirección del Trabajo, que imparte instrucciones específicas sobre el procedimiento administrativo en caso de denuncia por vulneración de derechos fundamentales: www.dt.gob.cl/transparencia/Circ/N28_03-04-2017.pdf.
- ³² Boletín N° 7567-07.
- ³³ Para elaborar este Plan se realizaron un total de 705 encuentros a nivel nacional, con 19.082 participantes, aplicándose 31.272 instrumentos, (4.388 instrumentos fueron contestados de manera virtual por funcionarias/os públicos/as). Uno de los principales logros fue la amplia participación de diversidad de mujeres: migrantes, rurales, indígenas, diversidad sexual, estudiantes, pobladoras, tercera edad, sindicalistas, trabajadoras sexuales, académicas y mujeres privadas de libertad, entre otras.

- ³⁴ Plataforma público privada impulsada por el World Economic Forum, el Banco Interamericano de Desarrollo y cuya Secretaría Ejecutiva está a cargo de la ONG Comunidad Mujer. Actualmente hay 120 empresas adheridas a la Iniciativa de Paridad de Género en Chile.
- ³⁵ Este programa promueve la autonomía económica de las mujeres jefas de hogar por medio de un conjunto de herramientas que les permitan generar y gestionar ingresos y recursos propios a partir del trabajo remunerado, el acceso a la oferta pública y de oportunidades de conciliación trabajo remunerado, doméstico y de cuidados.
- ³⁶ Estrategia de acción que busca contribuir al cambio cultural en las relaciones laborales entre mujeres y hombres en contextos organizacionales con el fin de eliminar las brechas, barreras e inequidades de género que enfrentan.
- ³⁷ El financiamiento del programa proviene de una transferencia corriente del Ministerio de Desarrollo Social en el marco de la Ley N° 20.595 en el marco del “Ingreso Ético Familiar y Sistema Chile Solidario”.
- ³⁸ http://www.minjusticia.gob.cl/media/2018/07/Acuuerdo_Nacional_por_la_Infancia.pdf.
- ³⁹ <https://www.leychile.cl/Navegar?idNorma=1069827>.
- ⁴⁰ <https://www.leychile.cl/Navegar?idNorma=1103381>.
- ⁴¹ El delito de maltrato corporal relevante (artículo 403 bis del CP), sanciona con una pena de prisión en cualquiera de sus grados (1 a 60 días) o multa de una a cuatro unidades tributarias mensuales (\$US 72 a \$US 288), salvo que el hecho sea constitutivo de un delito de mayor gravedad. Esta sanción se aumenta a presidio menor en su grado mínimo (61 a 540 días) si quien comete el delito tiene un deber especial de cuidado.
- ⁴² Oferta DEPRODE, julio 2018.
- ⁴³ Fuente de datos entregados: DEPLAE, SENAME, 03 septiembre 2018.
- ⁴⁴ Dicha política en con base en 5 ejes: promoción de derechos, diseño e implementación de políticas y protocolos, generación de datos y estadísticas, alianzas interinstitucionales y estudio y monitoreo.
- ⁴⁵ Estas acciones consistieron en reuniones realizadas en las diferentes regiones del país, con la participación total de 168 personas, de las cuales un 35% corresponden al PJUD, 12,5% a Defensores Penales Públicos, 11,3% a fiscales del MP, 23,8% a representantes de Organismos Colaboradores del SENAME, 11,3% a representantes de Centros Privativos de Libertad (CIP-CRC-CSC) y el resto a representantes regionales de diferentes servicios o ministerios.
- ⁴⁶ Memorándum N° 681 de 24 de agosto de 2018. Departamento de Justicia Juvenil, que informa a nivel nacional “Lineamiento Enfoque de Derechos para adolescentes y jóvenes que se encuentran en centros cerrados”. National Service for Minors.
- ⁴⁷ Oficio N° 330/2018 del Fiscal Nacional, de 20 de abril de 2018.
- ⁴⁸ Esto supuso la incorporación de 50 defensores institucionales y 11 licitados, los cuales cubren el 86% de los casos de NNA en que participa la DPP. El 14% restante, es cubierto por defensores generales, que cuentan con capacitación en la materia.
- ⁴⁹ <https://www.chilevalora.cl/certificacion-de-migrantes/>.
- ⁵⁰ Mayores detalles en el reciente “Informe trimestral trabajadores extranjeros, enero-junio 2018.
- ⁵¹ Ordinarios N°894 y N°329, MINEDUC.
- ⁵² Corte Suprema, causa Rol 3990-2017, sentencia de 16 de febrero de 2017.
- ⁵³ Corte Suprema, causa Rol 7147-17, sentencia de 7 de marzo de 2017.
- ⁵⁴ Corte de Apelaciones de Santiago, sentencia Rol 351-2013, 9 de marzo de 2013.
- ⁵⁵ Criterios de actuación en materia de persecución penal y protección de víctimas” del Fiscal Nacional (Oficio FN N° 575/2015).
- ⁵⁶ Este dispositivo integra dos líneas de acción: la protección y atención en el espacio residencial; y la sensibilización y capacitación para una adecuada atención y detección de casos (llegando a 793 personas capacitadas).
- ⁵⁷ Conversión según tipo de cambio publicado por el Banco Central de Chile al 19 de octubre de 2018 (US\$1=\$674.68). Ver www.bcentral.cl.
- ⁵⁸ Movimiento de Integración y Liberación Homosexual; Organizando Trans Diversidades; Corporación Humanas; Red Chilena de Violencia hacia las Mujeres; Colectivo “Ni una Menos”; Agrupación Lésbica Rompiendo el Silencio; Fundación Todo Mejora; y Fundación Iguales. La instancia tiene como misión registrar los delitos cometidos en contra las personas LGBTI+ y asesorar a los y las fiscales en sus investigaciones criminales iniciadas por hechos de violencia motivados en razón de la identidad o expresión de género de la víctima.
- ⁵⁹ 99.557, hombres y 12.691 mujeres al día 31 de julio de 2018.
- ⁶⁰ El Subsistema Cerrado concentra un total de 50.944 PPL, de las cuales 46.799 son hombres y 4.145 son mujeres. Este subsistema incluye al Régimen de Control Cerrado en el cual se encuentran 41.432 PPL y se subdivide en Detenidos (26); Procesados (2); Imputados (14.113); y Condenados (26.577). El Subsistema Cerrado también incluye un Régimen de Control Semiabierto, donde están los Condenados en C.E.T Semiabierto el que concentra 686 PPL. Finalmente, dentro de este Subsistema

- está el Régimen de Control Abierto, que reúne 8.826 PPL. Por un lado se encuentran los que tienen Beneficios de Reinserción (8.244) y por otro los Apremios (582).
- 61 El Subsistema Abierto concentra 61.306 PPL de las cuales 52.758 son hombres y 8.546 son mujeres. Este Subsistema se divide en primer lugar, en Medidas Alternativas en la que se encuentran 4.523 PPL y que se subdivide en: Remisión Condicional de Pena (2.991), Libertad Vigilada (1.213) y Reclusión Nocturna (319). En segundo lugar, están las Penas Sustitutivas, las que cumplen 56.781 PPL, y que se subdividen en: Remisión Condicional (31.400), Libertad Vigilada (1.121), Libertad Vigilada Intensiva (12.901), Reclusión Parcial (7.183), Prestación de Servicio en Beneficio de la Comunidad (4.044) y Expulsión (132).
- 62 La población reclusa 24 horas, tiene un 102,7% de uso (2,7% de sobrepoblación), en el caso de los hombres el uso es de un 106,4% (6,4% de sobrepoblación), mientras que las mujeres es de un 74,4%. Respecto a la población juvenil, hay un 12,8% de uso, y en el caso de las personas que pernoctan en las unidades penales, hay un 83,6% de uso según la capacidad de diseño.
- 63 Ha permitido que las personas condenadas a penas sustitutivas a las penas privativas o restrictivas de libertad, pudieran cumplir dichas penas en medio abierto, mediante control de GENCHI, ya sea en un CRS o en establecimiento penal, según corresponda.
- 64 Respecto de los condenados hombres, ha aumentado de 18980 personas en 2014, a 49553 a agosto de 2018. Respecto de las condenadas mujeres, ha aumentado de 2580 personas en 2014, a 7782 a agosto de 2018.
- 65 Los programas son: Proyectos de conservación, Proyectos de inversión, Proyectos construcción de redes contra incendio.
- 66 (1) Res. Ex. 9681 de fecha 15 de septiembre de 2014, que aprueba procedimiento y flujograma para el uso de la fuerza al interior de los establecimientos penitenciarios del subsistema cerrado; (2) Res. Ex. 9682 de fecha 15 de septiembre de 2014, que aprueba procedimiento y flujograma para el uso de armas de fuego y munición ante fuga o intento de fuga desde el interior de los establecimientos penitenciarios; (3) Res. Ex. 10.182 de fecha 02 de octubre de 2014, que aprueba normas aplicables a la salida de internos de los establecimientos penitenciarios y a las órdenes de libertad de imputados. Es dable señalar, que mediante Resolución Exenta N°11.354 de fecha 30 de diciembre de 2016, el procedimiento de salida y custodia de mujeres embarazadas fue modificado, a fin de adecuar la regulación a los estándares internacionales, en especial lo que dice relación con la prohibición del uso de elementos de coerción física.
- 67 Estas denuncias alcanzaron en los años 2016 al primer semestre de 2018, 391, 540, y 178 respectivamente, relacionadas al derecho a la Integridad física y personal. En cuanto a sumarios iniciados por GENCHI, existen 455 casos desde el año 2015 a la fecha, relacionados con malos tratos por parte de su personal. De éstos en 50 casos se ha determinado una sanción, sea censura, multa o suspensión del Empleo. Por otro lado, desde diciembre de 2016 a julio de 2018, se han realizado 115 denuncias judicializadas a funcionarios por Apremios Ilegítimos, 56 casos de enero a julio del presente año.
- 68 El Plan Piloto opera en las regiones de Tarapacá y en la Metropolitana Sur.
- 69 Resolución FN/MP N° 2078-2017 del 31 de octubre de 2017 que modifica competencias y denominación de la unidad especializada que indica por el nombre de Unidad Especializada de DDHH, Violencia de Género y Delitos Sexuales; y Resolución FN/MP N° 895-2017 del 5 de diciembre de 2017 que imparte criterios de actuación en delitos de tortura y otros tratos crueles inhumanos o degradantes.
- 70 Decretos Exentos N° 584/2007 y N°1000/2007. La Ley N° 21.040 de 24 de noviembre de 2017 que crea el sistema de educación pública, hace mención a la educación en contextos de encierro, estableciendo que los órganos encargados de la educación pública deberán tener en especial consideración el desarrollo de la oferta educativa para las personas que se encuentren bajo cualquier régimen de privación de libertad o programa de reinserción social.
- 71 Decreto Supremo de Educación N°257/2009.
- 72 El programa “Creciendo Juntos” posee dos componentes:
 Componente 1: se atiende e interviene a mujeres embarazadas o con hijos/as lactantes de hasta 2 años que permanecen con sus madres en reclusión, sin importar su calidad procesal (imputada o condenada). Se mantiene un 100% de cobertura de atención de las mujeres que tengan alguna de estas condiciones.
 Componente 2: tiene por objetivo intervenir a personas condenadas con hijos/as hasta los 12 años de edad y que presenten un nivel de riesgo alto o muy alto en el factor criminógeno familia y pareja. Se ejecuta a través del Taller de Parentalidad, que entrega herramientas técnicas y prácticas asociadas a la parentalidad positiva, promueve las competencias parentales y la vinculación afectiva de las diadas padre-hijo/a y madre-hijo/a, durante el periodo de reclusión. Respecto a este componente, 482 personas participaron del Taller de Parentalidad (254 hombres y 228 mujeres).
- 73 CPF Antofagasta: Centro de Educación Integral de Adultos, Dr. Antonio Rendic; CPF Talca: Liceo Técnico Profesional Aulas de Esperanza; CPF Chillán: Colegio Nueva Esperanza E-2014; CPF

- Temuco: Colegio Manuel Rojas; CPF San Miguel: Escuela de Adultos Hugo Morales Bizama; CPF Santiago: Liceo Santa María Eufrasia. Actualmente, se cuenta con 15 plazas en el CPF Antofagasta, 225 en el CPF Talca, 155 en el CPF Chillán, 290 en el CPF Temuco, 352 en el CPF San Miguel y 416 en el CPF Santiago. En 2015 el número de mujeres matriculadas ascendía a 1.317; en 2016 a 1.356; en 2017 a 1.426; y a agosto de 2018 ascendía a 1.329.
- 74 Examen Preventivo de Salud (ingreso); Dispositivos de Salud para atención de mujeres; Atenciones de salud; Atenciones odontológicas; Atenciones ginecológicas; Tratamiento de Salud Mental; y Tratamiento VIH.
- 75 La iniciativa comienza a regir de forma gradual y tiene como objetivo garantizar la educación como un derecho. Esta ley otorga libertad de elección a las familias para escoger el proyecto educativo que prefieran, con disponibilidad completa de la información de cada establecimiento, sin estar condicionados a la capacidad de pago, rendimiento académico u otros tipos de discriminación para sus hijos e hijas. Junto con ello, elimina el lucro en los establecimientos que reciben aportes del Estado.
- 76 <https://www.supereduc.cl/buscador-buena-escuela/>.
- 77 <https://www.mineduc.cl/2017/12/22/orientaciones-la-inclusion-educativa-los-estudiantes-extranjeros/>.
- 78 Alumnos matriculados en Educación Especial durante 2017 representan el 5,1% de la matrícula total. <http://junarsemantics.s3.amazonaws.com/mineduc/BigData/Visualizaciones/VZ1/dist/index.html>
- 79 <https://plandeinversionesensalud.minsal.cl/>. Al mes de octubre del 2018, el Plan cuenta con 2 proyectos terminados, 26 en ejecución de obras civiles (4 de ellos bajo el contrato Diseño-Construcción) y 10 recintos en proceso de licitación.
- 80 <http://leyricartesoto.fonasa.cl/>.
- 81 <http://www.suseso.cl/sel/606/w3-propertyvalue-137400.html>.
- 82 Ley y su reglamento, comenzaron a regir el 27 de junio del año 2016. A dos años de la implementación de la ley entró en vigencia el segundo tramo de la iniciativa, **elevando los estándares de exigencias de los límites de grasas, calorías, azúcares y sodio** en los alimentos que se comercializan.
- 83 Boletín N° 5261-11.
- 84 <https://www.leychile.cl/Navegar?idNorma=1068531>.
- 85 Corte Suprema, Rol 396-2009, de 2001. Sentencia de Reemplazo, considerando 30°.
- 86 Corte Suprema, Rol 396-2009, de 2001. Sentencia de Reemplazo, considerando 29°.
- 87 Corte Suprema, Rol 41.417-2017 de 25 de junio de 2018. Sentencia de Reemplazo, considerando 14°.
- 88 Corte Suprema, Rol 41.417-2017, de 25 de junio de 2018. Considerando 6°.
- 89 Ver Anexo.
- 90 El 24 de abril de 2014 (AD 739-2010), el Pleno de la Corte Suprema acordó “conformar un equipo de apoyo para actualizar la base de datos existente en materia de derechos humanos”. Este equipo estará integrado por “dos personas que trabajarán con el ministro coordinador, cuya designación e implementación queda a cargo del Señor Presidente”.
- 91 La Corte Suprema ha resuelto en este sentido de forma permanente a partir del caso *Pedro Poblete Córdova*, Rol 469-1998 (1998).
- 92 De acuerdo a la Corte, la medida de reserva “es proporcional puesto que el sacrificio inherente a la restricción no resulta (...) desmedido frente a las ventajas que se obtienen mediante tal restricción y el cumplimiento de la finalidad perseguida”. Corte IDH, *Omar Humberto Maldonado Vargas y Otros v. Chile*, Serie C 300, párrafo 99.
- 93 1.187 delitos correspondientes a 1666 víctimas (273 de ellas menores de edad). En cuanto a los términos de los procesos, 457 han tenido salida judicial, 1339 salidas no judiciales y 285 han tenido otros términos. Por su parte, en cuanto al delito de apremios ilegítimos cometidos por funcionarios públicos (art. 150 D CP), hay un total de 2070 delitos ingresados correspondiente a 2639 víctimas. En cuanto a los términos, 55 han tenido salida judicial, 838 salidas no judiciales y 367 otros términos.
- 94 El año que registró más ingresos fue el 2017, alcanzando un total de 505 causas. Respecto al tipo de delito, el mayor número de ingresos se concentró en tortura del inciso primero del artículo 150 del Código Penal con 456 ingresos, y en Abusos en contra de particulares establecido en el artículo 255 del Código Penal con 434.
- 95 Los oficiales investigadores se han capacitado en temáticas relativas a la protección de los derechos humanos, uso de la fuerza, principio de igualdad y no discriminación y sistemas internacionales de protección a los derechos humanos, entre otras materias.
- 96 Entre 2015 y 2017, el Ministerio Público expidió 183 órdenes para investigar la presunta comisión del delito de apremios ilegítimos; 144 órdenes por el delito de tormentos a detenidos; y 116 órdenes por el delito abusos contra particulares. Durante el primer semestre del año 2018, se recibieron 155 órdenes de investigación por el delito de apremios ilegítimos y otras 47 por el delito de tortura.
- 97 En este contexto, en la actualidad se llevan a cabo cuatro investigaciones cuyas víctimas son integrantes de comunidades mapuches: Caso Alex Lemun: Indagatoria desarrollada por el delito de violencia innecesaria con resultado de muerte, hecho ocurrido en noviembre del año 2002; Caso

Liucura, 2018: Indagatoria seguida por los delitos de apremios ilegítimos en contra de integrantes de una comunidad mapuche, quienes acusan violencia y detención ilegal en procedimiento adoptado por Carabineros; Caso Huentelolén, 2018: Indagatoria seguida en virtud de una denuncia de comuneros mapuche que acusan apremios ilegítimos por parte de Carabineros; y Caso Los Álamos, 2018: Indagatoria seguida por la denuncia de un Lonco de una comunidad mapuche quien acusa apremios ilegítimos en un procedimiento policial de Carabineros.

⁹⁸ 1) sistema público de recepción de quejas de fácil acceso para el público a través de la plataforma de internet de Carabineros a cargo del Departamento de Información Pública Orden General N° 2149 de 17 de diciembre de 2012 que crea el Departamento de Información Pública, Reclamos y Sugerencias, OIRS. 2) Los/as jefes/as con responsabilidad de mando ejercen una supervisión constante de sus subalternos/as y cuentan con facultades disciplinarias. Por su parte, el personal sujeto a una indagación administrativa cuenta con asesoría letrada para la defensa de sus intereses. Orden General N° 2.253 de 17 de marzo de 2014 y Orden General N° 2.274 de 10 de junio de 2014, ambas de la Dirección General de Carabineros. 3) La búsqueda y recolección de información sobre inconductas funcionarias está a cargo del Departamento de Asuntos Internos. Para optimizar su desempeño recientemente quedó radicado en la Contraloría General de Carabineros. Orden General N°2563 de fecha 28 de marzo de 2018 de la Dirección General de Carabineros.

⁹⁹ El número de denuncias penales por empleo excesivo de la fuerza es el siguiente: 2014, 36; 2015, 15; 2016, 7 (fuente: Departamento de Análisis Criminal, a partir de datos del sistema de Automatización de las Unidades Policiales, AUPOL (junio 2018).

¹⁰⁰ El total de funcionarios que ha recibido instrucción presencial en derecho internacional de los derechos humanos entre los años 2013 y 2017 es el siguiente: a) Etapa de formación: 13.515; b) Etapa de perfeccionamiento: 5.342.

¹⁰¹ Se capacitó a 14.997 funcionarios a nivel nacional.

¹⁰² Hasta agosto de 2018 ha cubierto a 31.945 carabineros/as de un total de 42.020 efectivos operativos. Este mecanismo desde fines de 2018 contará además con un programa de realidad virtual.

¹⁰³ (1) La Circular N° 1.756 de 2013 de la Dirección General de Carabineros que imparte instrucciones sobre el uso de la fuerza; (2) la Orden General N° 2.287 de 2014 de la Dirección General que aprobó la actualización de los 30 protocolos de intervención para el mantenimiento del orden público; y (3) la Orden General N° 2.490 de 2017 de la Dirección General de Carabineros que aprobó el “Manual de Técnicas de Intervención Policial para Carabineros de Chile. Nivel 1”.

¹⁰⁴ Prevención de la tortura; Trato a NNA; Género y Diversidad Sexual; Indigenas peoples; Discapacidad y Migración.

¹⁰⁵ Disponible a partir del 2019.

¹⁰⁶ <https://prensa.presidencia.cl/comunicado.aspx?id=84674>.