

**Country session:** Chile (Session 90)  
**Date of session:** 24<sup>th</sup> and 25<sup>th</sup> May 2022

### Context

The State of Chile was reviewed under the Simplified Reporting Procedure.

In 2018, there was an [inquiry](#) procedure by the Committee under article 13 of the Optional Protocol to the Convention on the Rights of the Child regarding a communications procedure in the State of Chile.

### Background information

[OHCHR press release](#)

Webcast: [first part](#) and [second part](#)

[Audio file](#)

### Reporting

#### Reporting methodology

Standard reporting procedure

Simplified reporting procedure

Concluding Observations with urgent measures

#### State report

Common core document	
<a href="#">Initial submission</a>	5 February 1999
<a href="#">Updated document</a>	10 October 2013

CRC	
No. of report	Combined 5 <sup>th</sup> & 6 <sup>th</sup> periodic reports
Due date	15 February 2021
<a href="#">Submission</a>	4 March 2021

#### Public reports from children's rights defenders

##### Alternative reports and additional information

NGOs	Alternative reports and additional information
	<ol style="list-style-type: none"> <li><a href="#">Bloque por la Infancia and other organizations: Comité de NNA de la Sociedad Clínica de Medicina Familiar; Observa Derechos; Cristo Joven, SODEM, Corporación "Llequen", Universidad de Atacama, Observatorio para la Confianza, Red por la Defensa de la Niñez Mapuche, Fundación Todo Mejora</a> (Summary report: <a href="#">Bloque por la Infancia and other organizations</a>)</li> <li><a href="#">NGO Coalition</a></li> <li><a href="#">Brújula Intersexual (International Intersex Human Rights NGO)</a></li> <li><a href="#">Civil Society in Infancy</a></li> <li><a href="#">Corporación ONG Raíces, ONG Paicabí and ECPAT International</a></li> <li><a href="#">Global Initiative to End All Corporal Punishment</a></li> <li><a href="#">Red de ONG de infancia y juventud de Chile</a></li> </ol>



	<ol style="list-style-type: none"> <li>8. <a href="#">Colectivo Sin Fronteras</a> (Annex: <a href="#">Colectivo Sin Fronteras</a>)</li> <li>9. <a href="#">Corporación Opción – Corporación Humanas NGO</a></li> <li>10. <a href="#">The Global Initiative for Economic, Social and Cultural Rights and the Public Services International (PSI)</a></li> <li>11. <a href="#">Movimiento Movilizándonos por una Cultural de Derechos</a></li> <li>12. <a href="#">Myriam del Canto Segovia, Individual Legal Expert, Legal Domestic Law</a> (Annex)</li> <li>13. <a href="#">Red de Sobrevivientes de Abuso en Entornos Institucionales de Chile</a></li> <li>14. <a href="#">Robert Conejeros Pizarro, Individual Expert</a></li> <li>15. <a href="#">Rocio Caceres Pizarro, Individual Expert</a></li> <li>16. <a href="#">StopIGM.org/Zwischengeschlecht.org</a> (International Intersex Human Rights NGO)</li> </ol>
<b>NHRIs</b>	<a href="#">National Institute of Human Rights</a>

Additional comments: Information from other stakeholders was also provided:

- a) [Chile – US Tip Report](#)
- b) [OHCHR Report of the Mission of Chile](#)

### State delegation

The [State delegation](#) was large, with 18 members. It was high level, with two Ministers, the Ambassador of Chile to the UN in Geneva, a Parliamentarian of the National Assembly, and head of multiple government offices.

The State's opening statement is available [here](#).

### Committee’s Task Force members

Name & Last Name	Country
Clarence Nelson (Coordinator)	Samoa
Luis Pedernera	Uruguay
Aïssatou Sidikou	Niger
Velina Todorova	Bulgaria



## Dialogue description

### i. Character of the dialogue

The dialogue was an open, frank, and technical discussion, focused on issues mostly highlighted in the LOIPR and in the inquiry. The State was responsive; nonetheless, the Committee called on the State's attention to share information during the dialogue rather than to present answers in writing after the session.

### ii. General assessment made by the Committee

The Committee welcomes the various legislative, institutional and policy measures taken by the State party to implement the Convention, in particular the establishment of the Children's Ombudsman and the Office of the Undersecretary for Children, as well as the recent creation of the System of Guarantees and Integral Protection of the Rights of Children and Adolescents. It further welcomes the inclusion of children's rights in the drafting of the new Constitution. Nonetheless, the Committee remains concerned on a number of issues, including violence against children and children deprived of a family environment.

### iii. Main issues discussed

**Legislation:** The Committee asked the delegation about the steps taken in relation to the implementation of the comprehensive children's rights law that passed in March 2022. The delegation answered that they have implemented a plan of work along with the law and mandated institutions to work in a coordinated manner. They also recognized their need to reform the law on family courts, and the law on specialized protection.

**Definition of the child:** The Committee was concerned about the fact that, despite the minimum age for marriage being raised to 18 in the draft law on marriage, an exception is granted for children from 16 years of age with the permission of a responsible adult. The Committee asked such provision was kept and if the State was planning to amend it. The delegation answered that the draft law that brought the legal age of marriage up to 18 in all circumstances would be adopted soon.

**Respect of the views of the child:** The Committee wanted to know if Chile had taken measures to promote and to guarantee the participation of children in the consultative process whereby the new Constitution will be put together. Also, it asked if the government had the legal provisions to recognize and enforce the right of the child to be heard in all matters affecting them, such as in the area of education, health, justice and family affairs. Finally, they asked about the creation of a formal framework for the participation of children in the development and implementation of local, regional and national policies. To these concerns, the delegation answered that the revised Constitution recognises children as rights holders, and they have adopted several participation mechanisms for all ages including local assemblies and public hearings.

**Freedom of association and peaceful assembly:** The Committee was concerned with the alleged 800 children being victims of repression, arbitrary and illegal detentions, ill-treatment, torture, sexual abuse and rape during and following a peaceful protest held by children in front of their school in 2019. The Committee has been told that not 1% of complaints led to a conviction, so they asked how the justice seemed so slow. To these questions, the delegation answered that they had developed a plan for providing reparation to families affected by the violent actions of the Carabineros (police). It had also developed training programmes for police on children's rights. Other reform programmes were in place, aiming to



improve oversight and monitoring of police activities but the draft law which would prohibit the excessive use of force, had not been passed. The delegation further explained that a specialised committee had been established to address these issues, and Chile's President had recently announced a special unit for compensation for victims of human rights violations at the hand of State agents. The State had implemented a programme for providing reparation for the victims.

**Sexual exploitation and abuse:** The Committee asked about the availability of services for child victims of abuse, such as trauma focused therapy. It also expressed concern about girls who had been abducted and raped that then returned to the place where they were abused, and asked what the government was planning to do about this. Finally, it asked the delegation about organized crimes targeted at children in institutions, and what steps had been taken to address this issue, particularly in religious institutions, and raised concerns about sexual abuses perpetrated by Carabineros during protests. To these concerns, the State delegation said that a prosecutor had been appointed to address cases of violence against children across the State. In the cases of exploitation, the victims are not viewed as victims, and so often they do not file complaints, or withdraw from the complaints process. They were often not supported by people in their immediate environment and Chile does not have a specialised network of staff, which is one of the key challenges. There is also not enough specialised law enforcement to carry out prompt investigations. Bearing in mind these factors, the sub-committee on sexual exploitation was created, in order to establish teams nationwide that would act within a standardised protocol. The State delegation also said that funding had been set aside for victims with a focus on psychological rehabilitation. In 2017, the legislation was enacted to punish persons with a duty of care who abused children.

**Harmful practices:** The Committee raised concerns about surgical and other unnecessary procedures performed on intersex children without their informed consent. They then asked the delegation what criteria or protocols existed to guarantee the informed consent of children and adolescents in interventions that affected their gender. They also wanted to know what measures the State provided to support and guide families with intersex children. To these concerns, the delegation said there was no updated data on surgeries performed on intersex children, but they recognized that there was a need to establish measures to address surgery affecting intersex children. The delegation also said that there was a draft law being developed that prevented gender alignment surgery for intersex children, and that the State was working on providing gender identity support for children and adolescents.

**Children deprived of a family environment:** The Committee raised concerns about acts of violence against children carried out by workers of the National Minor's service (SENAME), and asked what measures had been taken to investigate these acts. On its side, the Committee has undertaken an investigation into these violations against children. Even though the Committee welcomed the new institutions implemented to replace the SENAME, they were wondering what training was provided for staff of oversight bodies. The Committee further raised serious concerns about the 10,000 children living in institutions, considering it as a major challenge in Chile, despite the financial resources of Chile to provide them with better support. They also asked if there were measures to ensure that children could keep contact with their parents while in institutions, if the State had sufficient guarantees and criteria to decide whether a child must be placed in these institutions, and to oversee the quality of the treatment provided to the child. Also, the Committee expressed deep concerns about the violence made to children occurring in these institutions (sexual exploitation for commercial purposes, drug abuse...), and asked the delegation how they were planning to deal with this issue. They also wanted to know the opinion of lawyers regarding the short-term placement of children in institutions that turn into long-term placement. The delegation responded that the Prosecutor's Office had implemented special investigators for crimes against children in residential care



facilities and children in the care of the State. Over 300 investigations into the latter had been carried out. There is a legal obligation whereby judges were mandated to visit the institutions in their territory at any point, unannounced, at least every six months, resulting in an outcome report of the visit. These reports were then compiled by the follow-up unit and were consolidated in a national report on visits to institutions, shared with the relevant authorities and published. A single public registry system was available which provided a breakdown of each case, allowing for a better dealing of children in institutions.

**Children with disabilities:** The Committee asked the delegation about measures taken to prevent the forced sterilization of girls with disabilities. They were also concerned about the risk of the old system for protection simply being transferred to the new system and stressed the importance of the staff training. They also asked how many children with disabilities were placed in foster families compared to the number of children living in institutions, and if there were plans to address the excessive institutionalization of children with disabilities. They were also concerned about children with disabilities' access to education, with more than 50% of these children not being enrolled in formal schooling. They also had many questions on laws and legislation, for example if there was a national plan on supporting children with disabilities, if progress had been made on a draft law against discrimination of children with disabilities. They were also concerned with the access to educational facilities in times of Covid-19. The delegation first answered that strategies had been implemented to allow children to return to educational facilities after they were closed in response to the pandemic. The law expressly forbade the forced sterilisation of children. However, they said that there was no specific programme for children with disabilities, and this remains an issue for Chile. The country is currently undertaking data collection through a national survey on disabilities and dependencies, and the State will also be financing educational support for persons with disabilities. There are other programmes available for children with non-severe disabilities, with more than 700 children participants.

**Health, mental health and health services:** The Committee was concerned with the more than 40,000 children in waiting lists for mental health care services, and expressed the need for this issue to be addressed quickly. They also asked the delegation if the State had provided specialized protection in the institutional centres to address the health situation of children being victims of drugs and alcohol abuses. To these concerns, the State delegation recognized that the mental health issue was particularly affected by the pandemic. They also answered that they have started to work on mental health with the ministry of health, and that a web page for children had been set up, as well as citizen communication channels, and the staff coverage of telephone support had been increased. A programme had been launched to provide treatment for children who were drug addicts.

**Adolescent health:** The Committee asked the delegation where the State was on the draft of a sexual education bill, and raised concerns about sexually transmitted diseases, particularly about HIV/AIDS. They also raised concerns about the question of abortion, and asked the delegation if the State had planned to decriminalize it. The delegation first answered that they had developed a comprehensive strategy on sexual education, focused on healthcare, fertility, and contraception with a human rights-based approach. The aim of this strategy is to prevent gender-based violence and unplanned pregnancies. The national programme on HIV/AIDS had made significant progress on preventing and controlling the disease, and the prevention culture has been strengthened. Regarding abortion, the State answered that the law permitting abortion in cases including risk to the mother and rape was in place, but the decriminalisation of abortion outside these factors had not been approved.



**Environmental health:** The Committee asked the delegation what measures the State party would be taking to prevent future environmental damage, and what was being done to address the smog problem in Santiago. They also wanted to know what progress had been made on implementing renewable energy and closing down coal-fired power plants. The delegation answered that they had recognised the human rights for access to water and sanitation and was working intensely to fill the gaps in the areas where people did not have access to safe water. A new legal framework had been in place for one month, and a national rural potable programme benefitted many. The State recognised that this issue had been a challenge and it need to determine how many children had been affected by the hydrological crisis to establish solutions.

**Administration of child justice:** The Committee asked the delegation what happened when child reported abuse, and what was the mechanism to preserve their disclosure. The Committee still commended the “My Lawyer” programme, that they found fantastic, however they were concerned about appeals. They also asked how many lawyers were representing children in the court proceedings and if children had legal aid in Chile. The delegation answered that Chile needed to improve its legal framework, specifically regarding lawyers supporting children in court cases. There were flaws in this system, but restorative justice is being introduced as a new line of action. In the north of the country, the office of the judiciary and the office of the public defender had put in place mediation services for some youth crimes. Video recordings of questioning of child victims were used in subsequent proceedings. Children appeared in the court case with special preventative measures, including an expert who acted as a judicial mediator.

**Asylum-seeking, refugee and migrant children:** The Committee raised concerns on the suspension of democratic visas extended to Venezuelans, forcing affected children to live in camps, and asked what the State was doing to address this issue. They also asked what concrete plans were in place to provide health care for migrant children, and to prevent stigmatisation. The delegation answered that they had begun to work with the UN Children’s Fund on a centre for children on the move, and that an additional amount of 15 million dollars had been allocated into their programme. Also, the delegation said that all migrant children are guaranteed the right to education, regardless of their migratory status. The State delegation also affirmed that Chile had universal health care and that health care facilities were recently installed in border areas. Finally, they shared that a new law entered into force, recognising migrant children as rights holders who needed protection, but the implementation of this law remains a challenge.

**Indigenous children:** The Committee raised concerns about indigenous children being victims of structural discrimination. Therefore, the State asked what concrete actions the State had taken to eradicate common and institutional violence that affected Mapuche children, and what steps had the State taken to improve their living conditions and prevent violence against them by public officials. As an answer, the delegation recognized that the Government faced great challenges, such as improving the situation of children belonging to the country's indigenous communities, who faced the risk of their rights being violated daily. They explained that Chile had recently adopted a plan of action to address issues with indigenous peoples, which included dialogue, actions, strengthening of the national commission for indigenous development, and a land development programme.



## Recommendations of the Committee

In its [Concluding Observations](#), the Committee drew the State party's attention to the need for urgent measures concerning the following areas:

**Freedom of association and peaceful assembly:** The Committee urges the State party to:

- (a) Ensure that protocols, guidance and procedures on dealing with public protests, detention of children, excessive use of force, harassment and sexual violence during peaceful demonstrations comply with the Convention and children's right to peaceful assembly is always implemented in practice;
- (b) Ensure that human rights violations that occurred during the Social Uprising and any future protests are independently and thoroughly investigated and that perpetrators are expeditiously brought to justice;
- (c) Make the information on the outcome of investigations into acts of sexual violence committed by the carabineros against girls during the protests publicly available;
- (d) Adopt comprehensive reparation plans and programmes for children victims of the social uprising;
- (e) Ensure that children can exercise the right to freely express their opinion and associate with peers without receiving violent treatment and abolish law No. 21.128 ("Aula Segura") and its application in schools by principals.

**Violence against children:** The Committee urges the State party to:

- (a) Establish reparation mechanisms for past or present victims, prioritizing their right to be heard and to express their pain, and ensure that all cases of death of children while under the care of the State party are promptly and impartially investigated by an independent body;
- (b) Conduct prompt and thorough investigations ensuring accountability and no impunity, including of all cases of violence against children during the October 2019 demonstrations and of the several violent episodes against children perpetrated by the carabineros, and ensure prosecution, sanctions and accountability of all carabineros and all other officials, - involved in torture, cruel or degrading treatment against children;
- (c) Put in place measures, including creation of a specialized independent legal team, to ensure the protection and reparation of children who are victims of physical abuse, and/or sexual violence committed by State officials;
- (d) Ensure that there is a well-established reparation mechanism for Mapuche children who are victims of police violence;
- (e) Ensure ongoing training, monitoring and evaluation in the development of strategies with regards to the protection of children;
- (f) Ensure ongoing in-person human rights monitoring by the National Preventive Mechanism against Torture of youth centres, including centres where children are detained;
- (g) Guarantee resources for the rapid implementation of the law that creates the System of Guarantees and Comprehensive Protection of the Rights of Children and Adolescents and establish the right of children to protection against violence, including mental, physical and sexual abuse, and take effective and prompt measures to prevent, investigate, sanction all forms of violence against children;
- (h) Make information from the database system of all forms of violence against children publicly available and provide unified information across sectors;
- (i) Implement the plan to end institutional violence in alternative residential care.

**Children deprived of a family environment:** The Committee urges the State party to: (a) Speed up the establishment of the new Child Protection Administration based on a new model of recruitment, selection, continuous training of all staff and managers who work in residences and in detention centres;



- (b) Prioritise resources to close large residential centres and allocate adequate funds towards families to promote and support care in a family environment and family reunification;
- (c) Implement clear management of the individual cases of children in need of care giving priority to the best interests of each child, including during judicial proceedings;
- (d) Further strengthen its system of foster care, with a view to ending the institutionalization of young children;
- (e) Ensure that children in residential care and mental health institutions have access to justice, including quality legal assistance that considers them as subjects in judicial proceedings and that decisions made about them can be reviewed;
- (f) Strengthen the complaints mechanism to ensure its confidentiality and the anonymity of complainants; and publish the number of complaints received, outcome of investigations and the penalties applied;
- (g) Investigate and redress the systematic violations made by public officials and workers of private organisations subsidized by the State against children;
- (h) Prevent frequent transfers of children in alternative care settings, provide timely mental health care and regularly monitor and evaluate the quality of care in alternative care centres;
- (i) Adopt a plan of action (with diagnosis, identification of coverage gap, special case management processes, remedies and deadlines) to address the waiting lists of outpatient programs for children under care;
- (j) Promptly implement the recommendations made by the Committee in its inquiry report to Chile (CRC/C/CHL/IR/1, paras. 119-132) and inform the Committee of the measures taken up to now;
- (k) Strengthen, including through increased funding, measures aimed at providing education, skills and opportunities for independent living for children leaving alternative care.

**Asylum-seeking, refugee and migrant children:** The Committee urges the State party to:

- (a) Amend the law on migration to include safeguards related to entry requirements, procedures which take into account the special needs of children, and full respect for the principle of non-refoulement;
- (b) Improve reception conditions for asylum seeking, refugee and migrant children, including undocumented and separated children; uphold the best interests of the child as a primary consideration in the status determination procedures; and provide free legal aid, interpretation services and other appropriate forms of assistance;
- (c) Consider that migrant children are part of a family and that decisions taken by the State party in relation to their family members have a direct impact on them, particularly when deportation is being assessed, and therefore evaluate each situation individually during decision-making or during expulsion procedures and follow due process, including assessing the best interests of the child and the right of the child to family life; [...].

**Indigenous children:** The Committee urges the State party to:

- (a) Stop all violence by security forces against indigenous children and their families, including in Del Biobio and La Araucania, and protect the Mapuche children who witnessed or were direct victims of violence, discrimination and abuse of power;
- (b) Periodically accompany and monitor public institutions working with Mapuche children;
- (c) Ensure that all indigenous children are a priority group in public policies and programmes and have de facto access to health, education and social protection services, without discrimination and that the principle of interculturality is translated into practice in these areas.





**Administration of child justice:** The Committee urges the State party to:

- (a) Expeditiously adopt laws on child justice (“*justicia juvenil*”) and ensure that all the principles and provisions of the Convention are fully incorporated;
- (b) Improve specialized child justice procedures, including a safe and transparent complaint mechanism for children, and provide them with adequate human, technical and financial resources;
- (c) Designate specialized judges for children and ensure that such specialized judges receive appropriate training on children’s rights;
- (d) Promote non-judicial measures, such as diversion, mediation and counselling, for children accused of criminal offences and, wherever possible, the use of non-custodial sentences for children, such as probation or community service;
- (e) Ensure that detention is used as a measure of last resort and for the shortest possible period of time and that it is reviewed on a regular basis with a view to its withdrawal;
- (f) Guarantee that when detention of children takes place it is indeed carried out under the law and that the child can have immediate access to legal assistance;
- (g) Ensure the provision of quality legal aid to children alleged, accused of or recognized as having infringed criminal law at an early stage of the procedure and throughout the legal proceedings;
- (h) Improve the conditions of detention centres for children, for those who have to be deprived of liberty, ensuring access to education, health and vocational training, and to ensure the physical security and well-being of the children in those centres;
- (i) Ensure that children in pretrial detention are separated from children serving a sentence.

The Committee also drew the State party’s attention to the recommendations concerning the following areas:

General measures of implementation: **allocation of resources; data collection; independent monitoring; children’s rights and the business sector**

General principles: **Non-discrimination; Best interest of the child**

Family environment and alternative care: **adoption; children of incarcerated parents**

Basic health and welfare: **standard of living**

Special protection measures: **Children in street situations; child victims and witnesses of crimes**

Child victims and witnesses of crimes

Follow-up to the Committee’s previous concluding observations and recommendations concerning the implementation of the Optional Protocols to the Convention: **Optional Protocol on the sale of children, child prostitution and child pornography; Optional Protocol on the involvement of children in armed conflict**

Ratification of international human rights instruments and Cooperation with regional bodies

## **Sustainable Development Goals**

Throughout its [Concluding Observations](#), the Committee referred to the following targets:

- 10.3 to reduce inequalities by providing adequate investigation procedures to combat discrimination, including child-friendly reporting mechanisms and to guarantee the access to education and health services to all children, in particular to children with disabilities, indigenous, asylum-seeking, migrant and LGBTI children.
- 16.2 to ensure that children have access to justice and strong institutions by putting in place reparation mechanisms, conducting investigations to ensure accountability and guaranteeing monitoring and evaluation of strategies aiming to protect children.



- 1.2 to combat child poverty by strengthening policies and measures which guarantee an adequate standard of living and to support families with housing, facilitate the access to sanitation services and safe drinking water and provide financial support to families living in poverty.

### Next State report

CRC	
No. of report	Eight periodic report
Due date	11 September 2027

**Disclaimer:** Child Rights Connect reports are all drafted in English. If the State report and/or the alternative reports were submitted in another UN language (Spanish, French, Arabic, Russian or Chinese) the report will be translated accordingly.