

	<p style="text-align: center;"><b>Relevant data for the adoption of the list of issues prior to the sixth periodic report of Chile</b></p> <p style="text-align: center;"><b>Convention on the Rights of the Child</b></p> <p style="text-align: center;"><i>Report prepared by the National Institute of Human Rights <sup>1</sup></i></p>
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### *Preliminary aspects*

1. Through this report, the National Institute of Human Rights (NHRI) informs the Committee on the Rights of the Child of a synthetic document with proposals for relevant issues to be addressed in the process of adopting the list of issues prior to submission of the sixth periodic report of Chile, to be made in the pre-session No. 86 of the Working Group between February 10 and 14, 2020. This presentation follows the structure of the final observations issued by the Committee in 2015 (CRC/C/CHL/CO/4-5).

#### **A. General measures of application (Articles 4, 42 and 44)**

### *Legislation*

2. In 2015 the processing of the draft law that establishes a Child Rights Guarantee System (Bulletin 10315-18), which is in the second constitutional process, began. In relation to the need to replace the National Service for Minors (SENAME), several bills have been presented aimed at creating two new specialized agencies to guarantee the rights of children and adolescents (NNA): one dedicated to the protection of childhood; the other, responsible for promoting the social reintegration of adolescents in conflict with the criminal law. In 2012, the bill that suppresses the current National Service for Minors was introduced, creating two new services for children and adolescents (Bulletin 8487-07), whose processing has not registered progress since January 2014. Subsequently, In April 2017, the project created by the National Youth Social Reintegration Service (Servicio Nacional de Reinserción Social Juvenil) (Bulletin 11174-07) was introduced, which at the closing date of this document had not completed its first constitutional process. In April 2017, the process of the bill that created the National Specialized Protection Service for Boys and Girls (Servicio Nacional de Protección Especializada de Niños y Niñas) (Bulletin 11176-07) was initiated, which has not made progress since March 2018. In August 2018, the processing of the bill that creates the Child Protection Service (Servicio de Protección a la Niñez) (Bulletin 12027-07), was initiated and is in the second constitutional process. Based on this background, the Committee is requested to consult the State on the efforts and measures that will be taken to complete the processing of these bills and, consequently, adopt a new institutional framework for children that meets the standards set forth in the Convention on the Rights of the Child.

<sup>1</sup> Approved at Extraordinary Session of Council of INDH No. 525 of January 20, 2020, available at: <https://www.portaltransparencia.cl/PortalPdT/pdttta/-/ta/CO001/OA/MI>

#### *Policy and comprehensive strategies*

3. Regarding the National Plan of Action for Children and Adolescents 2018-2025, it is suggested to consult the degree of progress in its implementation, the budget allocated to its compliance, as well as the main results indicators that account for the impact of said plan in the promotion, protection and guarantee of the rights of children and adolescents.

#### *Coordination*

4. Law N ° 21.090 that creates the Undersecretariat of Children was an important advance in the institutional framework with a view to improving coordination and carrying out activities related to the promotion and integral protection of the rights of children and adolescents. The Committee is requested to consult for the human, technical and financial resources granted to the agency to ensure its effective operation and for the degree of progress in establishing a coordination mechanism between authorities at the national, regional and local levels responsible for the matter, with civil society participation.

#### *Resource allocation*

5. Regarding the elaboration of public sector budgets from 2015 to 2019, it is suggested to consult how these processes have considered the approach based on the rights of children, including mechanisms that allow monitoring and assessing to what extent investments in different sectors promote the best interests of children, measuring differentiated impacts on children in various situations of vulnerability. It is likewise recommended to require information on the measures implemented so that the budgetary processes are carried out in dialogue with the citizens, and especially with the children, ensuring adequate transparency, participation and accountability. Additionally, the Committee is urged to request information on the progress made in the period regarding the definition of strategic budget items for children in vulnerable situations and their degree of progressivity over time.

#### *Data collection*

6. The Committee is requested to request information on the progress in the installation of a national, integrated and global statistical information system on children and adolescents covering all areas of the Convention, including data and indicators disaggregated by special protection groups, specifying the frequency with which this information is updated.

#### *Independent surveillance*

7. In 2018, Law No. 21.067, which created the Ombudsman for the Rights of Children, was approved, a significant milestone in terms of strengthening institutionality in childhood

matters. The Committee is suggested to require a background on the human, technical and financial resources granted to the agency to ensure its effective functioning in all regions of the country.

*Rights of children and adolescents and the business sector*

8. Through its observation missions and the map of socio-environmental conflicts, the NHRI has documented violations of the right to enjoy the highest level of health possible and the right to live in a pollution-free environment related to business activities. In this area, the serious situation of contamination of the communities of Ventanas, Quintero and Puchuncaví constitutes a paradigmatic case, since there have been several episodes of intoxication that have affected the children who study in the schools of the sector. The NHRI suggests to the Committee to ask the State about the measures adopted to comply with the ruling issued by the Supreme Court on May 28, 2019, specifically, regarding the implementation of a policy and plan aimed at addressing air pollution crisis, and to transfer to safe places the affected population, mainly children and adolescents.
9. It is also suggested to require information on the progress of the period in the establishment of a regulatory and institutional framework for companies to respect the rights of children, their health and the environment, including penalties in case of violations and reparation measures appropriate to their needs. In particular, it is recommended to consult the degree of compliance with the goals related to the protection of children contained in the National Plan of Action of Human and Business Rights, detailing the extent to which the special needs of children in the next version of the instrument to be prepared this year will be incorporated.

**B. Definition of child (Art. 1)**

10. In 2015, the bill amending Law No. 19,947, on Civil Marriage, and the Civil Code was introduced, increasing the minimum age to marry to eighteen years (Bulletin No. 9850-18), which has not had any progress in its legislative process. It is recommended to consult the State for the measures that will be taken to advance in a regulatory framework that sets the minimum age to marry in all circumstances at 18 years.

**C. General principles (Arts. 2, 3, 6 and 12)**

*Non-discrimination*

11. Regarding Law No. 20,609, which establishes measures against discrimination, the Committee is prompted to request from the State the statistics of registered judicial sentences, informing the number of cases filed for discrimination that have affected children and adolescents, disaggregated by sex, sexual orientation, gender identity, age, nationality, ethnic-racial origin and disability. Similarly, the Committee is called to consult

the State if legislative reforms to said regulations are contemplated to include mechanisms for the prevention of discrimination and reparation in favor of the victims.

On the other hand, it is suggested to require information on the progress in the implementation of policies and programs aimed at combating discrimination against girls, indigenous children and adolescents, migrants, LGBTIs or disabled people, specifying whether there have been evaluations of the impacts and results achieved in this area. of prevention.

#### *Best interest of children and adolescents*

12. It is recommended to consult on the progress in the development of guidelines and criteria so that the best interests of the child are incorporated, interpreted and applied systematically in all legislative, administrative and judicial actions and decisions, as well as in all programs, projects and policies that are relevant for children and that have an impact on their situation.

#### *Respect for the opinions of children and adolescents*

13. The NHRI suggests asking how the effective application of laws that recognize the right of children to be heard in all matters relating to their rights, in particular education, health, justice and matters relating to family, has been supervised.  
Additionally, it is urged to request information on the progress in the establishment of instances and official structures that allow the participation of children and the consideration of their opinions in the elaboration, application and supervision of national, regional and local childhood policies, particularly of children and adolescents in situations of vulnerability.
14. "The NHRI values the participation of children and adolescents in all matters that affect them, as an element of importance for families, schools and society. In this regard, the UN Committee on the Rights of the Child has indicated in its General Comment 12 that 'The concept of participation emphasizes that including children should not only be a momentary act, but the starting point for an intense exchange of opinions between children and adults on the development of policies, programs and measures in all relevant contexts of children's lives'. At the same time, it reminds us that children have the right to express their opinion freely, which 'means that the child cannot be manipulated or subjected to undue influence or pressure'. In this regard, during the current social crisis, it is especially worrying that situations involving improper manipulations or influences have been reported, whatever their purpose, especially in educational establishments. On the contrary, in the participation processes, children and adolescents must be guaranteed their exercise in fullness, without restrictions or interference, with the aim of expressing themselves freely and an informed manner."<sup>2</sup>

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<sup>2</sup> INDH (2019). Annual report on the situation of human rights in Chile 2019, p. 64. Available in: <https://bit.ly/2NdZrIE>

The Committee is urged to request the State background regarding allegations of manipulation or undue influences to children and adolescents that occurred in the framework of the social crisis that the country has been going through since October 18, 2019 within educational establishments, as well as the actions taken in this regard, particularly concerning the promotion of free and informed participation of children and adolescents, without restrictions or interference, in all matters affecting them.

#### **D. Civil rights and liberties (Arts. 7, 8 and 13 to 17)**

##### *Personal freedom*

15. Law No. 20,931, published on July 5, 2016, empowers law enforcement officials to verify the identity of any person over 18 years of age on public roads, without requiring evidence of having committed a crime<sup>3</sup>. Even though the law prohibits it, figures provided by Carabineros report that between 2017 and 2018, a total of 70,317 preventive identity checks were carried out to people under 18.<sup>4</sup> The NHRI calls on the Committee to request updated statistics on the application of identity checks to children and request information regarding the actions carried out to prevent these procedures from being applied to persons under 18 years of age, in accordance with current legislation.

##### *Nationality*

16. In 2018, Chile ratified the Convention relating on the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961, which represents an important advance in the matter. In 2015, a ruling by the Supreme Court determined that Chilean nationality should be recognized to those who had been registered as children of foreign passers-by and, in addition, ordered the National Civil Registry and Identification Service to conduct a search for the rest of the people in this condition (it is estimated that the universe of people in this situation could reach 3,500). The Committee is called on to consult on the progress to identify children in statelessness situation and the impact of the measures implemented to disseminate the change of administrative criteria for the granting of Chilean nationality to children of migrants, regardless of the migrant status of their parents.

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<sup>3</sup> Article 12 of Law No. 20,931 establishes that: "In compliance with the functions of safeguarding public order and security, and without prejudice to the provisions of article 85 of the Criminal Procedure Code, the police officers indicated in Article 83 of the Code may verify the identity of any person over 18 years of age on public roads, in other public places and in places of private access to the public, by any means of identification, such as identity card, driver's license, passport or student card or the police officer or the required person using any technological device suitable for this purpose, always providing the necessary facilities for proper compliance. In case of doubt as to whether the person is over or under 18 years of age, it will always be understood that she/he is a minor."

<sup>4</sup> La Tercera newspaper, March 17, 2019, "Carabineros realizó 70.317 controles preventivos a menores de edad" (Carabineros carried out 70,317 preventive controls on minors). Available in: <https://bit.ly/3asisL9>

*Right to identity*

17. 17. With Law No. 21,120, published in the Official Gazette on December 10, 2018, the right was established to gender identity and the rectification of the name and sex of registration, which allows adolescents over 14 years who have the authorization of their parents or legal representatives to make a request for rectification before the courts. It is suggested to the Committee to consult on the number of applications for rectification of the name and sex registry in adolescents over 14 years of age and for the evaluation regarding the implementation of the regulations one year after its approval. Additionally, it is recommended to request information on training actions in this area for public officials.
18. 18. In 2017, the NHRI found a series of discrimination situations to which trans and intersex children and adolescents are exposed in school and educational contexts. The main problem exposed was related to the lack of adaptations aimed at respecting gender identity and expression, including social name. The NHRI requests the Committee to consult the State on the adoption of measures so that gender identity and expression is respected both in the educational and health fields.

*Freedom of association and peaceful assembly*

19. Since October 18, 2019, a social and political crisis has arisen in the country, during which time the NHRI has denounced serious human rights violations. Among the effects documented by the Institute is the limitation of the right to peaceful assembly due to dispersal and repression actions against demonstrators without cause or provocation, as well as arbitrary detentions of people who were demonstrating peacefully, situations that have also affected children and adolescents.<sup>5</sup> The Committee is called on to consult on the progress made to adopt a regulation that regulates the right of assembly that integrates the most diverse forms of its exercise. Similarly, it is suggested to require information on the measures that the State will implement for the strict observance of police protocols during social demonstrations, so that the right of children and adolescents to peaceful assembly are protected.

**E. Violence against children (Arts. 19, 24 (par. 3), 28 (par. 2), 34, 37 a) and 39)**

*Right of children and adolescents to not be subjected to any form of violence*

20. 20. It is suggested to require updated figures on the various manifestations of domestic violence against children, disaggregated by sex, age, socioeconomic status, region of residence, nationality, ethnic or racial origin and disability situation. Additionally, it is called on to consult on the implementation of national, regional and local plans to prevent and intervene in cases of domestic violence against children and adolescents, including

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<sup>5</sup> INDH (2019). Annual report on the situation of human rights in Chile 2019. Available at: <https://bit.ly/2NdZrIE>

psychosocial support and reparatory programs as victims or witnesses of this form of violence. Similarly, it is suggested to consult the resources allocated from 2015 onwards to prevent the “pandemic” of child abuse.

21. Regarding violence against children in educational settings, including gender-based violence, it is recommended to consult the studies carried out to estimate their prevalence at the national level and the progress in the implementation of a strategy to prevent and combat this phenomenon.
22. In the context of the social and political crisis the country has been facing since October 18, 2019, the NHRI visited hospital centers and found until December 31 a total of 274 cases of children and adolescents injured by State agents in the context of the multiple manifestations that took place, fundamentally attributable to the indiscriminate use of tear chemicals, water cannons and riot guns by police officers (See annex, Table N ° 3). The Committee is called upon to request information on the efforts made so that the actions of the Law Enforcement and Public Security are carried out under strict respect for human rights, in a manner that responds to the principles of legality, necessity, proportionality and responsibility. Similarly, it is suggested to consult for the measures implemented to investigate allegations of excessive use of force, punish those responsible and adequately repair the victimized children.

#### *Torture and other cruel or degrading treatment or punishment*

23. By Law N ° 20,968 published in 2016, the State of Chile expressly typified the crime of torture in domestic regulations, a significant advance in compliance with international human rights obligations.
24. As noted, in the context of the serious human rights violations that occurred during the social crisis that began on October 18, 2019, children and adolescents have been subjected to illegitimate constraints, ill-treatment, torture and sexual violence in detention centers. In compliance with its legal mandate, until December 31, the NHRI has filed complaints of torture and torture with sexual violence in favor of 126 and 61 victims under 18, respectively (See Annex, Table 5 and 6). The NHRI urges the Committee to request information on allegations of torture against children and adolescents since the entry into force of Law No. 20,968 to date, disaggregated by special protection groups, including the number of convictions issued by the courts and the measures implemented, so that these cases are investigated in a timely and agile manner, those responsible are punished and the victims are repaired.
25. On April 25, 2019, Law No. 21,154 was published, which designates the National Institute of Human Rights as the National Mechanism for Prevention against Torture and other cruel, inhuman or degrading treatment or punishment. The Committee is urged to request background information on the progress made in the implementation of the mechanism and in the selection of the experts who will integrate it.
26. Similarly, the Committee is urged to request information on actions to prevent torture and other cruel or degrading treatment or punishment against children and adolescents, including measures to ensure strict observance of police protocols when children and adolescents are arrested, and respect for the prohibition of forced undressing and invasive searches constituting sexual violence.

### *Corporal punishment*

27. In 2014, a legislative initiative to modify the Civil Code was introduced in Congress, in order to prohibit corporal punishment and any degrading treatment of children and adolescents (Bulletin No. 9488-07), which since 2016 has not had progress in its legislative process. It is recommended to consult the measures to grant urgency to the legislative debate of this project, as well as the measures to promote positive, non-violent and participatory forms of parenting.

### *Exploitation and sexual abuse*

28. In 2017, Law No. 21,160 was enacted that declares that sexual crimes committed against minors are imprescriptible. It is recommended to consult the measures implemented so that cases of sexual exploitation and abuse are prevented, investigated in a timely and agile manner, those responsible are punished and the victims access specialized reparation programs. In addition, the Committee is called upon to request information on training actions for officials of the justice system in this area.

### *Harmful practices*

29. In 2017, the NHRI noted the lack of clarity of the protocols on medical care of intersex newborns<sup>6</sup>, which could lead to irreversible genital surgery. The NHRI requests the Committee to consult the State on the progress made in the elaboration of precise protocols that avoid unnecessary surgeries of sexual assignment in intersex newborns and the dissemination and training of these instruments in health teams. Similarly, it is suggested to require background information on the amount of children and adolescents who have undergone irreversible genital surgery since 2015 to date, specifying the support and repair measures implemented in these cases.

## **F. Family environment and alternative forms of care (arts. 5, 9 to 11, 18 (para. 1 and 2), 20, 21, 25 and 27 (para. 4))**

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<sup>6</sup> The Ministry of Health has issued several circular letters about this matter, which are contradictory. One example of this is Circular Letter 18, published on December 22, 2015, which instructs on certain aspects of health care for intersex children, and constitutes the first public document that establishes the suspension of “unnecessary ‘normalization’ treatment of intersex children, including irreversible genital surgeries until they are old enough to decide on their bodies.” Subsequently, on August 23, 2016, Circular Letter 7 is issued that allows interventions in certain cases, with the consent of the parents. See: INDH (2017). Annual report on the situation of human rights in Chile 2017, pp. 45-47. Available in: <https://bit.ly/2TBLpyi>.



*Family environment*

30. The Committee is called upon to request information on the progress made during the period to promote the co-responsibility of fathers and mothers in the upbringing, to develop public policies that favor the balance of family and work life and to progressively increase access to public services and programs of child care for parents.

*Children and adolescents deprived of a family environment*

31. Regarding the violence that affects children and adolescents in state protection programs, the Observation Mission carried out by the NHRI in 2017 in 171 protection centers of the National Service for Minors (SENAME), on a sample of 405 children surveyed<sup>7</sup>, revealed that 85% of the girls and 83% of the boys interviewed were subject to punishment by the staff of these institutions. The NHRI calls on the Committee to consult on the initiatives developed to eliminate all forms of violence and / or mistreatment against children and adolescents living in the custody of the State in the Direct Administration Specialized Repair Centers (CREAD) and in Accredited Collaborating Organizations (OCAS), generating the appropriate prevention mechanisms, as well as investigation, establishment of responsibilities, and applying the corresponding sanctions in the occurrence of such situations.
32. It is additionally suggested to require detailed information on the progress made in the implementation of the recommendations emanating from the investigation report made by the Committee regarding the human rights violations of the children and adolescents living in the residential protection centers under direct or indirect control of SENAME (CRC / C / CHL / INQ / 1). It is particularly requested to ask for background information regarding the process of reconversion of CREADs to Family Residences, consulting the degree of progress of this measure and the mechanisms to include the participation of children and adolescents in the process.

**G. Disability, basic health and well-being (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1 to 3) and 33)**

*Children and adolescents with disabilities*

33. The State must be consulted on the actions developed to prepare national statistics that account for the enjoyment and exercise of rights of children with disabilities; the measures and resources allocated for educational establishments to have inclusive programs; the progress made to expand the availability of health benefits appropriate to the needs of children with disabilities and to ensure respect for their sexual and reproductive rights, effectively monitoring compliance with the ban on sterilization of girls and adolescents.

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<sup>7</sup> 250 girls and 155 boys, corresponding to the proportion of boys and girls in these centers nationwide.

### *Health and health care services*

34. It is suggested to consult on the policies implemented to guarantee access to good quality physical and mental health services in the public system for children and adolescents, throughout the country, correcting territorial inequalities in this area.

### *Health of adolescents*

35. In 2017, Law No. 21.030 was approved, which regulates the decriminalization of voluntary termination of pregnancy in three cases: risk of life of women, fetal infeasibility incompatible with life and rape. In the case of a girl under 14 years of age, in addition to her will, the termination of pregnancy must have the authorization of her legal representative, and in case of rape the period to terminate the pregnancy extends until 14 weeks of gestation. The implementation of the law, including the right to conscientious objection, has been regulated through a regulation of the Ministry of Health<sup>8</sup>, which allows private bodies with state-funded obstetrics and gynecology benefit agreements to invoke institutional conscientious objection<sup>9</sup>. Additionally, cadastres carried out by the Ministry of Health account for high levels of conscientious objection of obstetric professionals, mainly focused on the cause of rape, which in certain establishments exceeds 80% in the public health system<sup>10</sup>, figures that could make it difficult to access the benefit, mainly in the most remote areas of the country.

The NHRI suggests that the Committee consult the State regarding the measures implemented to guarantee access to the termination of pregnancy for girls and adolescents for the causes established in Law No. 21,030, including the number of establishments available per province to perform the procedure with qualified personnel and training aimed at health teams to provide adequate attention to the needs of girls and adolescents. Likewise, the NHRI urges the Committee to ask the State about the measures implemented for the prevention of adolescent pregnancy and about adolescents' access to sexual and reproductive education programs.

### *Drug and other substance abuse*

36. The NHRI calls on the Committee to request updated figures to account for the prevalence of tobacco, alcohol and drug use in children and adolescents, as well as ongoing prevention and treatment programs, including their coverage in the most vulnerable population.

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<sup>8</sup> Supreme Decree No. 67 of October 23, 2018, of the Ministry of Health, which approves the Regulation to raise conscientious objection as provided in article 119b of the Health Code.

<sup>9</sup> Constitutional Court (2019). Judgment that declares the regulation unconstitutional to exercise conscientious objection. Available in: <http://ojs.uc.cl/index.php/bjur/article/view/751/775>

<sup>10</sup> Ministry of Health, "Law No. 21,030, 2 years after its entry into force", August 20, 2019. Available at: <https://www.minsal.cl/ley-n21-030-a-2-anos-de-su-entrada-en-vigencia-ive/>

*Rights of children and adolescents and the environment*

37. The Committee is urged to consult the State to what extent national disaster prevention and risk management plans have been developed considering the participation of children and adolescents and their needs. Additionally, it is suggested to require information on the incorporation of knowledge and preparation for climate change and natural disasters in educational programs.

*Standard of living*

38. The Committee is called upon to request background information on actions taken to reduce child poverty and socio-economic gaps between the urban and rural population, as well as between the indigenous and non-indigenous population.

**H. Education, leisure and cultural activities (arts. 28 to 31)**

*Education*

39. Law No. 20,845 on school inclusion, published in 2015, prohibited both the collection of fees to fathers, mothers and guardians in state-subsidized establishments, as well as the selection of students, generating a randomized system of admission aimed at mitigating the socioeconomic and academic segregation of the school system. The NHRI suggests that the Committee consult the State about the progress in the implementation of Law No. 20,845 and the impact it has had on the reduction of socioeconomic and academic segregation in the public school system.
40. In 2017, Law No. 21.040, which creates the public education system, was approved. Despite the changes introduced by the law, many public schools still lack basic infrastructure to facilitate the learning process, finding precarious conditions that include temperatures in classrooms below 12 ° Celsius,<sup>1112</sup> mice pests,<sup>13</sup> wet floors, leaking roofs, broken windows, etc. The NHRI suggests requiring information regarding the number of educational establishments with poor infrastructure, disaggregated by region, including the measures implemented to provide public institutions with the basic conditions that promote learning.
41. The quality of public education remains an aspect of concern of the Chilean education system. According to various studies, a significant group of the Chilean population does not reach the minimum levels of knowledge to perform and integrate well in today's society,<sup>14</sup>

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<sup>11</sup> Chilevisión Noticias, "Se suman los colegios que protestan por falta de calefacción en salas", (Schools that protest the lack of room heating increase), June 14, 2018. Available at: <https://bit.ly/2Ymy1ks>

<sup>12</sup> Minimum temperature established in Decree 548 of the Ministry of Education.

<sup>13</sup> Radio Cooperativa, "Ratones, suciedad y destrucción: Denuncian "condiciones indignas" en el Instituto Nacional" (Mice, dirt and destruction: "Unworthy conditions" are denounced in the National Institute". Available in: <https://bit.ly/2Z5xEYu>

<sup>14</sup> Eyzaguirre, B. and Le Foulon. C. (2001). La calidad de la educación chilena en cifras. Centro de Estudios Públicos.

with poor performance in science and mathematics comparatively worldwide,<sup>15</sup> being one of the countries where the socioeconomic context of the students has more influence on their performance<sup>16</sup>. The NHRI calls for consultation on the measures implemented to improve the quality of education in the public system, particularly in the lower income strata, including the incorporation of properly trained teachers.

42. In 2018, Law No. 21128 called “Safe Classroom” (Aula Segura) was approved, which grants the directors of educational establishments faculties to immediately suspend students who incur certain acts of violence, evaluating within a period of 10 days if it is appropriate to apply the penalty of expulsion or cancellation of registration. The NHRI expressed concern because there are already adequate mechanisms in the legislation to deal with these situations while respecting due process.<sup>17</sup> During the first semester of 2019 this law was applied to almost a hundred students, resulting in about 30 of them expelled. The lack of psychological support to the expelled students has been denounced, and cases in which they have not been relocated to another establishment. The Committee is requested to consult the State on the foundations of the “Safe Classroom” Law and the manner in which due process is protected in its application, in addition to updated figures on the results of its implementation, including figures of students sanctioned or expelled, and their relocation to guarantee their right to education.
43. At the beginning of January 2020, secondary students who criticize the selection system for higher education, provoked a series of demonstrations, incidents and disturbances that prevented the normal development of the University Selection Test (PSU), to which was added the cancellation of the History exam due to the filtration of its results. This situation meant that thousands of students could not take the complete exam or did so in poor conditions that probably affected their performance. Subsequently, the Ministry of the Interior filed 16 complaints invoking Law No. 12,927 of State Internal Security against 34 people for promoting the disorders that disrupted the normal development of the PSU, including leaders of student organizations, and a total of 86 applicants who would have participated in the riots were excluded from the admission process this year. The Committee is requested to consult the number of students who could not take the exam and the measures taken by the State to apply for higher education; likewise, asking to what extent the sanctions applied to those who would have hindered the exam will respect the right to due process and to the education of adolescents. Similarly, it is suggested to request

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<sup>15</sup> The TIMSS test (Trends in the International Study of Mathematics and Science) applied in the country in 2015, showed that 59% of students in the eighth grade have a mathematical knowledge below the minimum that allows describing the test, while 26% obtained a “low” level of achievement because they have only some basic mathematical knowledge. In science, 44% show less than the minimum scientific knowledge that allows describing the TIMSS test, and 32% have some basic knowledge about the biological and physical sciences. Results available in: <http://ww2.educarchile.cl/Portal.Base/Web/verContenido.aspx?ID=217419>

<sup>16</sup> OECD. (2017). Education in Chile, Reviews of National Policies for Education. Available in: <https://doi.org/10.1787/9789264284425-en>

<sup>17</sup> During the legislative process, the NHRI stated that the Inclusion Law had already established a sanction for cases of indiscipline that jeopardize the safety of the members of the educational community, allowing the expulsion or cancellation of enrollment during the school year. The project did not grant a reasonable period of time of defense against the accusations, and the sanctions restricted the exercise of their right to education.

background information on whether the complaints presented by the Security Law involve adolescents and the grounds for invoking said regulations.

## **I. Special protection measures (Arts. 22, 30, 32, 33, 35, 36, 37 b) to d) and 38 to 40)**

### *Children and adolescent refugees and asylum seekers*

44. The Committee is called upon to disaggregate figures on refugee children and adolescents or asylum seekers in the country, including actions taken to ensure an adequate standard of living and to have access to health and education services, without discrimination. In addition, it is urged to request information on how to ensure that the procedures for determining refugee status take into account the specific needs and rights of children and adolescents.

### *Migrant children and adolescents*

45. The Migration and Aliens bill (Bulletin 8970-06) is currently being processed at the congress and is in the second constitutional process. The NHRI calls upon to consult for the urgency that will be granted to the parliamentary discussion of this initiative and for the adaptation of the project to international standards in the matter, including direct references to the rights and guarantees of migrant children. Similarly, it is suggested that information be requested for the measures taken so that children and adolescents with irregular migrant parents have guaranteed access to health and education.

### *Indigenous children and adolescents*

46. The NHRI has expressed its concern regarding situations of violence and police abuse that have affected Mapuche children and their families in the context of territorial claims and has brought numerous legal actions in the matter<sup>18</sup>. It is requested to ask for information on the measures that have been implemented to prevent police violence and ensure respect for the Carabineros protocols, as well as to investigate complaints, punish those responsible and offer specialized and culturally relevant reparation programs for children and adolescents.

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<sup>18</sup> Among the most serious events that occurred recently, is the murder of Camilo Catrillanca, a 24-year-old Mapuche community member who died on November 14, 2018 due to a gunshot from police officers who were part of the so-called “Jungle Commando” of the Group of Special Operations of Carabineros. The case generated a profound impact on the country, as both police and government authorities initially argued that it was a confrontation, later clarifying that the police authorities had concealed the truth. At the time of the murder, Camilo Catrillanca was accompanied by the 15-year-old Mapuche teenager M.A.P.C., who witnessed the events. In compliance with its legal mandate, the NHRI filed a complaint for the torture suffered by M.A.P.C. after being arrested by the police in the operation that ended the life of Camilo Catrillanca and another complaint for the attempted murder of the teenager.

*Economic exploitation, including child labor*

47. The Committee is called upon to request updated figures on child labor in the country and information on the legislative and administrative actions promoted to prohibit child labor and provide adequate and timely support to children who are in this situation.

*Children and adolescents living in the street*

48. It is suggested to request updated statistics on children and adolescents living in the street and information on the measures taken to prevent this phenomenon, as well as to protect, reintegrate and repair children and adolescents who live in the street, according to their specific needs.

*Administration of juvenile justice*

49. During 2017, the NHRI conducted a study at the Provisional Internment Centers (Centros de Internación Provisoria - CIP) and Closed Regime Centers (Centros de Régimen Cerrado - CRC), where absolute deprivation of freedom of adolescents is practiced<sup>19</sup>, confirming that there is excessive use of force and stripping of adolescents during preventive search procedures<sup>20</sup>. Additionally, there is an excessive use of internment, because the number of adolescents complying with this type of precautionary measure doubles the number of those serving their sentences.<sup>21</sup> These critical data are framed within a general crisis of the protection of the rights of children and adolescents in Chile. For this reason, since 2017 a bill is being processed that creates a new National Youth Social Reintegration Service,<sup>22</sup> but to date it has not passed the initial phases of the legislative process.

As mentioned, the Committee is requested to consult the State regarding the measures adopted to guarantee the respect for the human rights of adolescents in conflict with the criminal law who are interned in some SENAME center, establishing alternative measures

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<sup>19</sup> Law 20.084 contemplates in its Art. 43 the Deprivation of Liberty Centers, in charge of SENAME, which include the Provisional Internment Centers (CIP) to comply with the deprivation of liberty as a precautionary measure, and the Closed Regime Centers (CRC), where the penalty of internment is served. In both cases, the law establishes that an external armed guard will be established, in charge of the Chilean Gendarmerie, which will remain outside the premises, but will be authorized to enter in case of mutiny or situations of serious risk for adolescents. Its more detailed regulation is within the regulation of Law 20.084.

<sup>20</sup> INDH (2017). Informe Anual sobre la situación de los Derechos Humanos en Chile. Situación de los y las adolescentes en centros de privación de libertad administrados por el Estado (Annual Report on the situation of Human Rights in Chile. Situation of adolescents in centers of deprivation of liberty administered by the State), p. 113-140.

<sup>21</sup> Servicio Nacional de Menores, "SENAME report July-September 2019 period". Available in: <https://www.sename.cl/informe-trimestral-2019/trimestre-3-2019/justicia-juvenil.html>

<sup>22</sup> Senate. Bill that creates the National Youth Social Reintegration Service and introduces amendments to Law 20.084, on adolescent criminal responsibility, and other regulations indicated, bulletin 11174-07. Available in: <http://www.senado.cl/appsenado/templates/tramitacion/index.php?#>

to deprivation of liberty and reducing the rates of internment; in particular, it is suggested to request the figures of imprisoned adolescents of the last quarter 2019. Also request information regarding the legislative urgency that will be granted to the process of the law that creates the new National Youth Social Reintegration Service.

#### *Children and adolescents' victims and witnesses of crimes*

50. In 2018, Law No. 21.057 came into effect, which regulates interviews recorded on video and other measures to protect minors, victims of sexual crimes, in order to prevent secondary victimization during legal proceedings. It is recommended to check the operation of the regulations after one year of its promulgation.

#### **J. Ratification of international human rights instruments**

51. The Protocol of San Salvador and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights are pending ratification. Chile has not made the declarations provided for in articles 76 and 77 of the International Convention on the protection of the rights of all migrant workers and their families, recognizing the competence of the Committee to receive communications from States parties and individuals, nor has it signed the Global Compact for Safe, Orderly and Regular Migration or the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement). It is suggested to consult on the measures that will be taken to promote the parliamentary debate regarding the instruments pending ratification.

#### **ANNEX: Situation of human rights of children and adolescents in the context of the social crisis**

On December 23, 2019, the National Institute of Human Rights (NHRI) published the "Preliminary report on the situation of human rights from October 17 to November 30, 2019". The document focuses on systematizing, describing and analyzing the serious human rights violations in the indicated period, highlighting those aspects that, from the human rights approach, are the most significant of the social crisis that the country has been experiencing since October 18, 2019.

The publication is the result of the work carried out by the NHRI throughout the national territory, and accounts for the observations made in police units, health care centers and demonstrations in places of public use. Likewise, it includes the complaints made by the citizens to the Institute and the legal actions filed by the Institute before the courts of justice. The full report is available at: <https://bit.ly/2GbackY>

In order to inform the Committee of the main violations that have affected children and adolescents in the context of the social crisis, updated figures are delivered from October 18 to December 31, 2019, as of the data collected by the Institute itself.

**Table 1: Number of victims represented in complaints of murder attempt filed by the NHRI between October 18 and December 31, 2019, according to the victim's age (n = 27 victims).**

Age group	Number	Percentage
Children and adolescents	8	29,6%
Adults	19	70,4%
<b>Total</b>	<b>27</b>	<b>100,0%</b>

**Table 2: Number of facts reported by the children and adolescents represented in the complaints of attempted murder filed by the NHRI between October 18 and December 31, 2019 (n = 16 reported facts).**

Facts	Number
Beatings	7
Shots	8
Death threat	1
<b>Total facts denounced</b>	<b>16</b>

**Table 3: Number of injured children and adolescents who were registered by the NHRI in observations in health centers, by sex and region of the country (n = 274 children and adolescents' victims).**

Region	Boys or adolescents	Girls or adolescents	Total children and adolescents
Arica y Parinacota	1	0	1
Tarapacá	1	0	1
Atacama	40	11	51
Coquimbo	2	1	3
Valparaíso	5	1	6
Metropolitana	127	32	159
O'Higgins	0	0	0
Maule	2	0	2
Ñuble	12	2	14
Biobío	4	0	4
Araucanía	4	0	4
Los Ríos	12	0	12
Los Lagos	2	0	2
Aysén	14	1	15
Magallanes	0	0	0
<b>Total</b>	<b>226</b>	<b>48</b>	<b>274</b>



**Table 4: Number of children and adolescents injured by a firearm (pellets or bullets) that were registered by the NHRI in observations in health centers, according to sex and region of the country (n = 97 children and adolescents' victims).**

Region	Boys or adolescents	Girls or adolescents	Total children and adolescents
Arica y Parinacota	0	0	0
Tarapacá	1	0	1
Atacama	2	0	2
Coquimbo	2	0	2
Valparaíso	2	0	2
Metropolitana	71	17	88
O'Higgins	0	0	0
Maule	0	0	0
Ñuble	0	0	0
Biobío	0	0	0
Araucanía	0	0	0
Los Ríos	1	0	1
Los Lagos	1	0	1
Aysén	0	0	0
Magallanes	0	0	0
<b>General Total</b>	<b>80</b>	<b>17</b>	<b>97</b>

**Table 5: Number of victims represented in the complaints of torture and cruel treatment filed by the NHRI between October 18 and December 31, 2019, according to sex and age group (n = 818 victims).**

Age group	Men	Women	Without registered sex	Total
Boys, girls and adolescents	99	19	8	126
Adults	515	141	0	656
Without registered age	32	3	1	36
<b>Total</b>	<b>646</b>	<b>163</b>	<b>9</b>	<b>818</b>

**Table 6: Number of victims represented in complaints of crimes with sexual connotation filed by the NHRI between October 18 and December 31, 2019, by sex and age group (n = 210).**

Age group	Man	Woman	Without registered sex	Total
Boys, girls and adolescents	36	25	0	61
Adults	71	68	0	139
Without registered age	7	3	0	10

<b>Total</b>	114	96	0	210
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**Table 7: Number of facts constituting crimes with sexual connotation denounced by the children and adolescents represented in the complaints filed by the NHRI between October 18 and December 31, 2019, by sex of the victims (n = 66 reported facts)**

<b>Sex</b>	<b>Strippings</b>	<b>Rape threats</b>	<b>Undue or indecent touching</b>
<b>Boys or adolescents</b>	31	3	2
<b>Girls or adolescents</b>	20	4	6
<b>Without registered sex</b>		0	0
<b>Total</b>	51	7	8

**Table 8: Number of arrests reported by children and adolescents represented in NHRI legal proceedings filed between October 18 and December 31, 2019, by sex (n = 132 reported facts).**

Region	Boys or adolescents	Girls or adolescents	Without registered sex	General Total
Arica y Parinacota	0	1	0	1
Tarapacá	1	0	0	1
Antofagasta	2	0	0	2
Atacama	4	3	0	7
Coquimbo	21	4	1	26
Valparaíso	5	3	0	8
RM	13	16	2	31
O'Higgins	1	0	0	1
Maule	2	1	0	3
Biobío	14	2	0	16
Araucanía	3	0	0	3
Los Ríos	13	3	0	16
Los Lagos	3	0	0	3
Aysén	7	1	0	8
Magallanes	5	0	0	5
Ñuble	1	0	0	1
<b>Total</b>	<b>95</b>	<b>34</b>	<b>3</b>	<b>132</b>

**Table 9: Number of detentions reported by children and adolescents represented in NHRI legal proceedings filed between October 18 and December 31, 2019, according to context (n = 132 reported facts).**

Context	Boys or adolescents	Girls or adolescents	Without registered sex	General Total
Out of context of manifestation	35	9	2	46
In context of manifestation	58	22	1	81
No context information	2	3	-	5
<b>Total</b>	<b>95</b>	<b>34</b>	<b>3</b>	<b>132</b>