



**Convention on the
Rights of the Child**

Distr.
GENERAL

CRC/C/SR.1219
20 February 2007

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-fourth session

SUMMARY RECORD OF THE 1219th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 26 January 2007, at 3 p.m.

Chairperson: Mr. DOEK

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GE.07-40277 (E) 070207 200207

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Third periodic report of Chile (continued) (CRC/C/CHL/3; CRC/C/CHL/Q/3 and Add.1; HRI/CORE/1/Add.103)

1. At the invitation of the Chairperson, the members of the delegation of Chile took places at the Committee table.
2. Mr. ZERMATTEN said that the main problem with the proposed legislation on the juvenile justice system was the severity of the custodial sentences that it prescribed. The proposed exceptions to the minimum age of criminal responsibility meant that, in certain cases, children under the age of 14 could receive custodial sentences of up to five years. The proposed legislation did not provide for extrajudicial measures or for such alternatives as criminal mediation or restorative justice. Moreover, it contained no special rules of procedure for the prosecution of juvenile offenders and made no provision for expediting children's cases.
3. The CHAIRPERSON wished to know what current laws were in force under the juvenile justice system. The delegation should explain the criteria used to establish a child's capacity for discernment. He asked whether children who were tried as adults received adult sentences and whether that practice would be included in the new legislation under consideration.
4. Ms. HARDY (Chile) said that the Government recognized the need to harmonize the contradictory age limits contained in Chilean legislation concerning children. The maximum age for completing compulsory education had been extended to 21 in order to encourage young people who had dropped out of school to complete their schooling. Births were registered in all maternity wards and clinics, and very few births occurred outside the health system. The Government subsidized the registration of all children at birth. Some 75 per cent of the under-18 population were enrolled in public education. As part of Chile's health reform, the Universal Access to Health Care (AUGE) system had been set up to provide universal coverage for 40 specific diseases, and there were plans to increase that coverage to 80 diseases.
5. Over the past five years, Chile had invested some US\$ 10 million in indigenous health and had established 22 health facilities in areas with large indigenous populations. Under the Chile Crece Contigo programme, an initiative would be launched in 2007 to provide maternity wards and clinics in 100 communities with equipment to accommodate the birthing positions preferred by indigenous women. There were plans to carry out that initiative in some 345 communities by 2010. There had been an increase in the number of pharmacies that sold traditional indigenous medicines, which were often purchased by both indigenous and non-indigenous customers.
6. The Government provided prenatal and childbirth services free of charge to all pregnant women regardless of their legal status. Following the example of the Ministry of Education, which had decreed the right to free education for all children living in Chile, the Ministry of Health was currently considering a plan to provide free health care to all children, including

children of undocumented migrants. The Government was endeavouring through both its Chile Crece Contigo and Chile Solidario programmes to improve the social indicators that had an impact on health indicators. It was working jointly with the Ministry of Health and the World Health Organization (WHO) to develop its policies along those lines.

7. Through its social protection system, the Government was attempting to address the social factors that contributed to the number of teenage pregnancies in Chile. Pending presidential approval, a new decree had been issued by the Ministry of Health that would allow young persons from the age of 14 to obtain emergency contraceptives without permission from their parents. There had been a decline in the incidence of HIV/AIDS among children. Both treatment and psychosocial support for HIV/AIDS patients were provided under the AUGE system. NGOs, many of which were backed by international organizations, provided support to persons infected with HIV/AIDS and were largely responsible for the reduction of the disease in Chile.

8. The uneven distribution of wealth in Chile was a complex problem whose resolution involved such issues as more equitable parliamentary representation, tax reform and improved macroeconomic policy. By 2010, the Government hoped to establish a comprehensive social protection system that would have a major income redistributive effect. The student movement that had taken place in Chile had prompted the Government to place the issue of the quality of education at the top of its agenda. While there had been reports that the police had taken measures to repress the student movement, she pointed out that such measures had been directed at violent individuals who had infiltrated the movement. Once those individuals had been removed, student demonstrations had proceeded peacefully.

9. Chile had enacted legislation requiring all public building projects to ensure access by disabled persons. A bill had been drafted to guarantee all disabled children access to the educational system and to ensure that their special educational needs were taken into account.

10. The CHAIRPERSON said that the delegation should comment on reports that many Chilean adolescents between the ages of 15 and 18 did not use contraceptives. That was worrying, since abortion was illegal in Chile. He asked whether reproductive health education was included in school curricula and what means were used to inform teenagers about birth control, particularly emergency contraceptives. He wished to know the estimated number of 14-year-olds who had obtained emergency contraceptives.

11. Mr. LIWSKI asked whether steps were being taken to address the problem of obesity among children. The delegation should explain to what extent breastfeeding was practised in Chile.

12. Ms. HARDY said that the Ministry of Health had conducted a national campaign to prevent obesity. Breastfeeding was not widely practised in Chile for cultural reasons and because of the difficulty that women had experienced in continuing to breastfeed once they had returned to work. Through the Chile Crece Contigo programme, a breastfeeding campaign had been launched to give all working mothers one working hour per day to breastfeed their babies up to the age of 2.

13. The introduction of the Government-sponsored initiative to provide access to emergency contraceptives for girls from the age of 14 without parental consent had helped to stimulate public debate on such issues as sex education and teenage pregnancy. As a result, much information had been made available to teenagers through the media. Sex education had been formally incorporated into educational curricula.

14. Mr. ZERMATTEN asked whether the issue of homosexuality and decriminalization against homosexuals had been included in the public debate.

15. Ms. ORTIZ (Chile) said that preschool education was one of the priorities of the Chilean Government, which viewed it as an investment that would guarantee equal opportunities to all children, as well as enhance children's future performance in school and in the job market. Expanding preschool coverage was a means of ending the vicious cycle of poverty and would help to reduce the rates of domestic violence, addiction and juvenile delinquency.

16. The President had pledged that by 2010 all children of working mothers in the first three income quintiles would have access to preschool education free of charge. One of the largest budget increases had been allocated to preschool education. The Government had been unable to provide NGOs working in the preschool sector with more funds since few NGOs specialized in that field. Steps had been taken to ensure that Chile's indigenous populations participated in the preparation of the preschool curriculum, and indigenous preschool teachers and assistants were employed in nurseries with a high percentage of indigenous children. New nurseries had been opened to provide childcare for teenage mothers, in order to enable them to return to school and finish their studies. The National Nursery Schools Board inspected all State and private nursery schools and monitored the quality of the education they provided. A programme run in conjunction with the United Nations Children's Fund (UNICEF) was raising awareness among new mothers of the benefits of breastfeeding. In order to prevent childhood obesity, the number of calories in meals provided at nursery schools had been reduced.

17. Experts had conducted workshops for teachers and parents in order to raise awareness about child abuse and ill-treatment. Other projects had attempted to encourage fathers to take a more active role in their children's upbringing and education. Children in remote areas had access to educational broadcasts on professional and amateur radio stations. Education specialists visited families in many remote areas once a month to give advice on good parenting.

18. Mr. FARÍAS (Chile) said that the 1997 curriculum reform had encouraged children to take an active role in the learning process and to develop independent thought. Measures had been taken to improve the quality of education and to increase the accountability of education administrators. A system to provide support to failing schools would be introduced in order to address inequalities in education.

19. Many schools had bilingual intercultural education programmes for students who came from indigenous communities. Such programmes focused on educational projects, teacher training and providing teaching materials and software relevant to indigenous groups.

20. Braille textbooks were provided to students with visual impairments. Schools for students with special needs received extra government funding. An increasing number of special-needs students were being integrated into mainstream schools, and the Government was providing additional resources, teacher training, and support for the parents of such children.
21. Several other programmes provided scholarships to the poorest students and helped schools to reduce dropout rates. The Government provided transport subsidies to schools in remote areas in order to facilitate students' access to school. Almost half the school population received free school meals, and about a third of all students received school uniforms and equipment free of charge.
22. Sex education was an integral part of the school curriculum. In addition, a programme encouraging young people to take a responsible approach to sex had been extended from a pilot project in 2001 to cover 53 communities in 2006. Teachers had been trained to educate students about HIV/AIDS, and teaching materials had been made available for that purpose.
23. The CHAIRPERSON asked whether teachers in mainstream schools were trained to teach students with special education needs.
24. Mr. ZERMATTEN asked whether the school curriculum included instruction in human rights, particularly the Convention on the Rights of the Child.
25. Mr. FARIÁS (Chile) said that the degree course for special education teachers was different from that for mainstream education teachers. When children with special needs were integrated into mainstream schools, they and their teachers received support and advice from experts, such as psychologists and social workers. The Convention on the Rights of the Child was fully integrated in the school curriculum. Vocational education was available to students aged 17 and 18; vocational students received scholarships and were paid for their work.
26. Mr. ESTRADA (Chile) said that the Convention on the Rights of the Child had been incorporated into Chile's domestic legislation and had been invoked in the courts on several occasions. Since 2005, children had had the right to be heard in all legal proceedings that affected them. The Criminal Code stipulated that parents could not inflict any punishment on a child that could affect the child's health or personal development. In accordance with article 40 of the Convention, the Government had taken measures to promote the rights of juvenile offenders, thus strengthening the framework of guarantees that protected young people in conflict with the law. Alternatives to deprivation of liberty were being introduced for juvenile offenders, and there were plans to increase monitoring of prisons and detention centres.
27. Judges in Chile must complete their studies at special judicial academies. Their training included a course on issues relating to children and adolescents. Family judges and juvenile judges studied the Convention on the Rights of the Child, the practice of the inter-American human rights system with regard to minors, and past decisions in juvenile case law.
28. Under current rules on the discernment of adolescents, pretrial detention was not fully in conformity with the international standards of due process, and the Government was endeavouring to put an end to that situation. Under the bill on juvenile justice, adolescents could be placed in pretrial detention only if they had been accused of a very serious offence.

29. With regard to the training of law enforcement officers, he said that police academy courses focused on issues relating to adolescents and on the Convention.

30. Ms. ALUOCH said that, according to reports received by the Committee, juvenile offenders between 14 and 16 years of age could be sentenced to up to 5 years' imprisonment, and juvenile offenders between 16 and 17 years of age to up to 10. She requested additional information about the kind of facilities in which such offenders were imprisoned.

31. Mr. ZERMATTEN asked whether article 234 of the Civil Code, which allowed corporal punishment, was still in effect or whether it had been repealed. He urged the Government to ensure that the bill on juvenile justice prohibited prison sentences for children under 16 years of age. The rules on criminal procedure for juveniles should not be made a mere subcategory of the Code of Criminal Procedure for adults. There should be a separate code for children.

32. The CHAIRPERSON wished to know whether the criterion of discernment would be abolished and whether the provisions on juvenile justice would cover every person under the age of 18.

33. Mr. ESTRADA (Chile) said that the bill, which would enter into force on 8 June 2007, would make a number of amendments to the Code of Criminal Procedure. Amendments could be made even after the bill was adopted. While the bill was based on the Code of Criminal Procedure for adults, that did not mean that a 16-year-old who had committed a robbery would automatically be sentenced to 10 years' imprisonment. Instead, the juvenile offender might be sentenced to pay a fine, compensate for damages or perform community service. The bill provided that prison sentences would be imposed only for the most serious offences. Adolescents would not be placed in prisons for adults but in special facilities that had education and rehabilitation programmes. Another form of deprivation of liberty already being used was the semi-custodial facility, to which the adolescent returned at night after working in the community during the day.

34. In 2005, Chile had undertaken a far-reaching reform of its system of criminal procedure, on the basis of which the law on adolescents would be amended. Specific provisions would protect the right of adolescents to remain silent, and the interrogation of adolescents accused of serious offences would require the presence of a lawyer.

35. The CHAIRPERSON said that, under article 234 of the Civil Code, parents had the power to punish their children, and he enquired whether that provision had been abolished.

36. Mr. ESTRADA (Chile) said that the provision had not been abolished.

37. Ms. FERNÁNDEZ (Chile) said that passage of the bill on juvenile justice had been postponed in order to strengthen its emphasis on penalties designed to promote the social reintegration of underage offenders. Deprivation of liberty was a last resort. The Government was drafting a national socio-educational framework plan on juvenile offenders to provide guidance on the implementation of the bill.

38. Boys over 14 years of age and girls over 12 were entitled to give or withhold their consent for adoption. While the principle of relative confidentiality meant that information on

adoption was not for public use, it did not prevent children from finding out about their origins. Over the past several years, the National Service for Minors had been working on a programme to enable adopted children to have access to information about their biological parents. In 2006, some 80 requests for such information had been made. In principle, unmarried couples were not permitted to adopt; however, where such relationships were stable, adoption applications from such couples were regarded favourably by the authorities.

39. Chile had signed the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoptions. Intercountry adoptions accounted for 20 per cent of all adoptions and usually concerned children over 4 years of age. Adopted children could use a computer system linked to the websites of the National Service for Minors and the two national adoption agencies to enquire about their family background. The initiative was particularly useful to children who had been adopted abroad.

40. The Government planned to amend its legislation on adoption. The waiting period would be shortened to two months, since the current procedure was so protracted that many prospective adoptive parents eventually withdrew their applications. Once the adoptive parents took responsibility for the child, they were entitled to the same parental leave as that granted to biological parents, namely 12 weeks.

41. In 2002, Chile had ratified International Labour Organization (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. In 2003, a national system coordinated by the National Service for Minors had been set up to combat the worst forms of child labour and, over the past three years, measures had been taken to strengthen the system.

42. In 1999, a nationwide programme had been launched to combat the commercial sexual exploitation of children and teenagers, including child prostitution and the production, distribution and use of child pornography. The private sector and NGOs had 17 programmes in 11 regions to assist children who had been victims of sexual exploitation. Trained teams provided psychological, social and legal assistance to victims of commercial sexual exploitation. In 2006, with the cooperation of the offices for the protection of rights and local youth centres and municipalities, and with the assistance of ILO, the Government had launched 50 mini-projects to combat commercial sexual exploitation. Some 400 children had been targeted, and it was hoped that the initiative would be expanded. Chile played an active part in regional efforts to combat the cross-border commercial sexual exploitation of children.

43. Ms. MARTÍNEZ (Chile) said that, since 2000, the National Service for Minors, working closely with the social welfare system, had adopted a number of policies to reduce the number of children placed in residential care facilities. In the 1990s, 62 per cent of vulnerable children had been cared for in such facilities and 38 per cent in non-residential facilities. Currently, only 26 per cent of children who had been separated from their parents were placed in residential facilities, as compared with 74 per cent in non-residential facilities. The Government had sought to increase the quality of care in those facilities and also subsidized residential facilities for minors that were run by private organizations. In 2006, a programme had been launched to improve the quality of care at residential facilities by providing training for staff.

44. Ms. ORTIZ asked why the number of children in residential facilities was still so high. She wished to know what was being done to enable such children to return to their families.

45. Ms. MARTÍNEZ (Chile) said that children could be separated from their families and placed in residential facilities solely on the basis of a court order. That usually involved children who had committed a criminal offence. However, some children were placed in residential facilities as a protection measure. Children were placed in non-residential programmes when they had been victims of commercial sexual exploitation or other abuse or were living in the streets. More than 50 programmes throughout Chile were active in the placement of children in non-residential facilities. Currently, some 6,000 children lived in such facilities. In recent years, the number of children in residential facilities had declined significantly. The Government was working on programmes to ensure that children in residential facilities were promptly returned to their biological parents or extended families, placed with a responsible adult or, if that was not possible, put up for adoption.

46. Ms. ORTIZ expressed concern at the large number of children still living in institutions despite Chile's considerable human and economic resources and the measures that it had taken to avoid custodial treatment. The delegation should provide more information on child offenders.

47. Ms. MARTÍNEZ (Chile) said that, in November 2006, there were about 12,000 children in residential institutions.

48. Mr. ESTRADA (Chile) said that, since the Juvenile Act allowed for the implementation of protective measures for children between the ages of 14 and 16, courts sent many child offenders to behavioural rehabilitation centres.

49. Ms. MARTÍNEZ (Chile) said that, since January 2006, 105 offices for the protection of the rights of children served 170 municipalities in all regions of the country. That was equivalent to ensuring the protection of 80 per cent of Chile's total child population. The National Service for Minors planned to work with the offices on a pilot early warning system for rights violations, and on the creation of a local system of rights protection.

50. Ms. HARDY (Chile) said that the Government had decided to place the offices for the protection of the rights of children under the jurisdiction of the Chilean social protection system instead of the Ministry of Justice. That reform had met with a great deal of resistance.

51. In 2005, a survey had revealed that 7,000 people, including children, lived permanently on the streets of Chile. In 2006, a special programme under the Chile Solidario social protection system had been implemented to assist such people. As a result, about half of the street population had gained access to the social protection network, and there were plans to integrate another 3,500 people in 2007. The Government, which was not able to provide all the services required by people living on the street, had encountered difficulties in finding a sufficient number of specialized NGOs to support its efforts. That had delayed the implementation of measures for people living on the street. The Social Donations Act, which granted donors tax breaks, should encourage private financing of non-profit NGOs, particularly those focusing on Chile's vulnerable population.

52. The CHAIRPERSON wished to know which Government body granted refugee status to children, particularly unaccompanied children.

53. Mr. TAGLE (Chile) said that the Ministry of the Interior determined the status of refugees. With regard to social protection, stateless children had the same rights to social protection as foreign children. Even if stateless children were undocumented, schools were obliged to enrol them as regular students. While no legislation currently guaranteed stateless children access to health services, in practice such children received all the necessary medical attention. Article 10 of the Constitution defined as Chilean any person born in the territory of Chile, except for the children of transient foreigners, and even those children could choose Chilean nationality.

54. Ms. FARIÁS (Chile) said that persons under 18 could not be recruited either for compulsory military service or for enrolment in armed forces training schools.

55. Ms. ORTIZ asked how children living in institutions could file complaints of abuse or sexual exploitation, and whether independent inspectors monitored living conditions in such institutions.

56. Ms. FERNÁNDEZ (Chile) said that children could file complaints with supervisors from the National Service for Minors who visited the centres. As a State-funded organization, the Service was objective in its assessment of how public funds were spent. Family courts were mandated to visit residential centres and submitted reports to the Government. All public servants were responsible for reporting obvious violations of children's rights.

57. Ms. MARTÍNEZ (Chile) said that the residential protection system was operated entirely by NGOs, with financial assistance from the Government. In the area of protection, officials of the National Service for Minors worked in Chile's eight residential diagnostic centres. All the other diagnostic centres were run by NGOs, under the Service's quality control and supervision.

58. Mr. ESTRADA (Chile) said that Act. No. 19,968, creating family courts, had introduced mediation into Chile's judicial system. The Government was currently reviewing the Act in order to make mediation compulsory.

59. Mr. LIWSKI (Country Rapporteur) commended Chile's efforts to reduce poverty, increased investment in health and education, measures to introduce sexual and reproductive health education, and the Act establishing 12 years' compulsory and free education up to age 21. He encouraged Chile to adopt a children's code, offer educational alternatives for marginalized children, change the cultural factors that gave rise to domestic violence, and establish a children's ombudsman.

The meeting rose at 6 p.m.