

**CHILE. Report to the United Nations Human Rights Council. Fifth period of sessions, Geneva, May 4 to May 15, 2009.**

**INSTITUTIONAL AND LEGAL FRAMEWORK FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS IN CHILE**

GOVERNMENT REPORT	MAIN PROBLEMS	SUGGESTED QUESTIONS	RECOMMENDATIONS
<p>The Government Report states that the Government has made its best efforts to achieve a Parliamentary majority to approve the Rome Statute and the International Convention for the Protection of all Persons from Enforced Disappearance. It also acknowledges that the following are pending: the Inter-American Convention on the Forced Disappearance of Persons; The Convention on Imprescriptibility of Crimes of War and Against Humanity; the Optional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador"; and the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women.</p>	<p>Some major international human rights treaties are pending ratification:</p> <ul style="list-style-type: none"> <li>- Statute of Rome of the International Criminal Court;</li> <li>- International Convention for the Protection of All Persons from Enforced Disappearance;</li> <li>- The Convention on Imprescriptibility of Crimes of War and Against Humanity;</li> <li>- The Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador";</li> <li>- The Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women.</li> </ul>	<p>Which of the international treaties on human rights which are pending ratification will be submitted to a vote during 2009?</p> <p>In view of the fact that the Optional Protocol to the CEDAW is paralyzed in the Senate since 2001, and that the respective Committee has recommended that it be ratified, what strategy has the Government adopted to hasten its discussion in the Senate?</p>	<p>- Ratify international human rights conventions and treaties, especially the Rome Statute which establishes the International Criminal Court, and the Optional Protocol to the CEDAW, because the former creates an international venue for prosecuting the criminal responsibility of offenders who commit the most serious crimes against Humanity, and the latter provides women with protection similar to that afforded other groups who suffer discrimination, and in regard to whom the Chilean State has already signed the corresponding protocols.</p>
	<p>The Chilean Government has not accepted the "<i>standing invitation</i>" mechanism.</p>	<p>Is the Chilean Government willing to adopt the "<i>standing invitation</i>" mechanism?</p>	

## EFFECTIVE PROMOTION AND PROTECTION OF HUMAN RIGHTS: IMPLEMENTATION OF OBLIGATIONS

GOVERNMENT REPORT	MAIN PROBLEMS	SUGGESTED QUESTIONS	RECOMMENDATIONS
<p>The Government Report points out that Article 19 of the Constitution establishes citizens' fundamental rights and liberties, and that the latter are guaranteed by the <i>Recurso de Protección</i> (an appeal brought on grounds of violation of rights and liberties) in case of arbitrary or illegal acts or omissions which deny, infringe, or threaten the exercise of these rights and liberties.</p>	<p>The jurisdictional mechanisms for the protection and Defense of human rights are insufficient and are not consistent with international standards. Especially worrying are the restrictions of the <i>Recurso de Protección</i> (constitutional guarantees), because they limit the range of protected rights to some of the constitutional guarantees defined in Article 19; the corresponding procedures are set out, not in regulations having legal force, but in a Supreme Court norm (Court Resolution); due process is not guaranteed; and the time frame is inconsistent with violations of human rights.</p> <p>There is no judicial system for the protection and demandability of social rights.</p> <p>DESC 2004 Committee: It is a matter of concern that some economic, social, and cultural rights are not subject to review in the courts by the Government.</p>	<p>What measures does the Government plan to take to ensure the justiciability of economic, social, and cultural rights, in the framework of the Bill which establishes the enabling regulations for the national remedy called <i>Recurso de Protección</i>?</p>	<p>- Modify the <i>Recurso de Protección</i> established by Chile's Political Constitution to make it consistent with international standards; in other words, make it expedient and effective for the protection of Human Rights. What is needed is a motion or appeal mechanism defined by an organic constitutional law, having ample time frames, and allowing a diversity of rights to be protected under law.</p>
<p>The Report points out that a new project for constitutional reform has been submitted, which would create the <i>Defensoría de las Personas</i> (Ombudsman's office). The project is pending approval.</p>	<p>The projected constitutional reform which creates the <i>Defensoría de las Personas</i> is awaiting discussion in the Senate. It is a matter of concern that the attributions of this projected agency are not clearly specified, and that the discussion of said organic law has been postponed. The lack of participation of civil society in the process of appointing the Ombudsman is also a cause for concern.</p> <p>The Human Rights Committee (2007);</p>	<p>What is the projected time frame for establishing the Ombudsman's office in Chile?</p> <p>Is the Government planning to include in the organic Bill attributions for investigating the accusations that will be received? For requesting information from State agencies and private bodies? For making observations and recommendations to public and private entities? For initiating legal proceedings? For submitting draft laws? Will the Bill create specialized divisions</p>	<p>- Speed up the establishment of a human rights public institutionality (Ombudsman; National Institute of Human Rights), by means of the Executive Branch qualifying the relevant Bills as "urgent" in Parliamentary priority; by guaranteeing the financial and legal autonomy of these institutions; by giving the Ombudsman's office a mandate that includes the <u>protection</u> of the human rights defined in the Constitution and in human rights treaties; by granting the National</p>

	<p>the Committee for the Rights of Children (2007); the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples (2003), all recommend that a human rights institutional framework be established in accordance with the Principles of Paris declaration.</p>	<p>within the Ombudsman's office, such as the Ombudsman for Women, or the Ombudsman for Indigenous Peoples? Will the organic law proposal include mechanisms for the participation of civil society in the process of appointing the Ombudsman? What will be the nature of such mechanisms?</p>	<p>Institute of Human Rights a mandate to promote and protect human rights, including attributions to promote the approval, signing, and ratification of international human rights declarations, treaties, and conventions.</p> <p>The Government should also guarantee the continuity of the legal aid service provided by the Interior Ministry's Human Rights Program to the victims of serious violations of human rights, including the granting of reparation benefits.</p>
<p>The Report states that the Government is engaged in the creation of a National Institute of Human Rights based on the Principles of Paris, and that the Bill is before Parliament.</p>	<p>The Government has withdrawn from Parliamentary discussion the Bill that creates the National Institute of Human Rights, due to the lack of transversal support for the project's clauses; the Government has not defined the mechanisms or a time frame for renewing the debate.</p>	<p>In view of the fact that the Government has withdrawn from Parliamentary discussion the Bill for the Institute of Human Rights, when does it plan to re-submit said Bill?</p> <p>Is the Government considering expanding the scope of the project, in order to give the Institute a broad mandate for the protection, promotion, and Defense of human rights based on an inclusive concept that recognizes the universality, interdependence, and indivisibility of human rights?</p> <p>How is the Government planning to guarantee the autonomy and independence of the Institute of Human Rights?</p>	
<p>The Government Report mentions a number of modifications to the justice administration system (penal procedural reform, adolescent penal justice system, family courts, labor justice), but it makes no specific mention of the question of access to justice for the poor.</p>	<p>The existing mechanisms - basically the Legal Aid Corporation - are deficient in terms both of quality and of coverage to guarantee access to justice for the poor.</p>	<p>Is the Government planning to significantly increase the budget of the state-operated free legal-aid system, in order to expand the system's coverage and quality, and to guarantee access to justice for those who are unable to pay? If so, in what time frame?</p>	<p>- Substantially increase the budget of the state-operated free legal-aid system</p>
<p>The Government Report acknowledges that the regulation of the Military Justice system is not consistent with the corresponding international standards, especially because of its excessively</p>	<p>The sphere of competence of the Military Tribunals is disproportionately large, and the projected procedures are not in accordance with due process. The Chilean Government has not complied</p>	<p>In view of the sentence of the Inter-American Court of Human Rights in the Palamara case, does the projected new code of Military Justice being prepared by the Government's Study Commission</p>	<p>- Limit the sphere of competence of Military Justice to cases involving members of the Armed Forces and Police forces, and only in cases where offences are committed by personnel in</p>

<p>broad sphere of competence, which allows it to judge civilians. Since this is a pending matter, a Commission to Study the Reform of Military Justice has been appointed, and a project for a new Military Justice Code will be submitted.</p>	<p>with its obligation to ensure that legislation covering military penal jurisdiction is brought into line with international standards by limiting its sphere of competence strictly to examining offences related to military duties committed by personnel in active duty, in order to guarantee that no civilian will be judged by the Military Justice system. Additionally, the modification of procedures aimed at ensuring due process is still pending. These modifications aim at establishing guarantees of competency, impartiality, and independence (Sentence of the Inter-American Court of Human Rights in the case of Palamara Iribarne against the Chilean Government, November 2005).</p> <p>A similar decision was made by the Human Rights Committee in 2007. The Committee Against Torture recommends that the principle of due obedience be eliminated from the Military Penal Justice Code.</p>	<p>plan to limit military tribunals strictly to examining offences related to military duties committed by personnel in active duty? Is the judging of civilians by military courts absolutely excluded? What procedural modifications are being planned to ensure due process in accordance with international standards? Does the project envision the striking from the Military Justice Code of the principle of due obedience, in accordance with the recommendations of the Committee Against Torture? What is the time frame for the presentation and discussion of the project?</p>	<p>active duty and which involve offences characterized in the Military Justice Code, so that no civilian will be judged by Military Courts for common-law offences.</p>
<p>In its Report, the State claims that it has fulfilled its duty to investigate, prosecute, and punish persons responsible for large-scale and systematic human rights violations committed under the military régime. It points out that the democratic governments have opposed the application of the Amnesty Decree Law, but that it has been impossible to abolish it, because it lacks the necessary Parliamentary majority. It adds that various Supreme Court resolutions have abstained from applying the Amnesty Decree Law, in accordance with the main international instruments of humanitarian law and of human rights.</p>	<p>The 1978 Amnesty Decree Law is still in force, in spite of the ruling of the Inter-American Court of Human Rights in the Almonacid case (2006), the specific recommendations of the Human Rights Committee (2007) and of the Committee Against Torture (2004), and of several international instruments, such as the pronouncement of the Inter-American Commission on Human Rights on the inapplicability of amnesties and of statutes of limitations in cases of crimes of war and against humanity.</p>	<p>In view of the ruling of the Inter-American Court of Human Rights in the Almonacid case, and of the recommendations of the Human Rights Committee, the Committee Against Torture, and of several international instruments, and also in view of the limited effect of these sentences in Chile, and of the fact that the record of court decisions on the matter has not been uniform, does the Government plan to submit to Parliamentary debate the abolition of the Amnesty Decree Law? In what time frame?</p>	<p>Repeal Amnesty Decree Law 1291, and speed up the process of Parliamentary approval of the Convention on the Imprescriptibility of Crimes Against Humanity.</p>

<p>The Government Report mentions the creation of the National Commission on Political Imprisonment and Torture (Valech Commission) – among other measures related to Human Rights violations committed by the military dictatorship – and points out that the Commission received the testimony of 35,868 persons, of which 28.459 were qualified as victims.</p>	<p>Although the creation of the National Commission on Political Imprisonment and Torture represented an advance in the matter, some persons tortured under the military régime still have not been recognized as victims.</p>	<p>In view of the recommendations of the Committee Against Torture about broadening the mandate and the attributions of the Valech Commission, are any new periods scheduled for the qualification of victims, which would permit the inclusion of women who suffered sexual torture during roundups or while in detention or under home arrest? Are there plans to reconvene the Valech Commission in order to recognize as victims those persons who were tortured in Argentina in the framework of Operación Condor?</p>	
<p>The Government Report mentions the creation of the National Reparation and Reconciliation Corporation, and the granting of pensions and of various educational and healthcare benefits to family members of forcibly-disappeared persons or persons executed for political motives, and to victims of torture or political imprisonment. The State's investment in reparation measures exceeds US\$ 1,600 million. This is in addition to measures concerning symbolic reparation, such as the erection of memorials devoted to victims throughout the country.</p>	<p>Various victims or family members of victims of human rights violations have been prevented from obtaining fair and adequate reparation, in large part due to the National Defense Council having put forward the thesis, which was upheld, that civil lawsuits are subject to statutes of limitations.</p>	<p>Given the prominent role played by the National Defense Council in limiting the access of victims and family members of victims to fair and adequate reparation, what concrete steps does the State intend to take in order to guarantee the right to reparation, including complete compensation for loss of assets or income caused by violations of human rights?</p>	

## HUMAN RIGHTS OF WOMEN

GOVERNMENT REPORT	MAIN PROBLEMS	SUGGESTED QUESTIONS	RECOMMENDATIONS
<p>The Government Report refers to the creation of the <i>Servicio Nacional de la Mujer</i> (Women’s National Service) (1991) and to the adoption of legislation on interfamily violence in force since 1994 and reformed in 2005. Its challenge is to “continue strengthening the mechanisms that protect women from interfamily violence”.</p>	<p>High prevalence of violence against women and femicide. To this we can add insufficient statistical information and absence of a single registry that would lead to efficient intervention policies.</p>	<p>What proportion of the GDP corresponds to the public budget allocated to policies and programs on violence against women? What concrete measures have been considered in the area of prevention of violence? What concrete measures have been considered in matters of protection of women who are victims of violence? How is the continuity of said policy guaranteed over time?</p> <p>What measures have been taken to improve the legal/judicial response to crimes of violence against women, especially regarding the protection of victims and avoiding its recurrence? In what time frame is it projected to improve the systems of registry of violence against women, including that resulting in death?</p> <p>What mechanisms are applied for evaluating the policies of prevention and eradication of violence against women? How is the participation of civil society in the latter ensured?</p>	<ul style="list-style-type: none"> <li>- Create a single registry on violence against women that allows identifying the magnitude of the phenomena in Chile and design efficient public intervention policies for its treatment</li> <li>- Include in the State’s annual budget a public awareness campaign on violence against women so as to sensitize the population about the problem.</li> </ul>

<p>The Chilean Government Report omits referring to sexual and reproductive rights.</p>	<p>Lack of legal recognition of sexual and reproductive rights, in spite of having presented a parliamentary motion in the year 2002.</p> <p>CEDAW 2006 Committee: “concern for the insufficient recognition and protection of human rights related to the reproductive health of women in Chile”.</p> <p>DESC 2004 Committee recommends strengthening educational programs on sexual and reproductive health; make known and give access to safe birth control methods; increase efforts to diminish the propagation of sexually transmitted diseases, including HIV/AIDS, for example through public information campaigns.</p>	<p>Given the lack of legal recognition of sexual and reproductive rights and the specific recommendations formulated in this regard by the CEDAW and DESC Committees, does the government consider the constitutional or legal recognition of sexual and reproductive rights within its legislative agenda? Has the assignation of legislative urgency been considered for the motions presented on the matter to the National Congress? In what time frame? What is the budget allocated to the training of health personnel to ensure quality healthcare to adolescents and to guarantee universal access to birth control methods? Has the realization of educational campaigns on the prevention of Sexually Transmitted Diseases been considered? With what periodicity? What budget is allocated to that? ¿What budget is defined for the realization of permanent ongoing educational campaigns on the prevention of HIV/AIDS?</p>	<p>- Grant legal recognition to sexual and reproductive rights, and in particular facilitate the debate and approval of the Framework Law on Sexual and Reproductive Rights, introducing an urgent status to its processing.</p>
<p>The Chilean Government Report omits referring to induced abortion.</p>	<p>Penalization of all forms of abortion, even when the life or health of the women is at risk.</p> <p>Legal obligation imposed on health personnel to denounce women who go to healthcare centers for complications derived from abortions.</p> <p>Human Rights Committee 2007: revise the unduly restrictive legislation on abortion.</p> <p>Human Rights Committee 1999: concern for risk to women’s lives and the duty of health personnel to report women who have had abortions which may inhibit those who need medical</p>	<p>Considering all the recommendations of monitoring committees of international treaties concerning the revision of penalizing legislation on abortion. Is the government considering proposing legal modifications to de-penalize therapeutic abortion, abortion in case of rape, and abortion in case of fetus with serious malformations incompatible with extra uterine life? What measures will be taken for the purpose of complying with the recommendations of international organisms to ensure the confidentiality of the doctor –patient relationship in case of complications arising from</p>	<p>- Legalize abortion in situations in which the mother’s life or health is at risk (therapeutic), in which there is fetal malformation and non-viability (eugenic), and in the case of incest.</p>

	<p>treatment.</p> <p>CEDAW Committee 2006: concern for risks to life and health of women due to clandestine abortions, recommends revision of legislation (similar to 1999)</p> <p>Torture Committee 2004: concern for the practice of extracting confessions from women who seek medical care due to complicated abortions, stipulating the confession as a condition for medical care and then using said information in penal processes.</p> <p>DESC Committee 2004: recommends reviewing the legislation and not penalizing therapeutic abortion and in case of rape.</p>	<p>abortions?</p> <p>What measures have been taken to gather information in regard to the prevalence of abortion in the country?</p> <p>What measures have been taken to contribute to the social debate on the necessity to depenalize therapeutic abortion?</p>	
<p>The Chilean Government Report highlights the constitutional modification which consecrates equality between men and women (1999) but it does not refer to marriage contract law.</p>	<p>The marital contract law is still in force, concerning marital property ownership in which women are deprived of the right to administrate marital property and their own property, which right solely corresponds to the husband. The friendly solution agreement signed by the Chilean Government with the Inter-American Commission on Human Rights has not given the expected results.</p> <p>Human Rights Committee 2007: concern for the legislation that discriminates against women in their capacity to administrate their patrimony and recommends accelerating the legal modification which would replace it with a marital common property regime.</p> <p>CEDAW Committee 2006: concern for the slow progress in the bill that establishes a new patrimonial regime granting equal rights to husband and wife, pending since 1995.</p>	<p>Considering that the bill that modifies marital contract law has been debated for more than 13 years, that the Human Rights Committee and the CEDAW Committee have recommended said modification, and that the Chilean Government has been obliged to do so by the Inter-American Commission on Human Rights, do you foresee the Government proposing the derogation of the marital law and replacing it with a regime that ensures equal rights to men and women? In what time frame?</p> <p>What measures have been taken to date to comply with the diverse obligations subscribed in the framework of the friendly solution agreement?</p>	<p>- Derogate the marital law and substitute it as a supplemental legal regime by the common property law that grants equal administration rights to men and women.</p>
<p>The Chilean Government Report highlights the increase in participation of</p>	<p>High levels of under representation of women in public decision positions. The</p>	<p>Is the government contemplating the assignation of legislative urgency to the</p>	<p>- Introduce temporary affirmative action measures so as to guarantee women's</p>

<p>women in Executive Branch positions since the appointment of the cabinet by the first female President of the Republic. However, it identifies as a challenge the need to “ensure a more equal participation in public decisions”.</p>	<p>low female participation is particularly serious in the legislative Branch or Parliament (15% of deputies and 5% of senators) and in the municipal area (12% of mayors and 23% of councilwomen).</p> <p>CEDAW Committee 2006: concern for the scarce participation of women in the Parliament, in municipalities, and in foreign service. The government is urged to reform the binominal system and to adopt temporary measures to increase the participation of women in political life.</p> <p>Human Rights Committee 1999: concern for the marked insufficiency of female participation in political life, public service, and judicial power: it is recommended to implement affirmative action programs.</p>	<p>bill that obliges including at least 30% of women on lists of candidates for popularly elected positions?</p> <p>What measures have been taken to ensure over time the equal participation of women in ministries, vice ministries, heads of services, foreign service, municipalities, governorships, and other public positions?</p> <p>Have temporary affirmative action measures been incorporated in the Judicial Branch?</p>	<p>access to political decision positions. In particular, to give urgent status to the bill that establishes quotas for the participation of women in local spheres, parliament, and political party offices, generate measures that economically motivate political parties that include women on the list of candidates, and incorporate in the Political party Law the obligation to train women who hold internal leadership positions or who are candidates.</p>
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## HUMAN RIGHTS OF INDIGENOUS PEOPLES

GOVERNMENT REPORT	MAIN PROBLEMS	SUGGESTED QUESTIONS	RECOMMENDATIONS
<p>The Chilean Government Report does not deal with the recommendations formulated by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples (November 2003).</p>	<p>The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, after his visit to Chile (2003), formulated in his Report to the government a series of recommendations in matters concerning legislation, poverty, lands, sustainable development, administration of justice, educational and social policies, advertising of indigenous subjects, promotion and protection of human rights.</p>	<p>Out of the series of recommendations formulated by the Special Rapporteur in 2003, what proportion of them has been complied with in these five years? Which ones and based on what measures? Have consulting processes been developed in indigenous communities in regard to their level of satisfaction with these measures? In regard to the pending recommendations, what concrete measures will be taken and in what time frame?</p>	
<p>The Chilean Government Report refers to the recent ratification of the ILO Covenant 169, such as the implementation of institutionality, policies and programs for the integral development of indigenous peoples and communities.</p>	<p>The Chilean Government shows a deficit in matters of recognition, respect, and guarantee of the rights of indigenous peoples in Chile. One of the main concerns is the absence of constitutional recognition such as the lack of consulting with indigenous peoples in regard to parliamentary debate. Likewise, the internal legislative adaptations to the obligations contained in the ILO Covenant 169 are still pending, especially in matters regarding water rights, mining, natural resources, justice, and electoral legislation, among others.</p>	<p>What concrete measure will be taken by the Chilean government to adapt national legislation to the obligations derived from the ILO Covenant 169 in matters concerning water rights, mining, natural resources, justice, and electoral legislation? In what time frame is the adoption of each one of said measures projected for? What consulting mechanisms are being considered for the adaptation of domestic legislation to the provisions of Covenant 169, as well as for the approval of the constitutional reform regarding indigenous peoples and their rights?</p>	<ul style="list-style-type: none"> <li>- To facilitate efforts tending towards obtaining recognition of indigenous peoples and their political, territorial, and cultural rights in the State Political Constitution, taking into consideration the consulting and active participation of indigenous peoples;</li> <li>- To adapt domestic legislation and public policies, particularly regarding rights over natural resources, justice, and electoral participation to the provisions of the recently ratified ILO Covenant 169;</li> </ul>
<p>The Chilean Government Report, in relation to the restitution of land to indigenous communities, indicates that more than 500,000 hectares have been restituted between 1994 and 2008, benefiting 22,000 families.</p>	<p>Tardiness in the implementation of sectorial policies, especially the demarcation of ancestral lands. In addition, the state has been supporting mining, forestry and hydroelectric investment projects without adequate consulting processes to the affected communities and without guaranteeing their participation in the benefits derived from said projects.</p>	<p>What are the goals set for 2009 in regard to restitution of lands? What is the budget allocated to it? What specific consulting mechanisms have been adopted to define the governmental goals in regard to restitution of lands? In what degree has the land restitution policy benefitted indigenous women?</p>	<ul style="list-style-type: none"> <li>- To accelerate the processes of demarcation and ownership of the ancestral lands of indigenous peoples and the policies oriented towards ensuring the rights of the communities over their natural resources, currently in danger in the face of investment projects and to guarantee the previous consultation of the indigenous peoples facing said projects, as well as their</li> </ul>

			participation in the benefits generated by the latter;
The Chilean Government Report indicates that in violent situations occurring in Mapuche areas, the democratic governments have not had the criteria of applying legal norms based on ethnic, social, cultural, or other considerations	Criminalization of social protest by indigenous peoples, particularly the Mapuches from the southern zone. Application of exceptional laws –State internal security and anti-terrorist laws – to the actions of defense of lands which seriously weakens the procedural guaranties required by due process.	Is the government considering the modification of legislation on terrorism for the purpose of excluding social protest actions from its scope of application? In what time frame?	- To guarantee the protection of defenders of human rights of indigenous peoples, putting an end to police violence applied to their communities, to the legal persecution of indigenous leaders, to the application of exceptional laws, such as the antiterrorist law against them, and making sure that sanctions are applied to police agents for crimes committed against them.
	Persistence of multiple situations of abuse, unnecessary use of force and brutality by State police agents which result in torture or cruel, inhumane, and degrading treatment of members of the Mapuche community, particularly to defenders of human rights. In the past three years three Mapuches have died: Alex Lemún, a young boy, in 2001, the lonko Juan Colihuín in 2006, and the youth, Matías Catrileo, in 2007. Throughout the past years diverse cases of torture of indigenous persons have been identified. The crimes committed by Police officers against Mapuches are not investigated or tried in compliance with due process by military courts and they remain unpunished.	What concrete measures have been taken to put an end to police violence against the Mapuche communities? Have sanctions or disciplinary measures for police officers implicated in cases of abuse been adopted? Has the government initiated or taken part in legal actions to investigate and sanction these crimes? Have training programs regarding human rights of indigenous peoples been imparted to police officers?	- To introduce legislative reforms that allow the effective control of police actions, guaranteeing that their actions are based on international human rights guidelines. - To endorse administrative reforms oriented to promoting that the bodies upon which police entities depend promote police action centered on the protection and respect of human rights. - To create in the Carabineros (Police) or Policía de Investigaciones (Police detectives) institutions, the mechanisms for the reception of denouncements related to events of violence against the population which are charged against them. - To endorse actions by the Government oriented towards taking part in the persecution of serious crimes committed by Police agents in the development of their functions affecting the civil population.

## HUMAN RIGHTS OF PERSONS DISCRIMINATED DUE TO THEIR SEXUAL ORIENTATION

GOVERNMENT REPORT	MAIN PROBLEMS	SUGGESTED QUESTIONS	RECOMMENDATIONS
<p>The Chilean Government Report refers to the implementation of policies of non-discrimination and social inclusion of sexual minorities, especially in the areas of education and health.</p>	<p>Arbitrary detentions and police abuse against transsexual, travesties and transgender persons covered in Article 373 of the Penal Code which sanctions those who “offend modesty or good customs in any way”.</p>	<p>Considering the insufficient penal precision, the nonexistence of a legally protected interest, as well as the unjust or arbitrary actions by the Police, does the Government consider assigning legislative urgency status to the bill to reform Article 373 of the Penal Code?</p>	
	<p>Chilean legislation on family and jurisprudential practice does not favor the right to conform a family by homosexual persons; they may not contract matrimony, regulate patrimonial aspects of their life in common, have access to the guardianship of their children under equal terms, among other discriminations. There is a denouncement pending in the Inter-American Commission on Human Rights presented by a lesbian mother discriminated against by the Supreme Court in the exercise of her right to guardianship of her daughters .</p>	<p>Does the Government consider assigning legislative urgency to the civil union project or to the project that modifies the concept of marriage to permit the bond between two persons of the same sex? Does the Government consider assigning legislative urgency to the bill that protects fathers and mothers in their right/duty to care for their children facing discrimination for sexual orientation? Does the Government consider the presentation of a bill that permits non-heterosexual persons to adopt?</p>	<p>- To legally recognize co-habitation in fact between heterosexual and homosexual couples, as well as the possibility of adopting children and keeping the legal guardianship of their children - To introduce affirmative action measures to guarantee equality of rights for the effects of subsidies and state benefits.</p>
<p>The Chilean Government Report does not mention the contents or the legislative debate process of the bill that establishes measures against sexual discrimination.</p>	<p>The Chilean Constitution does not consecrate the principle of nondiscrimination and the <i>Recurso de Protección</i> (constitutional guarantees) has been unable to respond to this. A bill is being debated since 2005 on measures against discrimination which has been submitted to continuous revisions which restrict its contents and scope of protection. The definition of discrimination does not correspond to international standards, the duties of the State on the matter are weakly consecrated, the jurisdictional action proposed is questioned by some politicians and the temporary affirmative actions have been eliminated.</p>	<p>Does the Government consider exercising its attributions of legislative urgency, proposing indications and the presidential veto for the purpose of ensuring that the definition of discrimination in the law includes the prohibition of discrimination based on sexual orientation or gender? Does the Government exercise its attributions for the purpose of ensuring that the law of discrimination includes special jurisdictional action which imposes sanctions on those who discriminate? Does the Government exercise its attributions for the purpose of reestablishing affirmative action measures in the bill’s text?</p>	<p>- Facilitate the passing of the bill which establishes measures against discrimination by granting it urgent status, and including a definition of discrimination in its text in accordance with international standards, and a legal action and its respective sanction for those who commit said acts of discrimination.</p>

