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Committee on the Rights of the Child**Concluding observations on the fourth periodic report of Chile*****I. Introduction**

1. The Committee considered the fourth and fifth periodic reports of Chile (CRC/C/CHL/4-5) at its 2039th and 2040th meetings (see CRC/C/SR.2039 and 2040), held on 24 September, and adopted the following concluding observations at its 2052nd meeting (see CRC/C/SR.2052), held on 2 October 2015.

2. The Committee welcomes the submission of the fourth and fifth periodic reports of the State party (CRC/C/CHL/4-5) and the written replies to the list of issues (CRC/C/CHL/Q/4-5/Add.1), which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses appreciation for the constructive dialogue held with the multisectoral delegation of the State party.

II. Follow-up measures undertaken and progress achieved by the State party

3. The Committee welcomes the ratification of/accession to the:

(a) Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in September 2015;

(b) International Labour Organization Convention 189, in June 2015;

(c) International Labour Organization Convention 169, in September 2009;

(d) Rome Statute of the International Criminal Court, in June 2009;

(e) Convention on the Rights of Persons with Disabilities and its Optional Protocol, in August 2008;

(f) Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in December 2008.

4. The Committee also notes with appreciation the adoption of the following legislative measures:

* Adopted by the Committee at its seventieth session (14 September -2 October 2015).

- (a) Law 20609 on anti-discrimination, in July 2012;
 - (b) Law 20594 introducing disqualifications for person convicted for sexual offenses against children and establishing a registry, in June 2012;
 - (c) Law 20507 on trafficking in persons, in April 2011;
 - (d) Law 20545 on maternity protection and paternal postnatal leave, in October 2011;
 - (e) Law 20539 prohibiting night time work for children under 18 years old in industrial and commercial establishments, in October 2011;
 - (f) Law 20536 to address school violence, in September 2011;
 - (g) Law 20519, excluding children from terrorist offenses, in June 2011;
 - (h) Law 20430 on protection for refugees, in April 2010;
 - (i) Law 20422 on equality in terms of opportunities and social inclusion of people with disabilities, in February 2010;
 - (j) Law 20370 on education, in September 2009.
5. The Committee also welcomes the following institutional and policy measures:
- (a) Establishment of the National Childhood Council (Consejo Nacional de la Infancia), in March 2014;
 - (b) Establishment of the National Human Rights Institution (Instituto Nacional de Derechos Humanos, INDH) by law 20045, in December 2009;
 - (c) Establishment of the Inter-sectorial Panel on Trafficking in Persons, in 2008, and adoption of its action plan for 2013-2014.
6. The Committee notes as positive the standing invitation extended by the State party to United Nations special procedures in May 2009 and the visits of the Working group on enforced or involuntary disappearances in 2012 and of the Special Rapporteur on human rights while countering terrorism in 2013.

III. Main areas of concern and recommendations

A. General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)

The Committee's previous recommendations

7. **The Committee recommends that the State party take all necessary measures to address its previous recommendations of 2007 (CRC/C/CHL/CO/3) that have not been implemented or not sufficiently implemented and, in particular, those related to the adoption of a law for the comprehensive protection of the rights of children (para. 8), data collection (para. 20), and allocation of resources (para. 17).**

Legislation

8. The Committee welcomes the several legislative measures taken to advance children's rights and the information provided that a law for the comprehensive protection of the rights of children is submitted to the Parliament. However, it is concerned that the Juvenile Act of 1967 has a tutelary approach which is incompatible with an appropriate

legal framework recognizing the rights and guarantees of all children. It is also concerned that the 2005 and 2012 attempts to change this law were unsuccessful.

9. Recalling its previous recommendation (CRC/C/CHL/CO/3 para. 8), the Committee recommends that the State party promptly complete the process of legislative reform and enact a law for the comprehensive protection of children in conformity with the Convention on the Rights of the Child.

Comprehensive policy and strategy

10. The Committee notes that a National Policy for Childhood 2015-2025 is being prepared but is concerned about the lack of a timeframe to finalize and adopt it and that, since 2010, there has been no comprehensive policy and strategy for the protection of children's rights.

11. The Committee encourages the State party to expeditiously finalize and adopt a national policy for childhood and a plan of action that are both result-oriented, monitored and evaluated according to human rights indicators based on the Convention, and allocate sufficient human, technical and financial resources for its effective implementation. The Committee recommends that the State party strengthen its cooperation with the United Nations Children's Funds (UNICEF) and the Office of the High Commissioner for Human Rights (OHCHR) in this regard.

Coordination

12. The Committee notes the measures taken to reform the institutional framework for the coordination and implementation of activities related to the Convention. However, it is concerned that it may be adopted before the approval of a law for the comprehensive protection of children's rights, which may impact its effectiveness in the protection of all children's rights. The Committee is also concerned about the lack of information on the mechanisms to coordinate the various sectors at the local, regional and national level.

13. The Committee recommends that the State party:

(a) Ensure that the institutional framework for the coordination and implementation of the activities for the protection of the rights of the child is based on an adequate comprehensive law;

(b) Promptly adopt the organic law of the Ministry of Social Development defining it as the government entity responsible for the implementation of children's rights;

(c) Ensure that the Ministry is provided with the necessary human, technical and financial resources for its effective functioning;

(d) Establish an adequate coordination mechanism at the national, regional and local level, with a clear delineation of the responsibilities of each level authority and with civil society participation.

Allocation of resources

14. The Committee is concerned about the continuing lack of a budget tracking mechanism with a view to monitoring budget allocations from a child rights' perspective and to ensure a balanced distribution of resources with a view to alleviating disparities. The Committee is also concerned about the difficulty in identifying expenditures related to childhood amidst the many different budget items which does not allow for assessing the impact budgetary adjustment measures have on the rights of children nor to guarantee a specific and progressive budget for children's rights policies.

15. In the light of its day of general discussion in 2007 on “Resources for the rights of the child – responsibility of States”, and recalling its previous recommendation (CRC/C/CHL/CO/3 para. 17) the Committee recommends that the State party:

(a) Utilize a child-rights approach in the elaboration of the State budget, by implementing a tracking system for the allocation and the use of resources for children. The State party should also use this tracking system to assess how investments in any sector may serve “the best interests of the child”, ensuring that the different impact on girls and boys as well as children in various vulnerable situations is measured;

(b) Ensure transparent and participatory budgeting through public dialogue, especially with children, and proper accountability of local authorities;

(c) Define strategic budgetary lines for children in disadvantaged or vulnerable situations that may require affirmative social measures and make sure that those budgetary lines increase progressively and are protected even in situations of economic crisis, natural disasters or other emergencies;

(d) Continue to seek technical assistance for these purposes from, inter alia, UNICEF.

Data collection

16. The Committee welcomes the creation of the statistics information system on children and adolescents by the Children and Youth Observatory and the Ministry of Social Development, but is concerned about the delay in its implementation and the lack of indicators to monitor and assess respect for children’s rights.

17. In the light of its general comment No. 5 (2003) on general measures of implementation, the Committee urges the State party to:

(a) Expedite the implementation of a national, integrated and comprehensive data system. The data should cover all areas of the Convention and should be disaggregated inter alia by age, sex, disability, geographic location, ethnic origin, nationality and socioeconomic background in order to facilitate analysis on the situation of all children, particularly those in situations of vulnerability;

(b) Share the data and indicators among the relevant ministries for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention. In this context, the Committee also recommends that the State party strengthen its technical cooperation with, among others, UNICEF and regional mechanisms.

Independent monitoring

18. The Committee welcomes the establishment of the National Human Rights Institute and notes the steps taken to create an Ombudsperson for Children. The Committee is however concerned about the delay in its creation and the enduring structural void in the matter of protection and promotion of children’s rights in the State party.

19. In the light of its general comment No. 2 (2002) on the role of independent human rights institutions, the Committee recommends that the State party:

(a) Expeditiously establish a specific mechanism for monitoring children’s rights that is able to receive, investigate and address complaints involving children and by children in a child-sensitive manner, ensure the privacy and protection of victims, and undertake monitoring, follow-up and verification activities for victims;

(b) Ensure the independence of such a monitoring mechanism, including with regards to its funding, mandate and immunities, so as to ensure full compliance with the Paris Principles;

(c) Seek technical cooperation from, among others, OHCHR, UNICEF and the United Nations Development Programme (UNDP).

Children's rights and the business sector

20. The Committee notes the steps taken to increase compliance with human rights standards by industrial companies and extractive industries. However it is concerned about the lack of a national plan or general regulation on business and human rights that considers the impact of business on children's rights and about the limited and *ad hoc* measures.

21. **In the light of its general comment No. 16 (2013) on the impact of the business sector on children's rights and the United Nations "Protect, Respect and Remedy" Framework, accepted unanimously in 2008 by the Human Rights Council (Human Rights Council resolution 17/4 of 16 June 2011), the Committee recommends that the State party establish and implement regulations to ensure that the business sector complies with international and national human rights, labour, environment and other standards, particularly with regard to children's rights. In particular, it recommends that the State party:**

(a) **Establish a clear regulatory framework for private businesses operating in the State party to ensure that their activities do not negatively affect children's rights or endanger environmental and other standards, especially those relating to children's rights;**

(b) **Ensure effective implementation by companies, especially industrial companies and extractive industries, of international and national environment and health standards, effective monitoring of implementation of these standards and appropriately sanctioning and providing remedies when violations occur, as well as ensure that appropriate international certification is sought;**

(c) **Require companies to undertake assessments, consultations, and full public disclosure of the environmental, health-related and children's rights impacts of their business activities and their plans to address such impacts.**

B. Definition of the child (art. 1 of the Convention)

22. The Committee is concerned that legislation maintains the possibility for children to get married at the age of 16, when authorized by their parents or legal representatives.

23. **The Committee recommends that the State party establish 18 as the minimum age of marriage in all circumstances.**

C. General principles (arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

24. The Committee welcomes legislative and policy measures by the State party to address discrimination. However, it expresses concern that girls continue to be subjected to gender-based discrimination, due to the persistence of adverse and traditional attitudes and norms. It is also concerned about enduring discriminatory attitudes and practices against indigenous children, children with disabilities and immigrant children. It is furthermore

concerned about continuing negative attitudes and discrimination faced by lesbian, gay, bisexual, transgender and intersex (LGBTI) children.

25. **The Committee recommends that the State party:**

(a) **Strengthen policy and programmatic measures to combat the multiple forms of discrimination against girls, indigenous children and children with disabilities, targeting the stereotypes on which those discriminatory attitudes are based;**

(b) **Strengthen its efforts to combat negative attitudes and eliminate discrimination against children on the basis of their actual or perceived sexual orientation, gender identity and sex characteristics.**

Best interests of the child

26. The Committee notes that the best interests of the child is a fundamental principle in the legal system of the State party and that it is integrated into some laws. However, the Committee is concerned that it does not apply in all areas of the law, including in decisions to sentence parents to long terms of imprisonment, and that the reasoning of the court does not always explain the criteria used for determining the child's best interests. The Committee is further concerned that the best interests of the child is not a cross-cutting consideration in all areas of policy-making.

27. **In the light of its general comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee recommends that the State party strengthen its efforts to ensure that this right is appropriately integrated and consistently interpreted and applied in all legislative, administrative and judicial proceedings and decisions as well as in all policies, programmes and projects that are relevant to and have an impact on children. In this regard, the State party is encouraged to develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving it due weight as a primary consideration.**

Respect for the views of the child

28. The Committee welcomes the participatory processes carried out by the State party, including in the preparation of the report under review, and commends the decision to involve children in the process of constitutional reform. The Committee is however concerned that:

(a) The legal system does not explicitly recognize children's right to be heard and taken into account in all matters that affect them, in particular in education, health and family matters;

(b) Children are not considered subjects in the law No. 205004 (2011) on associations and citizen participation in public administration;

(c) There is an absence of formal structures for children's participation in the development of national, regional and local child policies, with processes showing how their opinions are duly taken into account.

29. **In the light of its general comment No. 12 (2009) on the right of the child to be heard, the Committee recommends that the State party take measures to strengthen this right in accordance with article 12 of the Convention. To that effect, it recommends that the State party:**

(a) Ensure the effective implementation of legislation recognizing the right of the child to be heard in all matters related to children's rights, in particular, education, health, justice and family matters;

(b) Review law no. 205004 (2011) to recognize and guarantee children's right to direct participation in associations and in public administration matters;

(c) Establish formal structures for the participation of children, with particular attention to girls and children in vulnerable situations, in the development, implementation and monitoring of national, regional and local child policies, with processes showing how their opinions are duly taken into account.

D. Civil rights and freedoms (arts. 7, 8, and 13-17)

Birth registration

30. The Committee is concerned about cases of children born in the territory of the State party being denied birth registration due to their parents' irregular migrant status.

31. **The Committee urges the State party to take all legislative and administrative measures to ensure that children born in its territory have due access to birth registration, irrespective of their parents migrant status.**

Nationality

32. The Committee shares the concern expressed by the CEDAW Committee upon the consideration of the combined fifth and sixth periodic reports of Chile (CEDAW/C/CHL/CO/5-6, para. 26), namely that the exception to the *jus soli* principle relating to foreigners in transit is systematically applied to migrant women in an irregular situation, irrespective of the length of their stay in the State party, and that, as a result, their children cannot receive Chilean nationality at birth and can only opt for Chilean nationality within a period of one year immediately following their twenty-first birthday.

33. **The Committee encourages the State party to:**

(a) **Review and amend its legislation to ensure that children who are born in the State party can acquire Chilean nationality at birth, irrespective of their parents migrant status, and who would otherwise be stateless, as recommended by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/CHL/CO/1, para. 33);**

(b) **Ratify the Convention relating to the Status of Stateless Persons (1954) and the Convention on the Reduction of Statelessness (1961).**

Right to Identity

34. The Committee is concerned about limitations on the right to identity of indigenous children as part of their cultural identity. Furthermore, while noting the measures being considered to legally recognize the gender identity of trans-gender children, the Committee is concerned about the limitations on the exercise of the right to identity imposed on lesbian, gay, bisexual, transgender and intersex (LGBTI) children.

35. **The Committee recommends that the State party take the necessary legislative, policy and administrative measures to:**

(a) **Respect the right to identity of indigenous children in accordance with their culture;**

(b) **Recognize the right to identity of LGBTI children, including the gender identity of transgender children;**

(c) **Foster an environment of inclusion and respect in mainstream society.**

Freedom of association and peaceful assembly

36. The Committee is deeply concerned about the repressive manner adopted by the State party to address the 2011-2012 student demonstrations demanding changes in the educational system and the abusive use of detention measures.

37. **The Committee urges that the State party:**

(a) **Develop and monitor the implementation of police protocols and procedures in the face of public protest compliant with human rights standards and the Convention in particular;**

(b) **Issue guidance to the police and the prosecutor's office to ensure all detentions are in strict accordance with the law.**

E. Violence against children (arts. 19, 24, para.3, 28, para. 2, 34, 37 (a) and 39)

Freedom of the child from all forms of violence

38. The Committee is deeply concerned about violence occurring in home contexts, a concern voiced by children themselves.

39. **The Committee recommends that the State party:**

(a) **Based on studies already carried out, develop a comprehensive strategy for prevention and intervention in cases of violence against children, and violence that children are exposed to, in domestic contexts, including the provision of services for the psychosocial support of victims;**

(b) **Establish a national database on all cases of domestic violence against children, including ill-treatment, child abuse and neglect and domestic violence.**

40. The Committee welcomes the enactment of the law no. 20536 (2011) to address school violence but is deeply concerned about the high levels of violence in educational settings, including homophobic and transphobic bullying.

41. **Recalling the recommendations of the United Nations study on violence against children of 2006 (A/61/299), taking into account its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence and taking note of the Sustainable Development Goal 16.2 to end abuse, exploitation, trafficking and all forms of violence against and torture of children, the Committee recommends that the State party:**

(a) **Based on the law no. 20536 (2011) develop a comprehensive strategy to prevent and address all forms of violence against children in educational settings including gender based violence. It should encompass:**

(i) **Raising awareness on the phenomenon of violence inside the educational community and the importance of prevention and timely action against it;**

(ii) **Making available specialized technical and professional advice to students, educational staff and parents;**

- (iii) Promoting the training and educational approach instead of the punitive approach to address violent behaviours;
- (iv) Monitoring the policies of coexistence, in order to protect the exercise of other rights that may be affected by punishment processes allowed by the law 20536 (2011);
- (b) Evaluate the work of existing structures to address violence against children, and report on the results and measures taken in the next periodic report;
- (c) Continue to cooperate with UNICEF in this regard.

Torture and other cruel or degrading treatment or punishment

42. The Committee recognizes the judicial efforts to penalize cases of excessive use of force against students by security forces and welcomes the Supreme Court decision to consider these cases under civil and not military law. However, the Committee is concerned about the statute of limitation of cases of torture, about the low enforceability of judicial orders by the Ministry of Interior as well as the lack of standards, protocols and procedures to specify the maximum force that may be applied to adolescents in custody. The Committee is furthermore concerned by the reticence of the police and the prosecutor's office to promptly and thoroughly investigate and prosecute all cases of torture, cruel or degrading treatment against children by police officers.

43. **The Committee recommends that the State party:**

- (a) **Reiterating the recommendation by the Committee Against Torture in 2009 (CAT/C/CHL/CO/5 para. 10), introduce a provision in the criminal code establishing that the crime of torture against children is not subject to any statute of limitation;**
- (b) **Enforce strict administrative control by the Ministry of Interior on judicial decisions regarding police forces;**
- (c) **Develop, implement and monitor the application of standards, protocols and procedures prescribed by the Supreme Court specifying the maximum use of force applied to adolescents in custody;**
- (d) **Promptly and thoroughly investigate, prosecute and adjudicate/determine all cases of torture, cruel or degrading treatment against children by police officers.**

Corporal punishment

44. The Committee notes the proposed law to modify article 234 of the civil code intended to prohibit corporal punishment against children. However, it is concerned that the proposed amendment appears to prohibit only corporal punishment which is perceived to cause injury and that article 234, by recognizing parents' right to correct children may allow parents to take certain corrective measures that can affect the physical and mental integrity of children.

45. **In the light of its general comment No. 8 (2006) on corporal punishment, and reiterating its previous recommendation (CRC/C/CHL/CO/3 para. 41), the Committee recommends that the State party adopt a comprehensive law that explicitly prohibits corporal punishment against children in all settings and includes measures to raise awareness of positive, non-violent and participatory forms of child-rearing.**

Sexual exploitation and abuse

46. The Committee welcomes the creation in 2010 of the National Observatory of Commercial Sexual Exploitation of Children, but is concerned about the high number of cases of sexual exploitation and sexual abuse, particularly of girls. The Committee is also concerned about the lack of cases of prosecution of perpetrators of sexual offences, including when committed by members of the Catholic Clergy. The Committee is further concerned about the insufficient and inadequate programmes and policies for the prevention, recovery and social reintegration of child victims.

47. **The Committee recommends that the State party:**

(a) Enact legislation to criminalize sexual offences, including sexual exploitation, against children, and define it as imprescriptible;

(b) Ensure that cases of sexual abuse of children, including by members of the Catholic Clergy, are effectively investigated and prosecuted;

(c) Develop and implement a national plan for training the various stakeholders involved in the legal redress of child victims of sexual exploitation and abuse, including specialization of court staff and police in criteria and standards for care and handling of cases, ensuring that all children subject to any form of sexual exploitation are treated as victims and not subject to criminal sanctions and ensuring perpetrators are duly prosecuted and punished;

(d) Take all necessary measure to effectively stop sexual exploitation and abuse of children and strengthen programs for the preventive and early detection of cases of sexual abuse in kindergartens, schools and colleges, while strengthening mechanisms, procedures and guidelines to ensure mandatory reporting of cases of child sexual abuse and exploitation;

(e) Improve the expeditious and timely access to coordinated programmes and policies for the prevention, recovery and social reintegration of child victims, at national, regional and local;

(f) Conduct awareness-raising activities to combat the stigmatization of victims of sexual exploitation and abuse, including incest, ensure accessible, confidential, child-friendly and effective reporting channels for such violations, and take all necessary measures to immediately stop this practice.

Harmful practices

48. While noting the proposed development of a protocol for the health care of intersex babies and children, the Committee is seriously concerned about cases of medically unnecessary and irreversible surgery and other treatment on intersex children, without their informed consent, which can cause severe suffering, and the lack of redress and compensation in such cases.

49. **In the light of its joint general comment No. 18 (2014) and No. 31 of the Committee on the Elimination of Discrimination against Women on harmful practices, the Committee recommends that the State party expedite the development and implementation of a rights-based health care protocol for intersex children, setting the procedures and steps to be followed by health teams, ensuring that no one is subjected to unnecessary surgery or treatment during infancy or childhood, protecting the rights of the children concerned to physical and mental integrity, autonomy and self-determination, providing intersex children and their families with adequate counselling and support, including from peers, and ensuring effective remedy for victims, including redress and compensation.**

Helplines

50. The Committee welcomes the measures taken by the State party to create and make available professional helpline services to children. However, it is concerned that they are not permanently available, they are not well known by children, in particular in rural areas, that the data collected is not standardized and does not feed into policy and programme decisions.

51. **The Committee recommends that the State party make child helpline services available 24 hours, seven days a week, increase awareness of their existence, particularly in rural areas, and uses the information collected to standardize procedures and duly inform policy and programmes.**

F. Family environment and alternative care (arts. 5, 9-11, 18 (paras. 1 and 2), 20-21, 25 and 27 (para. 4))

Family environment

52. The Committee welcomes the measures taken by the State party to promote parental skills, but is concerned about the limited participation of fathers in the upbringing of their children. The Committee is also concerned about the insufficient support to working mothers, in particular women heads of households, in fulfilling their parental responsibilities.

53. **The Committee recommends that the State party:**

(a) **Ensure that mothers and fathers equally share their parental responsibilities by promoting an active fatherhood approach;**

(b) **Review and adapt labour policies and regulations to promote a better balance between professional and private life by legally determining a stipulated number of working hours and annual leave, to safeguard personal time;**

(c) **Take the necessary measures to guarantee that support services are available outside working hours and expand access to public programs and services for all families.**

Children deprived of a family environment

54. The Committee is concerned about the still very high number of children placed in non-family residential care in contrast with the number of children in other types of care. It is also concerned with the quality of care provided and the reported incidents of violence against children in these settings.

55. **The Committee, recalling its previous recommendation (CRC/C/CHL/CO/3 para. 45), recommends that the State party:**

(a) **Promote foster care as a form of alternative care and ensure that institutionalization be used only as a measure of last resort, taking into account the best interests of the child;**

(b) **Ensure adequate safeguards and clear criteria, based on the needs as well as best interests of the child, for determining whether a child should be placed in alternative care;**

(c) **Provide adequate assistance to parents while their child is in care with a view to enabling them to take care of the child again, when in the child's best interests;**

(d) Ensure that children can have contact with their parents while in care, unless it is not in their best interests;

(e) Ensure periodic review of the placement of children in foster care and institutions, and monitor the quality of care therein, including by providing accessible and child-friendly channels for reporting, monitoring and remedying maltreatment of children;

(f) Take the necessary measures to prevent violence against children in foster care and institutions and stop its re-occurrence;

(g) Ensure that adequate human, technical and financial resources are allocated to alternative care centres and relevant child protection services, in order to facilitate the rehabilitation and social reintegration of children resident therein to the greatest extent possible;

(h) Take into account the Guidelines for the Alternative Care of Children annexed to the United Nations General Assembly resolution 64/142 of 20 December 2009.

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

Children with disabilities

56. The Committee welcomes the measures taken by the State party to promote the rights of people with disabilities. However, it is concerned that the public policy approach is still one of assistance and that the National Plan on Disabilities only vaguely mentions children. It is also concerned about the lack of updated and disaggregated data on children with disabilities, the limited availability of inclusive education and occupational training and the insufficient provision of appropriate rehabilitation services for children with disabilities, including mental health care for them and their caregiver(s). The Committee is furthermore concerned about cases of mentally disabled and deaf girls being sterilized, affecting their reproductive and sexual rights despite being prohibited.

57. **In the light of its general comment No. 9 (2006) on the rights of children with disabilities, the Committee urges the State party to:**

(a) **Develop a public policy approach that is rights-based and includes all children with disabilities;**

(b) **Develop goals, indicators and monitoring mechanisms to assess the effectiveness of law no. 20422 in promoting the effective social inclusion of children with disabilities;**

(c) **Collect and analyse data on the situation of all children with disabilities, disaggregated by, inter alia, age, sex, type of disability, ethnic and national origin, geographic location and socioeconomic background;**

(d) **Strengthen its efforts to ensure inclusive education and occupational training without discrimination, including through the allocation of the necessary resources, the adequate training of professionals and improvement of mobility infrastructure;**

(e) **Expand the provision of appropriate health services for all children with disabilities, including mental health care for them and their caregiver(s);**

(f) Take all necessary measures to enforce the prohibition on sterilisation and respect the reproductive and sexual rights of girls with disabilities;

(g) Develop advocacy activities at national and local levels to promote the effective participation of children with disabilities in matters that affect them.

Health and health services

58. The Committee is still concerned about the lack of an integral system of health care for all children up to the age 18 years, the difference in quality between public and private health services, the increased medication of children diagnosed with attention deficit hyperactivity disorder (ADHD), and both the undernourishment and obesity levels among children.

59. The Committee reiterates some of its previous recommendations (CRC/C/CHL/CO/3), draws the State party's attention to its general comment No. 15 (2013), on the right of the child to the enjoyment of the highest attainable standard of health, and recommends that the State party:

(a) Ensure that all children have access to quality health services, whether public or private, until they are 18 years of age;

(b) Make use of available knowledge on diagnosis and non-drug approaches to the treatment of ADHD, improve the diagnosis of mental health problems among children, ensure that the relevant health authorities determine the root causes of ADHD in children and take the necessary measures to prevent pressure on children and parents to accept treatment with psycho stimulant drugs;

(c) Strengthen measures to address underweight and overweight among children, promote a healthy lifestyle including physical activity, and take the necessary measures to reduce food marketing pressure on children with regard to food high in fat, sugar and salt;

(d) Seek financial and technical assistance from UNICEF, the World Health Organization (WHO) and Pan-American Health Organization, among others, in this regard.

Adolescent health

60. The Committee notes as positive the initiatives to strengthen sexual and reproductive health education in the school curriculum, expand availability of contraceptive methods and notes the draft law to decriminalize abortion in certain situations. However, the Committee is concerned about the high rate of adolescent pregnancy, and the low quality of sexual education programs and the lack of adherence to protocols by health professionals, which restrict adolescents' effective access to information and contraceptives. While noting the national programme to prevent suicide (2013), the Committee is still concerned with the high suicide rate among adolescents.

61. In the light of its general comment No. 4 (2003) on adolescent health, the Committee recommends that the State party:

(a) Adopt a comprehensive sexual and reproductive health policy for adolescents, which respects confidentiality and privacy, with special attention on preventing child pregnancy and raise awareness of and foster responsible parenthood and sexual behaviour, with equal attention to boys and men;

(b) Improve the quality of sexual education programmes for children and the professional training for health professionals;

(c) Decriminalize abortion and review its legislation with a view to guaranteeing the best interests of pregnant teenage girls and ensure, by law and in practice, children's access to safe abortion and post-abortion care services and that the views of the child are always heard and respected in abortion decisions;

(d) Adopt all the necessary measures to prevent, identify and address the root causes of suicide in children as opposed to suicide generally; establish free-of-charge 24-hour suicide helplines manned by qualified personnel, specifically for young persons and adolescents, and carry on appropriate public awareness programmes concerning suicide.

Drug and substance abuse

62. The Committee is concerned about the increased alcohol abuse in rural areas and drug abuse in urban areas among children. It is also concerned about the lack of studies and research on drug abuse, treatment and comprehensive rehabilitation of children.

63. **The Committee recommends that the State party address the incidence of alcohol abuse and drug abuse by children by, inter alia, providing them with accurate and objective information as well as life skills education on preventing substance abuse, including tobacco and alcohol, and develop accessible and youth-friendly drug dependence treatment and harm-reduction services.**

Children's rights and the environment

64. The Committee commends the State Party for the measures taken to respond to the 2015 earthquakes, whose human and material losses have been limited due to alert protocols and anti-seismic architecture. The Committee recommends that the State party:

(a) Continue to develop and implement a national plan for prevention and risk management, creating the necessary decentralized structures to promptly and effectively respond to emergencies and disasters, recognize the special vulnerabilities and needs of children, and promote the coordination between public and private actors;

(b) Increase children's awareness and preparedness for climate change and natural disasters by incorporating it into the school curriculum and teachers' training programmes.

Standard of living

65. The Committee welcomes the willingness of the State party to expand the programme *Chile Crece Contigo* until age 9, but is concerned that the programme does not include all children up to 18 years. The Committee is also concerned about the disparities in the standard of living between rural and urban areas and the number of children living in poverty, in particular indigenous children, in spite of the overall economic growth registered in the State party. The Committee is also concerned about the differences in access to sanitation between rural and urban areas.

66. **The Committee encourages the State party to progressively include all children up to 18 years in the programme *Chile Crece Contigo*. The Committee recalling its previous recommendation (CRC/C/CHL/CO/3 para. 60), recommends that the State party prioritize measures to reduce inequality between urban and rural areas, in particular indigenous areas, and effectively reduce the disparities in the standard of living between rich and poor, and expedite measures to ensure that all children living**

in rural areas have access to sanitation. The Committee further recommends that the State party continue to seek the technical assistance of UNICEF in this regard.

H. Education, leisure and cultural activities (arts, 28, 29, 30 and 31)

Education, including vocational training and guidance

67. The Committee notes law No. 20845 on educational inclusion, regulating the admission of students, removing mixed funding and prohibiting profit in educational establishments receiving State funding. However, the Committee is concerned about:

- (a) The high level of segregation in the school system, the differences in the quality of education, the still limited coverage of rural areas and the deterioration of the material conditions in public educational institutions;
- (b) Discrimination in access to education faced by pregnant girls and adolescent mothers and the levels of school drop outs;
- (c) Children resorting to violence to address divergent political opinions;
- (d) The absence of a regulatory and monitoring framework regarding private educational establishments.

68. **The Committee recommends that the State party:**

- (a) Promptly take measures to decrease segregation and to promote an egalitarian and inclusive educational system, prohibiting all schools, independently of the source of funding, public or private, to select students on arbitrary criteria or socio-economic background;**
- (b) Emphasize the quality of education and accelerate the allocation of increased targeted resources to education, in particular in free public schools;**
- (c) Provide quality training for teachers, and dedicate resources to improve adequate and accessible infrastructure;**
- (d) Increase efforts to improve conditions in schools in remote and rural areas and eliminate disparities in access to quality education between urban and rural areas;**
- (e) Ensure that pregnant teenagers and adolescent mothers and fathers are supported and assisted in continuing their education in mainstream schools;**
- (f) Develop and promote quality vocational training to enhance the skills of children and young people, especially those who drop out of school;**
- (g) Promote the development of competencies, instances and procedures for children at the school level for the peaceful resolution of conflicts, in particular those of a political nature;**
- (h) Develop and implement a regulatory and monitoring framework for the private educational sector ensuring respect for the principle of non-discrimination and promoting inclusion and respect for diversity;**
- (i) Seek technical assistance from the UNICEF and the United Nations Educational, Scientific and Cultural Organization (UNESCO) in this regard.**

Aims of education

69. The Committee is concerned about education being strictly evaluated according to instrumental and cognitive standards and indicators, excluding values and attitudes such as

equality of rights between men and women, development of empathy, respecting commitments, participation in democratic life and respect for the environment.

70. **In the light of its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party ensure, in all free, semi-private and private schools, that education contributes to the development of the fullest potential of every child, the development of respect for human rights, the preparation of the child for responsible life in a free society and the development of respect for the natural environment.**

Human rights education

71. The Committee is concerned with the insufficient incorporation of human rights and the rights of the child in the training of educational professionals, in the school curricula and in the activities of educational establishments.

72. **The Committee recommends that the State party develop and implement a national plan of action for human rights education, as recommended in the framework of the World Programme for Human Rights Education.**

Rest, leisure, recreation and cultural and artistic activities

73. The Committee regrets the insufficiency of recreational spaces for children and families and that the existing ones are often used by adults and for the consumption of alcohol and other drugs.

74. **The Committee draws the State party's attention to its general comment No 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts and recommends that the State party increase the availability of inclusive recreational spaces for children, in particular in free educational establishments, and to ensure they serve their purpose.**

IV. Special protection measures (arts. 22, 30, 32-33, 35-36, 37 (b)-(d), 38, 39 and 40)

Asylum-seeking and refugee children

75. The Committee is concerned that administrative procedures do not take into consideration the specific needs and rights of asylum-seeking and refugee children and that many of them do not have access to an adequate standard of living, health and education. The Committee is also concerned about the lack of available, disaggregated and updated data on asylum-seeking and refugee children.

76. **The Committee recommends that the State party:**

(a) Ensure that refugee status determination procedures take into account the specific needs and rights of asylum-seeking children;

(b) Ensure that refugee and asylum-seeking children enjoy an adequate standard of living and effective access to health, social services and education without discrimination;

(c) Provide disaggregated statistics on the current number of asylum-seeking and refugee children and expressly include these groups in planning activities and in economic and social indicators and statistical data;

(d) Seek the technical support of the United Nations Office of the High Commissioner for Refugees in this regard.

Children in situations of migration

77. The Committee notes the steps taken by the State party to increase the regularization of children in situations of migration and their access to education and health services. The Committee is however concerned that the current migration law lacks direct reference to the rights and guarantees of children. It is also concerned about the existence of administrative procedures that still hamper access to birth registration, education and health care services.

78. **The Committee recommends that the State party:**

(a) **Adopts its new migration legislation and ensure that it makes direct reference to the rights and guarantees of children;**

(b) **Disseminate and monitor compliance with existing regulations in public services and institutions, in particular civil registries, educational institutions and health services;**

(c) **Implement a comprehensive plan for social inclusion of migrants, including conducting awareness-raising campaigns to promote respect and inclusion.**

Children belonging to minority or indigenous groups

79. The Committee remains deeply concerned with the enduring situation of inequality, discrimination and violence against indigenous children, in particular Mapuche children.

80. **Taking into account the Committee's general comment No. 11 (2009) on indigenous children and their rights under the Convention and recalling its previous recommendation (CRC/C/CHL/CO/3 para. 74), the Committee urges the State party to:**

(a) **Recognize indigenous people and their rights in the new Constitution;**

(b) **Integrate an intercultural approach in child policies and standards;**

(c) **Strengthen its efforts to ensure that all indigenous children have access to health, education and basic social services, without discrimination;**

(d) **Take immediate steps to stop all violence by the police against indigenous children and their families including in the context of development activities;**

(e) **Ensure full compliance with article 1, paragraph 2 of the anti-terrorism law No. 20519 which prohibits its use against children;**

(f) **Promptly investigate and prosecute all cases of violence by police officers against indigenous children.**

Economic exploitation, including child labour

81. The Committee welcomes the creation of the Observatory against Child Labour and the new National Strategy for the Prevention and Eradication of Child Labour and Protection of Child Workers 2015-2025. However, it is concerned that child labour is not explicitly prohibited in law, and about the increase of child labour and the number of children exposed to dangerous work, in particular children from the poorest parts of society. The Committee is further concerned about the limitations of the inter-sectorial registration system on worst forms of child labour and the lack of integrated and comprehensive responses to children in such situations.

82. **The Committee recommends that the State party:**

- (a) **Enact legislation prohibiting child labour, including child-domestic labour;**
- (b) **Improve the data collection and entry of the inter-sectorial registration system on worst forms of child labour and utilize this information to develop targeted interventions;**
- (c) **Develop, adopt and implement protocols defining the role of each institution within a coherent and comprehensive system to provide timely and adequate support to child victims of child labour;**
- (d) **Ratify ILO Convention No. 182 (1999) concerning the worst forms of child labour;**
- (e) **Seek technical assistance from the International Programme on the Elimination of Child Labour of the International Labour Organization and to implement its recommendation No. 204 (2015) concerning the transition from the informal to the formal economy.**

Children in street situations

83. The Committee welcomes the programmes developed by the State party to support children in street situations, but is concerned about:

- (a) Insufficient disaggregated and updated information on children in street situations;
- (b) Lack of a national policy and regulatory framework and the insufficient programs for specialized intervention to provide adequate and timely care protection, recovery and reintegration of children in street situation;
- (c) Deficiencies in the health, education and social protection systems that prevent addressing the specific needs of these children.

84. **The Committee recommends that the State party:**

- (a) **Intensify its efforts to collect disaggregated and updated data on children in street situations, and conduct studies to better understand this phenomenon and make this information publicly available;**
- (b) **Develop a national policy and regulatory framework, with sufficient resources, for the development of sustainable, inter-sectorial and coordinated actions for the prevention, protection, recovery and reintegration of all children in street situations;**
- (c) **Take the necessary measures to adapt the health, education and social protection systems to the specific situation and needs of children in street situations to guarantee the full respect for their rights to education, health and minimum standard of living;**
- (d) **Reunite children with their families when it is in their best interests.**

Administration of juvenile justice

85. The Committee notes that law 20084 (2007) provides a special criminal system of juvenile justice and incorporates the principles of the best interests of the child, of proportionality of punitive interventions by the State and of responsibility of the adolescents for crimes committed. However, the Committee is concerned that:

- (a) The law 20084 does not establish a duly dedicated judicial system, with specialized judges, prosecutors and defence attorneys;

(b) Despite legal alternatives to deprivation of liberty, these are not considered by prosecutors and judges to the extent possible, resulting in high numbers of imprisonment convictions. In addition, existing precautionary measures in the first stage of the process expose children to lengthy pre-trial periods;

(c) Detention centres are often operated as juvenile prisons, lack programmes specially designed for the rehabilitation and reintegration of children in conflict with the law, and do not have the necessary resources to provide basic health, education and professional training.

(d) There is a lack of adequate mechanisms for children to report human rights abuses, in particular when deprived of liberty.

86. In the light of its general comment No. 10 (2007) on children's rights in juvenile justice, the Committee urges the State party to bring its juvenile justice system fully into line with the Convention and other relevant standards. In particular, the Committee urges the State party to:

(a) Establish a separate juvenile justice system with specialized judges, prosecutors and defence attorneys and ensure that all law officials receive appropriate education and training; and develop and implement protocols and orientation criteria to law officials to ensure consistency in the application of punitive measures;

(b) Ensure that prosecutors and judges duly take in consideration alternative measures to detention, such as diversion, probation, mediation, counselling, or community service and only consider detention as last resort and for the shortest possible period of time and that it is reviewed on a regular basis with a view to withdrawing it;

(c) Review existing pre-trial precautionary measures to ensure that children are not exposed to lengthy pre-trial detention periods. Ensure that reduced sentences do not constitute a measure of pressure for children to recognize their responsibility to avoid burdensome judicial processes;

(d) Improve the infrastructure of detention centres to ensure adequate security, dignity and privacy to children, as well as access to health services, education and professional training, taking into account their particular gender needs;

(e) Establish independent, confidential, child-friendly and child-sensitive mechanisms for children to report human rights violations, in particular when deprived of their liberty;

(f) To that effect, the Committee recommends that the State party make use of the technical assistance tools developed by the Interagency Panel on Juvenile Justice and its members, including the United Nations Office on Drugs and Crime (UNODC), UNICEF, OHCHR and NGOs, and seek technical assistance in the area of juvenile justice from members of the Panel.

Child victims and witnesses of crimes

87. The Committee welcomes the State party's Serious Abuse Reparative Programme to attend to children who are victims of violent crimes. However, it is concerned about its limited capacity. The Committee is also concerned about the lack of appropriate mechanisms to prevent re-victimization of children during judicial proceedings as well as the low levels of convictions, in particular regarding sexual crimes.

88. The Committee recommends that the State party ensure, through adequate legal provisions and regulations, that all child victims and/or witnesses of crimes, e.g. child victims of abuse, domestic violence, sexual and economic exploitation, abduction

and trafficking, and witnesses of such crimes, are provided with the protection required by the Convention, and that it take fully into account the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, annexed to Economic and Social Council resolution 2005/20.

Follow up to the Committee's previous concluding observations and recommendations on the Optional Protocol on the sale of children, child prostitution and child pornography

89. While welcoming the establishment of the inter-sectorial panel on trafficking in persons in 2008, the Committee remains concerned that the sale of children is not yet fully covered under Chilean criminal law and about the lack of a comprehensive data collection system, including information on criminal processes for offences under the Optional Protocol.

90. **Recalling its previous recommendations, (CRC/C/OPSC/CHL/CO/1 paras. 8, 10, 14 and 26), the Committee recommends that the State party:**

(a) **Ensure that the sale of children is fully covered in the State party's criminal law and prohibited in all cases listed under article 3, paragraph 1(a) of the Protocol;**

(b) **Establish a comprehensive data collection system, with information disaggregated by the nature of the offence, age, sex, ethnic group, nationality, socio-economic background and geographical area. It should also include information on the number of investigations, prosecutions and convictions;**

(c) **Strengthen systematic education and training for all relevant professional groups, reinforce dissemination of the Optional Protocol among the population at large, with a particular focus on children and parents;**

(d) **Reinforce its efforts to promptly investigate, prosecute and judge all allegations of offences under the Optional Protocol, and provide adequate support and redress to child victims.**

Follow up to the Committee's previous concluding observations and recommendations on the Optional Protocol on the involvement of children in armed conflict

91. **Recalling its previous recommendations (CRC/C/OPAC/CHL/CO/1 paras. 11, 18, 22 and 27), the Committee recommends that the State party:**

(a) **Add the age requirement of 18 years to the existing requirements for entry into military academies;**

(b) **Consider establishing extraterritorial jurisdiction for crimes under the Optional Protocol;**

(c) **Identify the situation of children entering Chile who may have been victim of crimes under the Optional Protocol and provide them with appropriate assistance for their physical and psychological recovery and social reintegration;**

(d) **Consider prohibiting the sales of arms to countries where children have been known to, or may potentially, participate in hostilities.**

K. Ratification of international human rights instruments

92. **The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights**

instruments to which it is not yet a party, namely the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

L. Cooperation with regional bodies

93. The Committee recommends that the State party cooperate with the Organization of American States (OAS) on the implementation of the Convention and other human rights instruments, both in the State party and in other OAS member States.

V. Implementation and reporting

A. Follow-up and dissemination

94. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented. The Committee also recommends that the fourth and fifth periodic reports, the written replies to the list of issues of the State party and the present concluding observations be made widely available in the languages of the country.

B. Next report

95. The Committee invites the State party to submit its [combined sixth and seventh periodic reports by 11 March 2021 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 31 January 2014 (CRC/C/58/Rev.3) and should not exceed 21,200 words (see General Assembly resolution 68/268, para. 16). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.

96. The Committee also invites the State party to submit an updated core document, not exceeding 42,400 words, in accordance with the requirements for the common core document in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents, approved at the fifth inter-committee meeting of the human rights treaty bodies in June 2006 (HRI/GEN/2/Rev.6, chap. I) and General Assembly resolution 68/268 (para. 16).
