



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of Chile and welcome the constructive engagement of your Government during the 32th session of the UPR Working Group in January 2019.

As the final outcome report on the review of Chile has been recently adopted by the Human Rights Council at its 41th session, I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office had prepared for the review of Chile – the Compilation of United Nations information and the Summary of Stakeholders' submissions – which I consider in need of particular attention over the next four and a half years, until the next cycle of the UPR. In identifying those areas, I have considered the statements and/or recommendations made by 101 delegations and the presentation made and responses provided by the delegation of Chile. I have also considered the actions taken by the Government to implement the 180 recommendations supported during the second cycle of the UPR. The aforementioned areas cover a range of issues, which appear in the annex to this letter.

I am encouraged by the measures taken by Chile since its review and welcome the adoption, in April 2019, of Law N. 21151, which provides legal recognition to the Chilean people of African-descent, their cultural identity, language, historical tradition, culture, institutions and worldview, and I encourage Chile to ensure its prompt implementation. I also welcome the adoption of Law N. 21154 designating the National Human Rights Institute as the National Preventive Mechanism for the Prevention of Torture.

I appreciate the commitments made by the Government of Chile with respect to the National Human Rights Action Plan 2018 – 2021 and encourage it to continue implementing the plan effectively in order to achieve concrete results in the areas highlighted in the annex to this letter and to facilitate the preparations for Chile's fourth cycle of the UPR. My advice to all Member States is to implement national action plans in close consultation and cooperation with all stakeholders, in particular the national human rights institution and civil society organizations and, where necessary, with the support of international organizations, including the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations entities, under the leadership of the United Nations Resident Coordinator.

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H.E. Mr. Teodoro Ribera Neumann
Minister for Foreign Affairs
Chile



I also encourage Chile to establish a permanent Inter Ministerial Human Rights Committee for comprehensive reporting and follow-up in relation to recommendations received from all international and regional human rights mechanisms and to treaty obligations, linking this to the Sustainable Development Goals. I strongly recommend the use of the OHCHR practical guide on this topic, which is available at:
http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

Please, kindly note that I am sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them with the implementation of the recommendations, following the review. An important measure that can contribute positively to follow-up action is voluntary mid-term reporting. Therefore, I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I welcome the practice of Chile to submit mid-term reports and encourage the Government to do so again on follow-up to the third cycle of the review, by 2021.

As stated by the Secretary-General in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals."*

I look forward to discussing with you ways in which my Office may assist Chile in relation to the areas identified in this letter and its annex.

Please, accept, Excellency, the assurances of my highest consideration.

Michelle Bachelet
High Commissioner for Human Rights

cc: H.E. Ms. Lorena Recabarren
Undersecretary for Human Rights
Ministry of Justice and Human Rights
Chile



Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Strengthening the national legislative framework by ratifying the human rights instruments to which it is not yet a party, including 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.

National human rights framework

- Bringing the Constitutional text fully into line with international human rights treaties, by ensuring that it explicitly protects economic, social and cultural rights and the rights of indigenous peoples.
- Ensuring that the national mechanism to prevent torture established within the National Human Rights Institute is in full compliance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and has the necessary human and financial resources to operate effectively, impartially and autonomously.
- Establishing a permanent Inter Ministerial Human Rights Committee for reporting and follow-up and ensuring the effective implementation of the National Human Rights Action Plan 2018–2021, including by aligning it with the Sustainable Development Goals.

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Strengthening relevant laws and policies to combat all forms of discrimination, including by bringing the 2012 Anti-discrimination Act fully in line with international human rights standards and ensuring its effective enforcement and implementation.

Development, the environment, and business and human rights

- Continuing efforts to implement the National Action Plan on Business and Human Rights and ensuring the participation of civil society in monitoring its implementation.
- Strengthening legislative, policy and institutional measures to address the environmental impact of development projects, in particular in the so-called “environmentally saturated zone”, and ensuring the application of the Guiding Principles on Business and Human Rights in the field of exploitation of natural resources.

Human rights and counter-terrorism

- Bringing anti-terrorism legislation fully in line with international human rights standards, including with regards to the definition of terrorism contained in the Anti-terrorism Act and the provision of fundamental safeguards and procedural guarantees to ensure a fair trial.

B. Civil and political rights

Right to life, liberty and security of person

- Ensuring impartial and effective investigations into all allegations of excessive use of force, ill-treatment, sexual violence and other abuses by law enforcement agents in the context of social protests, as well as against members of the Mapuche indigenous people during protests, evictions and raids into their communities; holding accountable those responsible for such acts; and providing appropriate compensation to the victims.
- Taking further action to alleviate overcrowding in detention centres, including by limiting the use of pre-trial detention and promoting a greater use of non-custodial measures; improving the living conditions in prisons in line with international human rights standards; and establishing a specialized judicial body to oversee the execution of prison sentences.

Administration of justice, including impunity, and the rule of law

- Continuing the investigation of serious human rights violations perpetrated during the military dictatorship, ensuring that perpetrators are punished in accordance to the gravity of their crimes and providing victims with comprehensive redress and reparations. Repealing the 1978 Amnesty Decree-Law and lifting the 50 years confidentiality rule on the testimonies contained in the National Commission on Political Imprisonment and Torture Report (Valech I) in order for courts to have access to such information.

Fundamental freedoms

- Reviewing legislation regulating the right to peaceful assembly in order to require, at most, prior notification of peaceful assemblies.
- Decriminalizing defamation and placing it within the Civil Code in accordance to international standards.

Prohibition of all forms of slavery

- Bringing national legislation on trafficking in persons fully into line with international standards and strengthening efforts to investigate this crime, bring perpetrators to justice, and provide adequate assistance and rehabilitation services to victims.

Right to privacy and family life

- Promoting further discussion on the draft law on same-sex marriage, in order to legalize same-sex marriage, and speeding up the adoption of the bill that would repeal article 365 of the Criminal Code on the age of sexual consent.
- Strengthening legislation to protect personal data and creating an independent control authority.

C. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

- Adopting further measures aimed at the inclusion of women in the formal workforce and at addressing the gender wage gap between women and men, including by expediting the adoption of bill No. 9.322-13 on equal pay for equal work.



Right to an adequate standard of living

- Enhancing efforts to address economic and social inequalities and persistent rates of poverty through the development of a comprehensive poverty eradication strategy linked to the Sustainable Development Goals.
- Developing a human rights-based and comprehensive social housing strategy that addresses the issue of housing segregation and fully realizes the right to adequate housing.

Right to health

- Adopting measures aimed at providing comprehensive sexual education with a human rights approach, particularly in remote areas, and ensuring adequate nationwide access to contraceptives and emergency contraception. Revising the current legislation on abortion to decriminalize it in all cases and to ensure access to safe abortion services in accordance with international human rights standards.

Right to education

- Continuing efforts to ensure full and equal access to inclusive and quality education for all, regardless of socioeconomic status, particularly in rural and remote areas. Adopting further measures to guarantee the availability of adequate resources for the education system on a sustainable basis and to eliminate all mechanisms and regulations by schools that result in the discrimination of students in accessing education.
- Improving the provision of and access to quality education for indigenous peoples.

D. Rights of specific persons or groups

Women

- Strengthening the anti-discrimination legislative, institutional and policy framework, including by adopting a comprehensive legal definition of discrimination against women and ensuring adequate resources for the Ministry for Women and Gender Equity to fully implement the national plan on equality between men and women.
- Continuing efforts to prevent and eradicate all forms of violence against women, including by expediting the adoption of the bill on the right of women to a life free of violence and amending the Domestic Violence Act to remove the requirement of "habitual ill-treatment".

Children

- Ensuring that the national legal framework for the protection of children is in line with the Convention on the Rights of the Child.
- Taking further measures to ensure adequate regulation, financing and supervision of the child protection system and to prioritize the integration of children into society rather than their placement in institutions. Ensuring that reports concerning abuses of children in residential centres under the control of the National Service for Minors are promptly, impartially and effectively investigated and perpetrators held accountable.



Persons with disabilities

- Continuing the process of harmonization of relevant laws and policies with the Convention on the Rights of Persons with Disabilities, especially in the case of persons with a mental disability, and establishing an independent mechanism to monitor the implementation of the Convention.

Minorities and indigenous peoples

- Continuing efforts to provide Constitutional recognition of the rights of indigenous peoples and developing a comprehensive strategy to eliminate poverty among indigenous peoples.
- Ensuring effective consultation processes with indigenous peoples in order to guarantee their free, prior and informed consent with regard to decisions that might affect their rights, and stepping up efforts to address the issue of land rights of indigenous peoples, including appropriate measures for the protection and restitution of their territories.
- Taking the necessary measures to implement Law N. 21151, which provides legal recognition to the Chilean people of African-descent, and engaging actively with the activities of the International Decade for People of African Descent.

Migrants, refugees and asylum seekers

- Enhancing measures to protect the human rights of migrant workers, regardless of their status, including through awareness-raising campaigns and the adoption of rights-based public policies to guarantee the protection of their basic rights, particularly in connection to housing, education, health care and employment.
- Ensuring that all persons in the territory or under the jurisdiction of the Chilean State have effective access to the procedure for determining refugee status.

Stateless persons

- Including into national legislation a definition of stateless persons and a national procedure for determining statelessness.