
**Committee on the Elimination of
Discrimination against Women
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**Concluding comments of the Committee on the Elimination of
Discrimination against Women: Chile**

Initial report

105. At its 264th and 271st meetings, on 18 and 24 January 1995, the Committee considered the initial report of Chile (CEDAW/C/CHI/1).

106. In introducing the report and its update, the representative of Chile stressed the importance of international commitments, and in particular the Convention, for the Chilean Government. She also pointed out that the recent political changes in Chile had not affected the programme for the implementation of the Convention, thanks to the continued and sustained process of consultation promoted by the Government. Special efforts had been made by the National Office for Women's Affairs (SERNAM) in order to update the initial report presented in 1991.

107. The representative pointed out that although abortion was illegal in Chile, in 1990 one out of every three pregnancies had ended in abortion. Fertility has diminished in every age group. Family planning policies were aimed at establishing non-discriminatory access to birth control and to methods for overcoming infertility. Fewer women were infected by the human immunodeficiency virus (HIV), than men, though there had been a significant increase in the number of women infected.

108. She indicated that the poverty rate was higher among women than among men and that women represented an increasing proportion among the poor. Currently, one of every four households were female-headed and these tended to be poorer than those headed by men. She further reported that, in 1991, SERNAM had adopted a national programme for the prevention of domestic violence.

109. The representative highlighted that the participation of women in the workforce had increased significantly in the formal and informal sectors in the last few decades and that female employment was increasing at a faster pace than that of men. Nevertheless, the unemployment rate for women was higher than that for men. She also reported that women's level of education had improved. However, women had not been able to improve their position in the job market because an unequal value was assigned to their work. Moreover, studies had revealed that the higher the level of education the woman had, the greater the salary discrimination.

110. The representative noted that women have had little involvement in the executive branch of Government; currently, the Government had three women

ministers. Women's participation in the legislative branch had been traditionally low. During the period from 1990 to 1994, there were only 6.5 per cent and 5.8 per cent of women among senators and deputies respectively. Women's political participation had increased in political parties and in some of them they accounted for 40 to 50 per cent of members. While there was a dialogue regarding political discrimination against women, there remained a low presence of women at decision-making levels.

111. The representative stressed that the political context of Chile explained why there had been limited legislative changes introduced by the Government, particularly where women were concerned. The current delicate political equilibrium, reached after 17 years of dictatorship, had created a situation in which it was extremely difficult to pass legislation without the agreement of the current opposition.

112. The representative stressed that the policies of the military Government towards women had been assistance-oriented and paternalistic and that they had reinforced traditional patterns regarding the role of women in society. In response to women's demands, in 1990 the first democratic Government had appointed women to top positions and had created SERNAM. The achievements of SERNAM between 1991 and 1993 had included recognition of discrimination against women, strengthening of SERNAM's institutional mechanisms and the recognition of some persistent realities such as domestic violence and the precarious status of women working from home.

113. The representative stressed that, in order to add a gender dimension to all government policies, the current Government assumed that discrimination against women was not expressed through occasional or partial situations, but rather was systematic and hence required structural and cultural changes. Consequently, the Government had designed an equal opportunity policy which aimed at reversing structural change so as to eliminate discrimination. Over the next decade, programmes and action plans would be undertaken within that framework. The representative noted the complicated process of implementing the policy, which required coordination among ministries and the identification of areas of top priority and their integration into the targets and budget plans of each ministry.

114. For the period from 1994 to 1999, an equal opportunity plan had been designed as the fundamental instrument for accomplishing the first stage of the equal opportunity policy. The plan sought to increase and improve the position of women in the labour market, as well as to promote their political and social participation, specifically in top decision-making levels. The implementation of the plan would have collateral effects on the legal system, on health, training and educational policies and on the modalities of child care, as well as on the sharing of responsibilities between women and men.

115. The promotion, implementation and follow-up of the plan were SERNAM's main responsibility. Institutional reinforcement of SERNAM was thus a top priority, particularly as adequate execution of the plan and similar positive action would contribute to Chile's compliance with the Convention.

General comments

116. The members of the Committee welcomed Chile's return to democracy. They noted with satisfaction that Chile had ratified the Convention without reservations.

117. Members expressed their concern that Chile's initial report did not follow the guidelines as defined by the Committee and recommended that they be taken into consideration when writing future reports. Members of the Committee offered advice on this matter. Concern was also expressed regarding the lack of statistics and more concrete data as to women's progress towards de facto equality in all areas of life. The representative noted that the 1994 updated version of the initial report followed the structure suggested by the Committee and that it contained many answers to their preoccupations.

118. Members emphasized that after 17 years of dictatorship it was necessary to reinstate women's human rights, and asked whether measures had been taken in that regard by the democratic Government. The representative said that women's protagonistic action against the dictatorship in the past had helped to create SERNAM and to introduce their concerns into the governmental agenda. However, she informed the Committee that the women's movement had reduced its political involvement. She pointed out that good working relationships existed between SERNAM and women's non-governmental organizations.

119. In reply to the concern expressed by members regarding the neo-liberal economic model and as to whether action directed towards the prevention and reduction of its negative effects on women was planned or being taken, she informed the Committee that the Government had opted for a model based on growth with fairness. In that context, the Government played an active role in linking economic and social development with its redistributive role, as well as with the implementation of policies targeted to various social sectors and defined groups. She informed the Committee that the Government had designed a national programme to overcome extreme poverty. In this framework, SERNAM was executing various programmes, including the national programme for women heads of households, in coordination with other ministries. That programme followed an intersectoral approach, including ageing women. The representative also elaborated on five measures for women in agricultural work. Some members suggested the need for action concerning infant mortality, the remuneration gap between women and men and female unemployment.

120. Members commended the establishment of SERNAM at ministerial rank and requested more information on its programmes, goals, institutional relationships and power.

121. Members asked whether non-governmental organizations had participated in the preparation of the Chilean report and been requested to publicize and disseminate the

report, together with their comments. In that context, members wanted to know whether cultural and religious factors were not also part of the obstacles impeding legal changes and asked for information about the participation of men in action towards the advancement of women in Chile.

Questions related to specific articles

Article 1

122. In reply to the concern expressed by members on the lack of a definition of the legal term of discrimination in the Constitution of Chile, the representative replied that Chile did not consider this as necessary since the Convention was considered law under article 5 of the Constitution concerning the ratification of international treaties.

Article 2

123. Members requested more information on the equal opportunity plan, including its goals, its impact on general public policy and its legislative base. The representative informed the Committee that the plan addressed eight areas: legislation, family, education, culture, work, health, participation and institutional support. The plan showed that the commitment of the entire Government had been presented to the executive, and a formal act of adoption was planned for 8 March 1995. She drew attention to the updated report and specifically its discussion of article 2, which noted action undertaken under the plan to date, including legislative reforms.

Article 3

124. In answering the questions regarding the status of SERNAM and its implementing capacity, the representative noted that SERNAM was created by law and that its Director had a ministerial rank. She pointed out that its budget and legal projects were directly negotiated by SERNAM in Parliament and that SERNAM had a direct relationship with all ministries. It had a coordinating rather than an executive role by choice. She added that the concerns and needs of women should be in the mainstream of public action and the specific ministry should carry out the executing activity. However, when an institutional gap existed, SERNAM executed programmes such as centres for information on women's rights and programmes for women heads of households, the prevention of domestic violence, temporary workers and the prevention of early pregnancy. SERNAM also had regional offices, with their directors being members of the regional cabinets.

Article 4

125. Members requested more information on the interpretation and implementation of article 4, as they had noticed that certain measures taken by Chile had eliminated the protection of women. The representative made reference to International Labour Organization (ILO) Convention No. 156, which was ratified by Chile in October 1994.

The objective of that Convention and of various measures taken by the Government was to encourage men to assume and share family responsibilities.

Article 5

126. Members expressed their appreciation for the high priority given by the national machinery to the prevention and elimination of violence against women in the family. Regarding the sanctions against offenders proposed by Law No.19.325, the representative informed the Committee that there were three types: obligatory attendance for therapeutic advice; fines; and, in more serious cases, prison. In addition, protective measures existed such as the right of the woman to leave the home and to have the family income protected. In response to questions as to whether, in cases of violence, the Convention could be invoked in court, the representative recalled article 5 of the Constitution of Chile, which gave the Convention the status of law. She informed the Committee that training and sensitization programmes for police personnel had been organized.

127. Members expressed concern about the high number of rapes reported and requested information on the legal and practical measures taken to combat that situation.

Article 6

128. Members expressed concern regarding the situation of women prostitutes and their vulnerability to violence. In reply, the representative recognized that Law No. 19.325 referred only to domestic violence and excluded prostitutes, which were under criminal law. She emphasized that in Chile the practice of prostitution was not condemned and added that sanitary control of women prostitutes was guaranteed. She agreed with the suggestion that studies and statistics on this specific group should be developed in order to focus policies and programmes, also in view of the danger of HIV infection of prostitutes.

Article 7

129. In response to requests for more information on the implementation of article 7, the representative said that Chile had ratified the Convention on the Political Rights of Women and had participated in the Interparliamentary Conference in Paris. She welcomed suggestions to create networks among women who had played a role in the recuperation of democracy in Chile and to study mechanisms such as quotas, which were seen as the most expeditious way of increasing the presence of women in positions of political decision-making.

130. Members raised questions as to the situation of political detainees. It was asked whether the Government had any policy to help women who had suffered from the effects of detention, directly or indirectly. The representative replied that a law had been adopted specifying the benefits established by the Government to help the

affected families.

Article 8

131. Responding to questions regarding the representation of Chilean women on the international scene, the representative emphasized that an increase in the diplomatic service would take time, but that efforts were being made to have visible female representation at high-level international conferences.

Article 10

132. Members noted that Chilean textbooks contained serious sex-role stereotyping and suggested changes. The representative replied that a non-sexist education law had been signed and that a seminar to train teachers in gender sensitivity had taken place. Guidelines for model textbooks were planned for 1995.

133. Members welcomed the initiative of the programme on education for peace and requested more information. In reply, the representative said that the programme was linked to the implementation of the Convention on the Rights of the Child and was being implemented by the Ministry of Education. The programme introduced students to human rights as well as to peaceful conflict-solving methods and was implemented in public and private schools.

134. Members noted the negative relationship existing between women's level of education and their remuneration compared to men. They asked what was causing the situation, whether it was affecting access by girls to higher levels of education and what measures were being taken by the Government in order to rectify the situation. Members also expressed concern about the levels of female illiteracy and requested information about its causes and whether any programme had been designed to help female adults to continue their education.

Article 11

135. Following a request for information on female temporary workers, the representative said that general policies directed to all agricultural workers guaranteed the limitation of working hours and basic working conditions. In that context, the Government had ratified various ILO conventions on working conditions for both women and men. Specifically, she pointed to local implementation of the heads of households programme, which included measures such as child care, training, education, promotion of women's public participation and provision of medical attention.

136. The representative agreed with observations that part-time employment could lead to women's marginalization in the labour market. She informed the Committee that SERNAM had studied women's real interests as well as experience acquired in other countries. In reaction to a comment on SERNAM's emphasis on the reproductive

role of women and what the role of men should be in that respect, she said that the changes introduced in labour legislation sought to ensure shared family responsibilities between men and women. New initiatives such as day-care centres in the workplace for both working fathers and mothers were being introduced. She also stressed that in 1994 Chile had ratified the ILO Convention on the matter.

137. Following a request for information on whether SERNAM had taken any action to improve women's working conditions, she replied that there was a law of the Ministry of Labour which provided for training of its personnel on specific issues such as maternity leave and non-discrimination. The law was supported by the World Bank and was considered as a special instrument to improve the situation of working women. Members wanted to know whether labour legislation gave any guarantee for equal remuneration as established in ILO Convention No. 101 and whether Chile had ratified that Convention. Members requested information on whether pregnancy was used to discriminate against women in the labour market, as well as on wage disparities in the public sector.

Article 12

138. Members noted the alarming levels of teenage pregnancy and inquired whether action was going to be directed to that sector of the female population, specifically regarding access to education. The representative replied that a special programme was planned in cooperation with the United Nations Population Fund (UNFPA) to prevent early pregnancy and give support to pregnant adolescents. The project consisted of providing information in schools and a study of sexuality among Chilean youth and dissemination of its results. An administrative circular issued by the Ministry of Education had prohibited discrimination against pregnant students but it had not been implemented in most schools because it was not a law. Efforts were being made by the Government, in the Parliament and through public opinion to transform it into law.

139. Members were seriously concerned by the fact that though abortion was illegal, it was nevertheless practised widely. They inquired whether the Ministry of Health was proposing concepts of family planning, how illegal abortions were recorded and how rural women could afford it. In response, the representative replied that Chile had signed the final document of the International Conference on Population and Development at Cairo without any reservation. Although family planning policy had been neglected for many years, the Ministry of Health was handling a programme for paternal responsibility, informing men and women of the various means of contraception. She recalled that the Government considered the practice of abortion a serious public health problem, that it could not be seen as a means of contraception and that its prevention was one of the purposes of the family planning policies. The family planning policies sought to improve the health conditions of mothers and children while affirming the rights of every family to have the number of children it desired.

140. The representative, in response to questions on consciousness-raising activities regarding HIV and acquired immunodeficiency syndrome (AIDS), replied that a special commission had been set up among various ministries and that campaigns had been organized in the media. She added that action was very slow because there was no consensus on the issue among social sectors and religious organizations.

Article 14

141. Members required more information on rural women living in poverty. The representative informed the Committee that efforts to collect accurate data had been made by the Government, which had helped to quantify the extent of rural women's poverty problems. She referred to measures directed towards rural women, such as the provision of child care, introduction of legal changes and, in some cases, access to property for women heads of households. Members suggested educational measures and income-generating activities. The development of appropriate technologies was also suggested in order to reduce the burden of their many activities.

Article 15

142. In reaction to concern expressed by members on divorce, the representative agreed that this was also a governmental preoccupation, especially in the context of a very high number of marital separations. She emphasized that, in Chile, there was no consensus on the issue. The Government was opening the discussion for public debate. Meanwhile, some members of Congress were drafting a law to be presented to Parliament.

143. In response to requests to highlight the legal capacity of married women to manage their property and the types of regimes existing, the representative replied that women had complete legal capacity in those matters and that recent legal changes had been introduced concerning the property of married persons, which took into consideration the economic protection of married women.

Article 16

144. Members asked for clarification regarding the legal status of children and parental authority and guardianship. The representative gave information on a recent law, still pending for adoption by the Senate, which would establish equality of rights for legitimate and illegitimate children, extend parental authority and guardianship to the mother and permit the establishment of paternity by blood tests.

145. Information was also requested by members on the minimum age for marriage in Chile and whether it was the same for both sexes. They were informed that there was a Committee's recommendation suggesting that the age should be 18, which would be compatible with the accorded age for accessing voting, civil and penal responsibilities.

146. In response to inquiries as to whether provisions existed giving the same protection and rights for financial support to married and unmarried women, the representative replied that married and unmarried mothers had equal rights to receive financial support for their children, but not for themselves.

Concluding comments of the Committee

Introduction

147. The Committee congratulated the representative of the Government of Chile on the presentation of the report and on the effort the Government had made to update the information submitted, which reflected a number of advances since 1991. The Committee also welcomed the presence of the Minister and Director of the National Office for Women's Affairs.

148. The Committee referred to the fact that those who prepared the report followed neither the standard format nor the Committee's recommendations concerning the interpretation of certain articles and the submission of information on them.

149. The Committee noted that the report was descriptive and general in nature, with few analytical references supported by concrete data and statistics. It noted further that in the discussion of the implementation of the articles, more attention was given to responses having to do with legal and normative provisions, and not enough information was provided on concrete actions. The Committee noted that this made it impossible to determine the extent of the gap between de facto and de jure equality.

Positive aspects

150. The Committee acknowledged the political will demonstrated by government administrations during the democratic period in seeking to improve the status of Chilean women, and drew particular attention to following clearly positive actions:

(a) The ratification of the Convention on the Elimination of All Forms of Discrimination against Women and its incorporation into national law;

(b) The progressive introduction of legal reforms, specifically directed towards eliminating discrimination and protecting women's rights;

(c) The creation of the National Office for Women's Affairs (SERNAM), designated as the body responsible for coordinating the initiatives of the executive in implementing the provisions of the Convention;

(d) Starting a peace-oriented education programme in the schools especially on the issue of all forms of violence against women to implement the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights;

(e) Starting a local Heads of Households Programme to improve the situation of women;

(f) Improving the working conditions of female agricultural workers.

Principal subjects of concern

151. The Committee expressed concern about laws which still contained discriminatory provisions, and about situations in which women were at a disadvantage compared to men, which contradicted the clear advances achieved in democracy and economic development in the State party.

152. The Committee also expressed its concern about the situation of rural women who did not have access to the same opportunities for the same services as those in the cities, as well as the low percentage of women in positions of political responsibility and about maternal mortality resulting from clandestine abortions.

Suggestions and recommendations

153. The Committee suggests that the Government of Chile should prepare its second report according to the guidelines, and that it should provide more complete, well-grounded information that would reflect the real as well as the legal situation of women, including the obstacles encountered, rather than basing itself on legal references.

154. The Committee urges the State party to promote the elimination of still existing discriminatory legal provisions especially in relation to the family and to bring Chilean legislation into line with the Convention.

155. The Committee urges the State party to introduce legislation opening up the rights to legal divorce.

156. The Committee requests the State party to provide more complete information, including relevant statistics, in its next report on the implementation of each of the articles, especially on topics such as violence against women, prostitution, political participation, reproductive health, working conditions and wages, the situation of "temporary" workers, women living in poverty, the de facto situation of women in the family, teenage pregnancy and the status of non-governmental organizations.

157. The Committee expresses interest in receiving information on the possible further strengthening of SERNAM. It also asked for more information on the implementation of the equal opportunities plan.

158. The Committee recommends a revision of the extremely restrictive legislation on abortion, taking into account the relationship between clandestine abortion and maternal mortality.

159. The Committee suggests that SERNAM should disseminate the report it had submitted to the Committee, together with the Committee's comments, as a means of heightening the awareness of those sectors that might be in a position to help improve the status of Chilean women.