



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
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**List of issues to be taken up in connection with the consideration
of the fifth periodic report of CHILE**

**Constitutional and legal framework within which
the Covenant is implemented (art. 2)**

1. Please indicate what specific steps have been taken to implement the Committee's concluding observations concerning the fourth periodic report of the State party relating to the 1978 Amnesty Decree-Law, No. 2.191, and, in this connection, specify the role played by the State Defence Council in combating impunity.
2. Please indicate whether, in the light of the Committee's earlier concluding observations, the State party has established the post of independent national defender of human rights to monitor the implementation of anti-discrimination legislation, among other issues.
3. Please describe the current situation with regard to the extradition of Alberto Fujimori and indicate what his current legal status is.

**Measures to combat terrorism and respect for the
safeguards set out in the Covenant**

4. According to information received by the Committee, charges of terrorism have been brought against members of the Mapuche community in connection with acts of protest or social demands relating to the protection of their land rights. It is reported that application of the Anti-Terrorist Act involves the imposition of penalties disproportionate to the seriousness of the incidents that occurred, and that formal guarantees of ordinary proceedings have been restricted. Please comment.

Non-discrimination and equality between the sexes (arts. 3 and 26)

5. Please indicate what steps are to be taken to follow up the legislative initiatives relating to succession referred to in paragraph 57 of the report.

6. Apart from the plan for equal opportunities in public institutions, what steps have been taken to reduce sex-based discrimination in the sphere of private employment? Please indicate in particular what measures are planned to combat pay disparities and the high level of unemployment affecting women.

Right to life and prohibition of torture (arts. 6 and 7)

7. Please indicate the terms used to define reparation to victims identified by the National Commission on Political Prisoners and Torture (report, paras. 109, 143 and 144).

8. In the light of the information contained in paragraph 84 of the report, please indicate: (a) whether cases of attempts on life and physical integrity committed by prison guards have been investigated; (b) how many of these officers have been tried and punished; and (c) how many victims and family members have been compensated, and what compensation they have received.

9. Article 330 of the Code of Military Justice provides for punishment of military personnel who, “in executing an order from a superior or in the exercise of their duties employ, or cause to be employed, **without due reason**, unnecessary violence in the execution of the acts which they are required to perform ...” (report, para. 129). Please tell what is meant by the expression “without due reason”. Could this rule be interpreted to mean that, given “due reason”, “unnecessary violence” on the part of military personnel would not be punished?

10. Please indicate whether the State party intends to take measures to ensure that the Carabineros are subject only to ordinary criminal jurisdiction and not to military jurisdiction.

11. What steps has the State party taken to establish exceptions to the overall ban on abortion and thus combat illegal and dangerous abortions for pregnant women who decide to terminate their pregnancies?

Right to humane treatment of persons deprived of their liberty (art. 10)

12. What steps has the State party taken to secure an effective improvement in conditions in Chilean prisons in accordance with article 10 of the Covenant? In this context, what steps have been taken to establish specific institutional machinery to monitor conditions in prisons and investigate prisoners' complaints?

13. Please indicate whether the construction of prison units referred to in paragraph 179 of the report has been completed, and supply details of the facilities in the light of article 10 of the Covenant.

**Right to a fair trial, independence of the judiciary and protection of children
(arts. 14 and 24)**

14. Please indicate the progress made by the interministerial expert group responsible for reforming the system of military justice (report, paras. 3 and 231), and in particular steps designed to ensure that all persons brought to trial are tried in accordance with the obligations set out in article 14 and in the Committee's general comment No. 13, on administration of justice (Covenant, art. 14).

15. Please indicate whether the criminal legislation which does away with the system of declaration of legal capacity for juvenile offenders is already being applied (report, paras. 228 and 229).

Right to vote and to be elected (art. 25)

16. Please explain the "binominal electoral" system (core document, para. 25 (a)) in effect in Chile in the light of article 25 of the Covenant.

Principle of non-discrimination (art. 26)

17. What steps has the State party taken to introduce a law which will ban all discrimination in the private sphere, in particular in access to housing, and will offer an effective remedy against such discrimination?

18. According to information received by the Committee, the Mapuche population is suffering from discrimination in access to public services, including education and health care. The human development index of the Mapuche community is one point lower than that of the non-indigenous population, and their poverty is closely linked to the gradual loss of their land. What measures has the State party taken and/or what measures has it planned to correct this situation?

Rights of minorities (art. 27)

19. It is stated in paragraph 318 (a) of the report that the Government has expressed its commitment to grant constitutional recognition to indigenous peoples and to ratify the 1989 Indigenous Peoples and Tribal Convention (No. 169) of the International Labour Organization (ILO). Please indicate the progress made in this respect, and specifically whether an article has already been included in the Constitution recognizing the existence and the rights of Chile's indigenous peoples.

20. Please indicate whether the State party plans to broaden the scope of Act No. 19253 of October 1993, regulating indigenous land, so as to cover "ancient" lands that are not covered by the present definition in the Act, and to expand indigenous peoples' right to land into a broader right to ownership of, use of or access to all their natural resources in accordance with article 27 of the Covenant and the Committee's general comment No. 23, on the rights of minorities (Covenant, art. 27).

21. According to information received by the Committee, the 1993 Indigenous Peoples Act fails to respond to some of the main demands of the indigenous movement and falls seriously short in terms of the rights set out in article 27 of the Covenant. In addition, the recommendations made by the Historical Truth and New Deal Commission are reported to have been ignored by the Government in drawing up the “new deal” policy. What measures has the State party taken to correct this situation?

Dissemination of the Covenant

22. Please indicate the steps that have been taken to disseminate information on the submission of reports and their consideration by the Committee, and in particular on the Committee’s concluding observations.
