



ngo group for the crc

STATE PARTY EXAMINATION OF CHILE'S THIRD PERIODIC REPORT

44TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

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Chile ratified the Convention on the Rights of the Child (CRC) in 1990. On 26 January 2007, the Committee on the Rights of the Child (the Committee) examined Chile's Third Periodic Report.

Opening Comments

The Minister of Planning, Mrs. Clarisa Hardy, headed the delegation. In her opening statements, she elaborated on the benefits of having the first female President in Chile's history. She explained that with the establishment of a democratic government in 1990, citizens became increasingly aware of their rights and demanded them. She outlined the country's goal of having a modern social welfare system and the efforts to reduce poverty were very successful. In 1990, almost 40% of the population lived below the poverty line and by 2003, the poverty rate was reduced to 18%. However, there was a significant and unequal distribution of income. The richest 20% of the population had an income 14 times higher than that of the poorest 20% of the population. Furthermore, she discussed the idea of establishing a social protection system to ensure universal rights in society. The major debate taking place was what rights, how many rights, and how would they be financed when looking at the scope of the system. The three pillars of Chile's new plan of action were; 1) Chile solidario social protection system a protection network to combat extreme poverty, implement a comprehensive health plan, and provide free education (primary and secondary) to the poorest and most vulnerable sectors of the population; 2) Implement a comprehensive child protection system; and 3) Implement a labour protection system to guarantee

decent work practices. The government was committed to ensuring universal rights from birth to old age. To achieve this, the state budget for 2007 was the highest in the history of Chile. This was, in part due to the 5% growth in the economy allowing for an 8% increase in social expenditure. Regarding the Child Protection System, the focus would be on 2 areas: addressing the root causes of inequality and ensuring that there was indivisible and irreplaceable responsibility of the state. Chile planned to reform the educational system by creating subsidies for universal and free education from kindergarten (4 years old) onwards, thus ensuring the effect on all families, parents, and the labour force. Chile needed to ensure access, coverage and quality to all children from early childhood. In order to protect the varied needs of vulnerable children, an advisory council was to be created to ensure reform, protection and the provision of children's needs. Although the implementation and management of such a social protection system could seem daunting for a new government, Mrs. Hardy expressed commitment to this important social aim.

The country rapporteur, Mr. Liwski, noted that the state had halved poverty, improved education, and had a notable economic growth. However, he stated that the income distribution was amongst the most unequal in the world and had hardly changed since 1990. With social expenditure at 14.7% in 2003, there was a concern that the tax system had not led to a significant redistribution of wealth. Ten per cent of the population lived under the poverty line. There was great concern that indigenous children (i.e. 32% of children) attended school for substantially fewer years than their non-indigenous peers. These children only averaged 6 years of education in total. Mr. Liwski wondered why this problem persisted given that the state guaranteed 12 years of free education. Liwski believed the difficulties for these children were, in part, due to the reduction in investment for bilingual cultural programmes in school.

Legislation

The Committee mentioned that Chile had ratified almost all the international treaties in the Inter-American and UN system, but asked about the implementation of so many new laws, given that the draft law on the rights of children and adolescents had not come into force. The delegation explained that in the first half of 2007, the state would set up an observatory for children. The observatory would serve as an independent body to follow the compliance of the CRC and would be committed to submitting annual reports. The observatory's report would guarantee that views from the public and private sector were heard.

Budget and Social Expenditure

The Committee asked about the reduction in expenditure on intercultural education. The delegation acknowledged that there were some mistakes in the State party report. In reality, there was increased expenditure, with the majority being spent on the most vulnerable children. Spending was doubled for indigenous children with 60 million USD spent in the first phase and 100 million USD in the second phase. 40% of this was used for healthcare and education for indigenous communities. The Congress was discussing a change to its distribution methods to allocate resources more effectively to the most vulnerable populations. The state wanted to increase expenditure by 50% to special schools, people with disabilities, indigenous people, as well as preschool and basic education. This bill was to be studied in 2007 and hopefully adopted the same year.

The Committee enquired about the government's plan to combat the major disparity between the richest 20% and the poorest 20% of the population. The delegation responded that through an increase in social expenditure in 2003, this disparity was reduced by half. The delegation explained that the government was working on two programmes which would change the tax policies to combat this issue further. By 2010, there should be a comprehensive welfare system that would better redistribute wealth.

Civil Rights and Freedoms

The Committee noted the progress in data collection and asked about the efforts made to ascertain the conditions of the most vulnerable groups of children. The delegation did not respond directly to this question, but spoke extensively about provisions for indigenous groups. The Committee asked about the possibility of an Ombudsman. The delegation responded that a bill for the creation of an Ombudsman was in the early legislative stages. The delegation noted that the lack of an Ombudsman did not indicate a lack of communication and pointed out the Ombudsman of citizen's rights, which dealt with protection, human rights and educational matters. The Committee asked if the voice of children was really respected and what efforts were being made to protect the rights of the child to be heard. The delegation pointed out the many regional programmes which encourage youth participation in government and as counsellors, encouraging conversation about policies at local level. The Committee asked about the rights of children to be heard in court cases, particularly in the case of divorce. The delegation responded that a programme came into force in 2005 in which the best interests of children and adolescents were the driving principles in conflict resolution and other matters. Children and adolescents were increasingly heard in divorce cases.

The Committee asked about the efforts made to promote the principles of the CRC. The delegation pointed out the "Chile is growing with you" programme, which was drafted with the participation of children and aimed to make people aware of the CRC. The Committee asked about a comprehensive national plan of action. The delegation mentioned the many ministerial initiatives that were in place.

Definition of the Child

The Committee asked about the contradicting age of marriage at 16, age of majority at 18 and age of schooling at 21. The delegation responded that this contradiction did exist, because the State did not want to have a legal majority timeframe. The Committee asked what efforts were made to ensure the registration of children. The delegation responded that all children were registered in primary school and this was considered very important as it ensured their entitlement to social services and nationality. The Committee asked about the entitlement to Chilean nationality. The delegation responded that all persons born in Chile were entitled to nationality except foreigners in transit. The Committee asked if children under the age of 18 could be admitted to military service. The delegation responded that children were not accepted for military service.

Non-discrimination

The Committee was amazed to see that sexual relations continued to be criminalised for adolescents. The Committee wanted to know if the new government envisaged or had new ideas to change the situation. The delegation explained that certain pieces of legislation which had been discussed in parliament. These non-discrimination laws would criminalise any acts of discrimination of any nature. The Committee asked about discrimination against those with disabilities. The delegation pointed out a law of equal opportunities and social integration was aimed at persons with disabilities to combat discrimination. The law of equal opportunities and social integration would provide hearing aids, wheelchairs, and other supplies to ensure children from early childhood had access to lifelong education. Furthermore, the Ministries of Investment and Planning adopted regulations that would make it impossible for the construction of public buildings unless there was a possibility of access for persons with disabilities.

Health

The Committee asked whether the list of thirty diseases, covered by the state's healthcare system, would be extended and enquired if the government was implementing modern medical methods in a culturally sensitive way. The delegation said that healthcare was free to all, forty diseases were covered, and that the goal was to expand the list of diseases to eighty by the year 2010. There were 300 medical programmes aimed at indigenous people. The culturally relevant health policy had 22 services across the country and spent 7 million USD. Over the previous 5 years, 10 million USD

were spent in the area of indigenous healthcare. The comprehensive child protection system would create 345 centres by 2010. Furthermore, there was a higher number of pharmacies selling indigenous medicines for public use. Admission to emergency room services was not denied to indigenous or migrant people, even when payment was not possible. The Committee noted the decline of HIV/AIDS in youth populations, but its increase in adult populations. It asked what was being done in this area. The delegation responded that it was difficult to reduce the prevalence of HIV/AIDS in adults and that this issue was part of the Universal Access to Health Care with explicit guarantees health-care plan (AUGE). This plan took into account the role of psychotherapy services as well as treatment and it had been well supported by NGOs and the international community.

Teenage Pregnancy

The Committee asked about the availability of the morning-after pill to girls and whether there was reproductive health and sexual education available to children. The delegation said that any girl could go to a pharmacy and get the morning-after pill if she was able to pay for it. The pill, through a decree by the Ministry of Health, could be used without the consent of a parent if the child was raped. Reproductive and sexual education took some time to be included in the national education programme, but it was being used. Public debate about having a compulsory sexual and reproductive education programme in school had led to the media imparting knowledge to the general population.

Education

The Committee expressed urgent concerns that measures were not being taken to address the learning marginalisation of certain sections of the population. The Committee asked about the need for curriculum reform to entice all children to learn. The delegation stated that for the first time, the government had made preschool a priority. In the President's first speech, she told the public that preschool was the path to secure better opportunities for children. Thirty-six years earlier, only 4% of children went to preschool, in 2007 the figure was 12.6%. The government also increased funds for its free kindergarten programmes; increasing funds by two hundred thousand USD in 2006. In response to making sure that the poorest 40% received quality education, the delegation said, that the state analysed what each region needed (programmes, materials, teacher training, etc.). The government looked at characteristics of families who needed services and how to respond to their needs. It also asked representatives from the indigenous communities to participate in meetings to reform the curriculum. The Committee asked if vocational training was offered. The delegation responded that these schools did exist, however they had not been given great priority in the last few years. There was a special programme for children 17-18 in these schools, however it was not widely used.

The Committee asked what the government planned on doing about the 25 000 children with disabilities that did not attend school. The delegation explained that buildings and classrooms were adapted to improve access. Children with disabilities were included and integrated into the education system. A great example of this was that deaf and mute children were teaching sign language to the rest of the classroom. The Committee asked if teachers were given any special training on children with disabilities and how such services would be evaluated. The delegation said that teachers were trained, assessed, and supported during the educational process by technical trainers. The delegation also noted the importance of NGO schools in special education.

The Committee asked about measures taken to enrol and retain more indigenous children in school. The delegation explained that 57 schools offered bilingual education. In addition, the state provided materials and scholarships to the poorest children, as well as special supplies for schools with high dropout rates. There were food programmes available that enabled 50% of children access to food provided by the state. The food programme took into account the problem of obesity and calculated the individual caloric needs of students. Uniforms were provided to 1 million children and textbooks were provided to all schools.

Juvenile Justice

The Committee asked if judges were specialised in juvenile justice and if they knew about the CRC. It also enquired if judges were able to refer to the CRC in judgments. Judges were being trained in the CRC and other international instruments in specific judicial training centres. Since the ratification of the CRC, courts had commonly invoked it. The Committee asked about the common criminal code for both adults and children. The delegation responded that juvenile justice was a subset of the adult criminal. The delegation said that special rules applied to juveniles aged 14 to 18. The Ministry of Justice was seeking to implement a specific procedure for juvenile justice which would determine jurisdiction, protection and detention measures for children in conflict with the law. There was a plan in place to establish a monitoring commission for detention centres similar to those in Paraguay. The Committee asked about preventative detention. The delegation admitted that not all procedures were in line with international due process laws, however efforts were being made by the Ministry of Justice to rectify this. The Committee asked about existing options for the punishment of children. The delegation responded that children could be sentenced to community service or sent to semi-closed facilities. Prison sentences were only for specific crimes. The delegation said that when a serious offence was committed, interrogation took place in the presence of a lawyer. Deprivation of liberty was used as a last resort. There were 7 alternative programmes implemented instead of the deprivation of liberty. These detention centres were geared towards the education and reintegration of children into society.

Sexual Exploitation

The Committee asked why victims of sexual exploitation were detained, put on file, and considered like criminals. It enquired about any preventative measures the state had put in place to combat sexual exploitation. The delegation explained that, in order to curb sexual exploitation, the state had created a programme in 2003. The private sector created 17 programmes in 11 regions under the responsibility of NGOs that provide services to victims of sexual abuse and exploitation. These NGOs received funds to help victims. In 2006, the government received financial assistance from the International Labour Organization (ILO) to help combat commercial sexual exploitation. In an educational setting, 400 children and 200 families were educated about sexual exploitation. Furthermore, the government worked with various countries to approach border issues in a systematic way.

Adoptions

The Committee enquired if children from a certain age group were able to consent to adoption and whether there was an age limit. The delegation responded that children aged 14 and above could give consent on the adoption. The Committee asked about any policies preventing children from knowing their heritage. The delegation responded that children were in fact encouraged to discover their heritage through the programme "Searching for Roots." The Committee asked if unmarried couples could adopt. The delegation responded that this was possible if they fulfilled all the requirements. The Committee asked about international adoptions. The delegation noted that the Hague Convention was ratified. This meant that international adoptions, which accounted for less than half of all adoptions, were possible. The delegation also said that new legislative provisions had been implemented to shorten the length of the adoption process.

Torture and Abuse

The Committee expressed interest in the implementation, or lack thereof, of compensation to those individuals who were tortured under the dictatorship. The Committee wanted to know why the commission was not taking the testimonies from people who were children under the dictatorship and asked if there was a way to address this. The delegation explained that the Commission of Torture was operational and submitting reports. A final report established a set of benefits for the 1200 children under 18 (136 were under 3) who were victims of such torture. The benefits included

a free medical care, rights to housing subsidies, continued education up to university level, and no military service for the first and second generations. Furthermore, children victims of torture and detention, who were unable to give their testimony, had a chance through an extension of the Commission's work to ensure their testimonies were heard.

The Committee asked about the use of corporal punishment in homes. The delegation responded that adults were allowed to correct children as long as it did not affect their mental or physical health. This definition was upheld in a decision on child abuse by the Chilean Courts. The delegation acknowledged that the legal definition of child abuse was not completely in line with the CRC, but negotiations were on-going on this issue. The Committee asked about abuse in institutions. The delegation responded that children's homes and institutions were closely monitored and all complaints of abuse were investigated.

Indigenous Populations

The Committee asked about the policy regarding the indigenous population in terms of constitutional rights and whether these people knew about the CRC. The delegation explained that there was a special institution, created in 1992, called the National Corporation for Indigenous Development. This institution helped educate and inform indigenous people about the CRC and their constitutional rights. This programme sought consultation from members of the indigenous population, asking them discuss relevant legislation with parliament. In March 2007, the government was going to produce and distribute hard copies of the CRC in 4 languages so indigenous people could read it. The delegation stressed the state's desire to guarantee constitutional rights for all indigenous people. The increase in indigenous participation had been a positive change.

Closing Remarks

The head of the delegation, Mrs. Hardy, thanked the Committee for the opportunity to have this fruitful discussion. It was the government's first opportunity to present its future plans to an international body. She acknowledged that the government had a great debt and that problems of the past needed to be solved to guarantee the rights of all the people in Chile.