



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
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18 de abril de 2017

Excelencia:

En mi calidad de Relator Especial para el Seguimiento de las Observaciones Finales del Comité de Derechos Humanos, tengo el honor de referirme al seguimiento de las recomendaciones contenidas en los párrafos 7, 15 y 19 de las observaciones finales sobre el informe periódico de Chile ([CCPR/C/CHL/CO/6](#)), aprobadas durante el 111º período de sesiones del Comité, en julio de 2014.

El 5 de enero de 2016, el Estado parte envió una respuesta de seguimiento al Comité. Durante el 119º período de sesiones, en marzo de 2017, el Comité evaluó la respuesta del Estado parte.

La evaluación del Comité y la información adicional solicitada al Estado parte están reflejadas en el Informe de seguimiento de las observaciones finales ([CCPR/C/119/2](#)). Por medio de la presente se adjunta, una copia de la versión avanzada no editada de la sección pertinente del mencionado informe.

El Comité consideró que las recomendaciones seleccionadas para el procedimiento de seguimiento no han sido plenamente aplicadas y decidió solicitar información adicional acerca de su aplicación.

El Comité agradecería recibir la información referida con anterioridad al **18 de julio de 2017**. Se solicita al Estado parte que, cuando presente su respuesta, tenga a bien no reiterar la información previamente proporcionada al Comité.

La información solicitada tendrá que ser remitida en versión electrónica de Microsoft Word a la Secretaría del Comité de Derechos Humanos (Kate Fox: [kfox@ohchr.org](mailto:kfox@ohchr.org) y [ccpr@ohchr.org](mailto:ccpr@ohchr.org)). De conformidad con la Nota del Comité de Derechos Humanos sobre el procedimiento de seguimiento de las observaciones finales (véase [CCPR/C/108/2](#)), el informe de seguimiento no deberá superar las 3.500 palabras.

El Comité confía en poder continuar su diálogo constructivo con el Estado parte sobre la aplicación del Pacto.

S.E. Sra. Marta Maurás Perez  
Embajadora  
Representante Permanente  
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Acepte, Excelencia, la expresión de mi más distinguida consideración.

A handwritten signature in black ink, appearing to read 'Mauro Politi'.

Mauro Politi  
Relator Especial para el Seguimiento de las Observaciones Finales  
Comité de Derechos Humanos



## Report on follow-up to concluding observations of the Human Rights Committee, [CCPR/C/119/2](#):

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### New assessment of replies<sup>1</sup>

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- A Reply/action largely satisfactory:** The State party has provided evidence of significant action taken towards the implementation of the recommendation made by the Committee.
- B Reply/action partially satisfactory:** The State party took steps towards the implementation of the recommendation but additional information or action remains necessary.
- C Reply/action not satisfactory:** Response received but actions or information not relevant or do not implement the recommendation. The action taken or information provided by the State party does not address the situation under consideration.
- D No cooperation with the Committee:** No follow-up report received after reminder(s).
- E Information or measures taken are contrary to or reflect rejection of the recommendation**
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Concluding observations:	<a href="#">CCPR/C/CHL/CO/6</a> , 22 July 2014
Follow-up paragraphs:	7, 15 and 19
First reply:	<a href="#">5 January 2016</a>
Committee's evaluation:	Additional information required on paragraphs 7[B], 15[B][B] and 19[B][C]
Non-governmental organizations:	<a href="#">Corporación Humanas and others</a> (4 September 2015)

**Paragraph 7: The State party should amend the Counter-Terrorism Act and adopt a clear and precise definition of terrorism offences in order to ensure that the counter-terrorism efforts of law enforcement personnel do not target specific individuals on account of their ethnic origin or any other social or cultural factors. It should, furthermore, ensure that the procedural guarantees contained in article 14 of the Covenant are observed. The Committee urges the State party to refrain from applying the Counter-Terrorism Act against the Mapuches.**

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<sup>1</sup> Adopted by the Committee at its 118th session (17 October – 4 November 2016). The full assessment is contained in CCPR/C/119/3.

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**Summary of State party's reply**

The State party refers to the competence of the Office of the Attorney General and of courts to classify acts as terrorism once the criteria of this criminal offence are met, adding that any measure that might deprive of, restrict or disrupt the exercise of the rights of the accused requires prior judicial authorization.

The State party acknowledges that the selectivity with which the Counter-Terrorism Act (Act No. 18.314) has been enforced has undermined its legitimacy. The disproportionate increase in standard sentences for certain offences committed in the context of a social conflict has become clearly inconsistent with the principle of proportionality. In addition, under the legislation in question, acts that involve damage to material goods only can be classified as terrorist acts, contrary to international standards. Therefore, the current agenda of the President includes a commitment not to enforce this law in situations that may be described as social conflict or in relation to members of indigenous communities making social demands. Only 10 percent of the accused under Act No.18.314 were convicted, which reflects a low rate of effectiveness of the law, and since 11 March 2014 there have been no such convictions or criminal proceedings against persons of the Mapuche ethnicity.

The Counter-Terrorism Act has been the subject of numerous amendments but those reforms have not been sufficient to bring domestic legislation fully into line with the international human rights law. For this reason, a committee of experts mandated to provide specific recommendations was established in late May 2014 and it concluded its work on 4 November 2014 with the preparation of a bill establishing terrorist acts and the penalties related thereto and amending the Criminal Code and the Code of Criminal Procedure. The bill was pending at first reading before the Senate and is aimed at updating and refining the provisions that characterize terrorist acts, including a clear definition that allows for appropriate punishment. The bill regulates and expands the scope of action by the Office of the Attorney General in the investigation of these offences, ensures judicial oversight of those measures that could infringe on the rights and freedoms of persons, includes rules on international cooperation and assistance, and establishes the exceptional nature of the measure of protected witnesses to be applied at the investigation stage only based on specific and well-justified grounds, for a limited period of time and subject to judicial review. The bill also provides that the defence shall have access to all the evidence submitted by the Office of the Attorney General in the indictment, including the identity of protected witnesses.

**Information from non-governmental organizations**

A draft law was submitted in November 2014, but the proposed definition of terrorism is very general and susceptible to arbitrary application owing, in particular, to broad terms such as "disturbance of public order". The draft law is still under consideration. It maintains high penalties for terrorism offences and allows inordinately long periods of pretrial detention. The draft law also allows defence lawyers to know the identity of protected witnesses.

Concerning the Mapuches, the NGOs report that the law was invoked only in one case in connection with the attack on a police station in Temuco in December 2014 but no one appears to have been prosecuted.

**Committee's evaluation**

**[B]:** The Committee notes the State party's acknowledgement of infirmities in the current Counter-Terrorism Act, the information provided on the counter-terrorism bill by both the State party and the NGOs, and the information on application of the current law against the Mapuche community. It requires additional information on the content of the bill and the progress of its adoption, including information on: whether the new definition of terrorism offences and other key concepts such as "seriously disturb public order" comply with the principles of legal certainty and predictability and with international standards on the definition of terrorism; whether there are exceptions to the disclosure of the identity of protected witnesses to the defence to ensure the safety of such witnesses while also

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respecting the defendant's right fair trial; on measures taken to ensure that persons charged with terrorism offences are afforded all procedural guarantees under article 14 of the Covenant; and on the duration of pretrial detention allowed and sentences imposed in terrorism cases under the bill. The Committee also requires updated information on the application of the Counter-Terrorism Act (Act No. 18.314) against persons exercising their freedom of expression and peaceful assembly, and against the Mapuche community.

**Paragraph 15: The State party should establish exceptions to the general prohibition of abortion to take account of therapeutic abortion and cases where a pregnancy is the result of rape or incest. The State party should ensure that all women and adolescents have access to reproductive health services in all parts of the country. The State party should, furthermore, increase the number of sexual and reproductive health education and awareness-raising programmes, particularly for adolescents, and make sure that they are implemented.**

**Summary of State party's reply**

On 31 January 2015, a bill decriminalizing voluntary termination of pregnancy in three specific cases was submitted to Congress (Bulletin No. 9895-11). The three exceptions to the general prohibition of abortion are: (a) when a woman's life is at risk or will be in the future, and the termination of pregnancy eliminates that risk; (b) when the embryo or foetus suffers from a congenital or genetic structural alteration incompatible with extrauterine life; and (c) when a pregnancy is the result of rape, provided that the woman is not more than 12 weeks pregnant (and 14 weeks pregnant in the case of a 14-year-old girl). The bill provides that any woman wishing to voluntarily terminate her pregnancy must make known her wishes expressly, in advance and in writing. The State party elaborates on the issue of consent in the case of a girl under 14 years and between 14 and 18 years of age.

The bill contains a number of provisions relating to the procedure for terminating a pregnancy and to conscientious objection by doctors. It also sets out the obligation of health-care providers to give objective information in writing to the woman regarding the medical procedure and alternatives to termination of pregnancy, including the social and economic support programmes available. The bill provides for amendments to be made to the Criminal Code and to the Code of Criminal Procedure to ensure consistency and to guarantee that the duty of confidentiality prevails over the duty of reporting in cases of legal termination of pregnancy by a pregnant woman or by a third party with her consent. The in-depth consideration of the bill began on 30 September 2015 and it was hoped that the bill would be submitted for consideration by the Chamber of Deputies (in plenary) by the end of 2016.

Sexual and reproductive health counselling facilities have facilitated access to sexual and reproductive health services and related information (about 445,000 counselling sessions in 2014 compared to about 440,000 in 2012). In 2014, the human papilloma virus vaccine was administered free of charge to over 96,000 girls in schools throughout the country. The National Service for Women has adopted a series of measures aimed at education and awareness-raising on sexual and reproductive health, particularly in the adolescent population, such as a support programme for teen mothers designed to help teenage mothers and pregnant girls achieve social integration by developing a life plan, and the Healthy Sexuality and Reproductive Life Programme developed in 2014 to promote sexual and reproductive rights of teenage girls and boys between the ages of 14 and 19 from 32 towns (with a goal to expand the implementation to 60 towns in 2016, 90 towns in 2017, and 120 towns in 2018). In addition, the Intersectoral Round Table on Teenage Pregnancy was established to help retaining pregnant girls in school and help teenage girls and boys re-enrol in school. Furthermore, a pilot project to prevent repeat teenage pregnancies is conducted jointly by the National Service for Women and the Ministry of Health and includes home visits to provide support and guidance, and inputs for the development of a protocol for action.

**Information from non-governmental organizations**

NGOs confirm the information on the draft law regulating the decriminalisation of abortion

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in three specific circumstances, and note that, contrary to comparable legislation and the long health tradition in the country, the current draft law does not contemplate the risk to a woman's health as one of the exceptions but only the risk to life. Civil society organizations contributed to the debate of the draft law. An important group of parliamentarians from the ruling coalition expressed their rejection of some significant aspects of the draft law, particularly the lack of support for the rape as a ground for abortion and the requirement to incorporate the rape complaint as a prerequisite to access abortion.

Public policies concerning sexual and reproductive health of women focus on reproduction rather than on a satisfactory sexual life without any risk. 73,756 persons are on waiting lists for gynaecologist or obstetrician consultations; there are also waiting lists for specific medical procedures. Gender and class inequalities are compounded by misinformation and poor access to integrated sexual and reproductive health care.

There is no State policy on sexual and reproductive health education. Although Law 20.418 states that sexual education programs should be implemented in educational establishments, in practice these are only guidelines. The Ministry of Education developed a training guide on sexuality, sensitivity/emotions and gender, but its application is left to the discretion of each educational institution that will provide guidelines on how to tackle this topic in their establishments.

**Committee's evaluation**

**(a)[B]:** The Committee takes note of the bill decriminalizing voluntary termination of pregnancy when a woman's life is at risk and in cases of fatal foetal abnormality or rape (the latter subject to gestational age restrictions). The Committee remains concerned regarding the absence of exceptions to the prohibition on voluntary termination of pregnancy for, inter alia, pregnancy resulting from incest, therapeutic abortion (including the woman's health), and to avoid prompting women to seek backstreet abortions that endanger their lives and health, and requests information regarding the State party's plans to include such exceptions. The Committee requires additional information on the status and content of the bill, including any amendments to the original bill submitted to the Congress on 31 January 2015, the rationale for the restrictions on abortion in case of pregnancy as a result of rape based on gestational age; the nature of the provisions for conscientious objection and any reporting obligations, and any burdensome procedures for securing a voluntary termination of pregnancy. The Committee reiterates its recommendation.

**(b)[B]:** The Committee notes the information provided by the State party on sexual and reproductive health services, including the increase in the number of counselling sessions in 2014 and the measures taken by the National Service for Women with regard to education and awareness-raising programmes. It also notes the reported long waiting lists for gynaecologist or obstetrician consultations and specific medical procedures and disparities in access to such services, as well as the reported absence of a State policy on sexual and reproductive health education. The Committee therefore requests information on: (i) measures taken since the concluding observations were adopted to ensure that all women and adolescents have effective access to reproductive health services in all parts of the country; (ii) whether the Healthy Sexuality and Reproductive Life Programme will have been expanded to 60 towns in 2016 and 90 towns in 2017, as planned, and the outcome of its implementation; (iii) the progress achieved by the Intersectoral Round Table on Teenage Pregnancy and the outcome of the pilot project aimed at preventing repeat teenage pregnancies; (iv) whether sexual and reproductive health education is a formal part of the school curriculum.

**Paragraph 19: The State party should redouble its efforts to prevent and eliminate torture and ill-treatment by, inter alia, strengthening human rights training for members of the security forces and revising operating procedures for law enforcement personnel in the light of the relevant international standards. The State party should, furthermore, ensure that all allegations of torture or ill-treatment are investigated**

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**promptly, thoroughly and independently, that perpetrators are brought to justice and that victims receive appropriate reparation, including health and rehabilitation services.**

**Summary of State party' reply**

Since 2013, the prevention of torture and other inhuman, cruel and degrading treatment has been included in Carabineros training programmes and a series of human rights training measures were implemented for its officers. Specific training modules are being developed to support face-to-face teaching and distance learning on the protection of vulnerable groups and on the prohibition of torture.

The investigative police currently use 63 operating procedures, or protocols, that standardize investigative processes and also establish, clearly and specifically, the duties and responsibilities of the investigating officer. The review of the use of the protocols is conducted by the Department for Oversight of Police Procedures (No. VIII) of the Inspectorate General. In 2012, the Carabineros revised the Special Forces protocols to align them with national and international human rights standards and published the new protocols in 2014. The 30 protocols describe different modes of police intervention to maintain public order during demonstrations and draw on established principles of international human rights law relating to this issue. The protocols establish the basic preconditions for the use of force and firearms, officers' duty to limit the use of coercive means to the minimum necessary, and the application of the principles of legality, necessity and proportionality, respect for human dignity and the right to demonstrate freely and peacefully. Special protocols have been established for juvenile offenders, including for children belonging to indigenous ethnic groups, and elaborates on their content. With regard to the deprivation of liberty, Protocol No. 4.5 expressly prohibits torture and inhuman, cruel and degrading treatment, provides for immediate reporting of such acts to administrative and criminal justice authorities and for thorough, prompt and impartial investigations. The obligation to detect and investigate torture and other inhuman, cruel and degrading treatment was strengthened by General Order No. 2297 of 14 August 2014, updating the "[i]ntervention protocols for the maintenance of public order".

With regard to the measures taken to investigate allegations of violence and abuse by the police during public demonstrations in 2011 and 2012, the Carabineros and the investigative police have initiated investigations and administrative inquiries with a view to determining any administrative or disciplinary responsibility, and have penalized those found guilty, as appropriate; where necessary, they have initiated the standard procedures before courts. Since March 2014, the Carabineros legal administrative investigation offices report to the Carabineros court officers. The State party further elaborates on the investigation of allegations of misconduct of investigative police officers generally, including referral to the Office of the Attorney General, noting that these violations are considered matters within the competence of the ordinary courts rather than the military courts, as established in the case law of the Supreme Court. It notes that criminal proceedings have been initiated to investigate abuses or violence by investigative police against members of indigenous communities, especially the Mapuche. The investigative police have special police investigator brigades in Concepción and Temuco, areas where police operations mainly take place in Mapuche communities.

**Information from non-governmental organizations**

In 2014, Carabineros informed that its curriculum dedicated more teaching hours (up to 72 hours) on human rights, including more specific subjects such as the Convention against Torture. However, the sessions on human rights constitute about 6 percent of teaching hours, and do not include references to other instruments such as the Covenant.

Operating protocols recognize the right to demonstrate and reinforce the requirement that force must be used in accordance with the principles of legality, necessity and proportionality, and that the criminal actions to be repressed are of individual nature rather than collective. However, concerns remain in particular regarding the use of dissuasive means such as water cannons and tear gas that are employed without distinction between

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those who provoke incidents and those who demonstrate peacefully, and the lack of a proportionate and targeted use of such means.

NGOs also note that the offense of torture has not yet been criminalized, and the only existing criminal provision is that of "unlawful coercion" that has a more limited reach. As a positive development, criminal proceedings were initiated in October 2015 against four Carabineros for acts amounting to torture committed against demonstrators in the city of Freirina in 2012.

**Committee's evaluation**

[B]: The Committee notes the information provided on the human rights training for Carabineros officers and on the operating protocols in force. However, it requires additional information on: (a) the number of training hours dedicated to prevention of torture and ill-treatment in the curriculum for Carabineros, the content of such training and the number of persons trained since the adoption of the concluding observations; (b) the development of specific training modules for face-to-face teaching and distance learning regarding prevention of torture and ill treatment; (c) instances of non-compliance with relevant operating protocols in the context of police interventions during demonstrations since the adoption of the concluding observations, including with regard to the use of water cannons and tear gas and sanctioning of such conduct.

[C]: The Committee notes the general information provided by the State party but regrets the lack of concrete information on measures taken since the adoption of the concluding observations regarding the number of investigations, prosecutions and convictions regarding torture and ill treatment, specific punishments imposed, and reparations provided to victims, including health and rehabilitation services. The Committee reiterates its recommendation.

**Recommended action:** A letter should be sent reflecting the evaluation of the Committee.

**Next periodic report:** 31 July 2019

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