

CHILE

SHADOW REPORT TO THE UN COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

53rd Session, October 2012



Articulación Feminista por la Libertad de Decidir



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INTRODUCTION

The Feminist Articulation for Freedom to Choose (in Spanish, Articulación Feminista por la Libertad de Decidir) is a feminist group formed by numerous women's and lesbian's organizations and collectives who work defending women's human rights and promoting full citizenship. Each of these entities contributed to the design and development of this report through the collection of background data stemming from their various activities.

The sources used come primarily from studies and research carried out by these organizations and groups. Mostly based in the country's news tracking and in the response to current situations of concern. They have allowed us to generate public denouncements about violence and discrimination that affects women and lesbians. This is the case of violence against women students, sexual violence, femicide, institutional violence, structural violence, violence against lesbians, workplace violence, etc.

Furthermore, we did a bibliographic search of relevant texts developed by other organizations from the Chilean women's movement that explore in depth several topics of interest to which this report refers. Some key informants from the women's, feminist and lesbian feminist movement were interviewed, thus enabling us to establish a greater consistency between our positioning as Articulación Feminista por la libertad de Decidir and the social demands of activists that represent groups that are not part of the Articulación, but share the core points of our agenda.

A first part of this report states our requests to CEDAW Committee for the articles 2, 6, 10, 11, 12, 14. The second part includes issues that have not been made visible enough by the debate that the Committee favors. Finally, some aspects that could support the elimination of violence against women and lesbians in Chile are discussed. Finally, the document was validated by every member organization.

Below is the list of member organizations:

- Ideas sin Género
- Fundación Instituto de la Mujer
- Red de Salud de las Mujeres Latinoamericanas y del Caribe, RSMLAC
- Feministas Feas
- Red Chilena contra la Violencia hacia las Mujeres
- Observatorio de Equidad de Género en Salud
- Comité de Servicio Chileno, COSECH
- Movimiento pro Emancipación de la Mujer Chilena, MEMCH
- Colectivo Conspirando
- Foro de Salud y Derechos Sexuales y Reproductivos
- Educación Popular en Salud, EPES
- La Ciudad de las Diosas
- Warmipura, Mujeres Inmigrantes

We also want to thank the collaboration of:

Fundación ONG Raíces and Secretaría de Género de la Federación de Estudiantes de la Universidad de Chile.

I PART: REQUESTS TO CEDAW COMMITTEE

ARTICLE 2: POLITICAL MEASURES NEEDED TO ELIMINATE DISCRIMINATION

The eradication of violence is the main purpose of the CEDAW Convention, and it is the aim of the advocates behind the preparation of this Report. To emphasize the magnitude of this issue the review of article N° 2 will focus on the everyday violence that affects women. Because we are concerned about the way this issue is addressed in the country, and because the reproduction of everyday violence shows the limitations of the measures taken by the State against discrimination.

This is linked to the violence against women that is reinforced by the media. In the month of July the Chilean Network against Domestic and Sexual Violence (Red Chilena Contra la Violencia Doméstica y Sexual), filed two appeals before the Commission of the Chilean Code of ethics against Virutex S.A and Old Spice S.A because of its serious sexist advertising¹. This refers to their failure to consider the contents of article N° 1 of CEDAW on what is understood by violence and expresses the weaknesses of the gender mainstreaming process, since it contradicts the achievements described by the official and supplementary Chilean report.

Violence against women has not decreased. On 2011, 142,961 domestic violence victims were registered, 80.2% were women i.e. 114,248 (Boletín Anual Min. Público, 2011). In this context, civil society organizations (CSO's) are concerned about the inadequacy of State's protective measures for victims. As an example: On 2011, The Chilean Network against Domestic and Sexual Violence, detected twenty femicides. Eleven of the murdered women denounced the offender before the competent bodies and seven of them had protective measures. This data does not appear in the report that the government of Chile provides to the Committee. This reduces substantially the possibilities of improvement.

Feminist efforts achieved, in 2010, the definition of femicide by Law No. 20,480 expanding the range of what is violence on the domestic violence's law. However, despite what is indicated on the RAV in the supplementary Chilean report its implementation is hampered by the lack of coordination between public institutions involved in this area. The cross-institutional commissions (mesas intersectoriales) have minimum impacts on the approach to violence, resulting in an increase of 30.7% of femicides (NGO ACTIVA, 2012). This indicates inconsistencies between the official and CSO's reports on violence against women. It is noteworthy that the NGO ACTIVA based its report on data provided by SERNAM (the national service for women). The official data adheres to a narrow focus of femicide. The Chilean Network against Domestic and Sexual Violence, which applies a more comprehensive approach, says that femicides increased in a 47%.

¹ Ver <http://www.nomasviolenciacontramujeres.cl/node/1660>

Another unmentioned aspect in the Chilean State report reflects the abuse of power that the police exercised against young students in the 2011 student demonstrations, and the police abuse against Mapuche women and children. The students complained against the permanent police abuse. As an example, a video documentary chronicles Chilean police sexual harassment to twelve underage girls. They were detained during the occupation of their high school². The National Human Rights Institute (Instituto Nacional de Derechos Humanos – INDH) reports these violations in their 2011 annual report³

The antiterrorism law (ley antiterrorista) -which is applied in most of the Mapuche trials- accepts witnesses without faces, long periods of detention without the right to benefits and harsh sentences twice that of ordinary justice. This law impairs Mapuche women and their families' lives, which are increasingly subjected to police violence along with their children. In July, it was reported that the police raid on Temucucui left many Mapuche people wounded with pellets, among them, at least four minors⁴. The National Human Rights Institute filed an appeal in the Temuco Court of Appeals. El Observatorio Indígena (The Indigenous Observatory) and other human rights organizations denounced the use of excessive force and torture during the police raids and arrests, especially in the case of women, boys, girls and adolescents⁵. The above increased indigenous women's perception about the multiple kinds of oppression they suffer for being indigenous, women and poor⁶.

Taking the above into account we require the CEDAW Committee to:

- Demand the State of Chile to extend the contents on violence of the current Law No. 20,480, in order to adjust the State's actions to its international commitments.
- Exhort the SERNAM to take a greater protagonism on those matters, take into account the diversity of women in order to stay away of stereotypical notions of womanhood and to work to improve the coordination of governmental bodies who work around violence against women and civil society organizations.
- Instruct the State party to design and implement non-sexist and anti-discriminatory actions regarding: 1. - The advertising and media regulation on these issues and to request the development of a gender-neutral production protocol for this kind of material; 2. - The control and punishment of police violence against women; 3. – Respect for human rights observers work by the police whilst carrying out arrests, 4. – The disqualification to hold public office of those who engage in discriminatory practices against women.
- Exhort the State party to repeal the Antiterrorist Law.

² Ver <http://www.youtube.com/watch?v=9ODF-ZT9AbY>

³ Ver <http://www.indh.cl/wp-content/uploads/2011/12/27555-Informe-Anual-2011-BAJA1.pdf>

⁴ Ver <http://www.observatorio.cl/node/6896>

⁵ Ver <http://www.biobiochile.cl/2012/01/11/justicia-declara-ilegal-detencion-de-mujeres-golpeadas-por-carabineros.shtml>

⁶ Ver <http://www.humanas.cl/?p=10541>

ARTICLE 6: HUMAN TRAFFICKING AND PROSTITUTION

As stated in the official report, Human Trafficking is covered under the Law 20.507. However, it lacks specific resources to be carried out properly. This is aggravated by the absence of clear standards and tools designed to prosecute traffickers and protect victims. Furthermore, the Chilean report omits the fact that since 2007, no raising awareness actions about Human Trafficking have been carried out hindering the socialization of the law contents.

While, as stated by the Chilean supplementary report, in 2006 a Cross-Institutional Commission on Human Trafficking was formed (Mesa Intersectorial sobre Trata de Personas), any specific results or outcomes of their action are not known. Even after its reactivation on July 2011. Only informal communications from Ministerio del Interior to NGO Corporación ONG Raíces exist regarding an ongoing diagnosis on the topic that will be shared in August 2012. The Cross-Institutional Commission, comprising representatives of ministries and public services, has no civil society participation. This inconsistency between the information provided on this report and the one provided in the official report regarding the achievements of the above-mentioned Cross-Institutional Commission is emphasized.

The issues outlined above underpin the crime of human trafficking's lack of visibility. That helps to maintain behaviors that naturalize its occurrence and naturalize women's blaming for committed offenses as well (ONG Raíces, 2008). Currently, there is a pilot project in place seeking to protect women victims of trafficking in shelters implemented by the Servicio Nacional de la Mujer (Women's National Service). But we are concerned that this pilot project is not linked to policies that would provide sustainability to this and other actions.

Taking the above into account we require the CEDAW Committee to:

- Urge the State of Chile, as part of the implementation of pilot programs, to design and implement a sustainable public policy in line with existing social issues.
- Urge the Chilean State to start training its border officials, police and various stakeholders about the Law 20.507.
- Request the State of Chile to activate effective, cross-institutional coordinating mechanisms aiming to comprehensively protect and support the victims. Among many others, these efforts shall include health care, law/legal guidance and support, training and job access.
- Request the State party to implement communication campaigns to raise awareness about human trafficking.
- Demand the Chilean state to deliver up to date information about the actions and outcomes of the Mesa Intersectorial sobre Trata de Personas (Cross-Institutional Commission on Human Trafficking).
- Request the State of Chile to review its tourism policy to avoid making things easy to any organized crime's gangs.

ARTICLE 10: EDUCATION

The rate of teenage pregnancy in Chile (51 live births per thousand women aged 15 to 19 years) has increased in both absolute and relative terms during 2011. Currently, there are approximately 40,000 young women who became pregnant, of which 80% drop out of school for this reason⁷. The socioeconomic component indicates that the proportion of young parents in poor districts in Santiago is 22 times bigger than that of the capital's richest district⁸.

The current regulations relating to mothers and/or pregnant students (Art. 11 de la Ley General de Educación) are not respected in subsidized private and professional technical educational establishments. The situation in private educational establishments is even worse, the pregnant and/or mother students are often expelled or forced to meet special criteria for remaining in the entity for example, if they are in a health control with their child's physician this it is not considered a valid reason to miss their classes, even if they have a medical certificate that proves it⁹. Currently, Article 11 of Law 20,370 provides no penalties for establishments that engage in discriminatory practices toward pregnant or mother students. This law was enacted in 2009 and it started to be implemented in 2010, however the Superintendent of Education should have determined the penalty for infringement in early 2012, the official have not done so.

According to the National Board of Kindergartens (Junta Nacional de Jardines Infantiles JUNJI; 2012)), in 2011 there were 55 nurseries in Chilean schools installed within them or in nearby areas, whose main objective is to care for teen parents children. However, there is no detailed record of what schools have nurseries inside. While municipal records exist, they are not transformed into information that can be crossed with regional and national variables, which will make research and quality control possible. Information about how many mothers and fathers make use of this service, among other relevant data is not available. Please, note that this service when exist is not of exclusive use of the parent students. Currently, high schools are not required to provide daycare.

With regard to measures for teenage pregnancy's prevention, on 2010, the Government selected seven educational programs on sexuality and affectivity. Those were chosen by a experts committee that evaluated several programs offered by public universities, private foundations and NGOs. In some of these approaches chastity and virginity are highly valued and the negative effects of sexual initiation at an early age and contraceptive use in adolescents are emphasized (MINEDUC, 2012). These programs mostly teach gender roles based on biological essentialist criteria and are selected according to the educational project of the establishment, so they reproduce inequality in the access to information and contraception. It is concerning that one of these sexual education programs qualifies homosexuality and lesbianism as a sexual identity disorder.

⁷ <http://www.gob.cl/informa/2012/04/23/ministra-del-sernam-lanza-importante-programa-para-terminar-con-el-80-de-desercion-escolar-en-madres.htm>

⁸ <http://prosaludchile.blogspot.com/2011/04/embarazo-adolescente-y-desercion.html>

⁹ http://www.junaeb.cl/prontus_junaeb/site/artic/20100202/asocfile/20100202164019/jornada_nacional_mesa_r ed_de_proteccion_social_acta_2_.pdf

As for the elimination of stereotypes in the educational process, there is no clarity about what it means to mainstream gender in education or what is educational material with sexist content. For example, the language used in a text about the "Bicentennial Project"¹⁰ speaks of *niños* in a generic form, the word *niños* means boys, but it is used to imply boys and girls, invisibilizing the latter. This shows the lack of a clear definition of gender mainstream in education approach, despite the promotion of non-sexist content when MINEDUC tendered textbooks, in fact, in the same text, presenting, among others, four images of women that show one that is tired and over eating ice cream, those of men exhibit an expert and a hiking group. Moreover, the gender perspective is restricted to inclusive language and explicit – with biases- the contribution of women in history, without incorporating it as a transversal axis throughout the pedagogic contents.

Taking the above into account we require the CEDAW Committee to:

- Demand the Chilean State to clearly define actions aimed to modify discriminatory behaviors from educational establishments towards pregnant and mother students. That information shall be disseminated to educational communities throughout the country.
- Instruct the State party to elaborate a national cadaster of existing nurseries. Accounting for the students mothers who used them, and the ones who don't. Setting disaggregated data and types of school districts to facilitate a better approach to their needs.
- Require the State of Chile clear criteria for the development of educational materials on sexuality, in a way that is consistent with the estimated age for sexual consent and the actions aimed prevent teenage pregnancy.
- Order the withdrawal of educational material contrary to a liberating approach to sexuality, based on the three principles of autonomy: freedom, action and responsibility.
- Demand the Chilean state to provide a clear definition of what content or sexist stereotype means and to create instances and mechanisms to enforce and monitor the removal of such content from the textbooks.

ARTICLE 11: EMPLOYMENT

The report of the State of Chile accounts for the female labor participation rate increase recorded by the National Statistics Institute (Instituto Nacional de Estadísticas, INE). Two aspects regarding this information need a careful analysis. The first relates to the maintenance of the gap in participation rates between men and women. In Chile women's unemployment rate was higher, it reached 1.4 times higher rates than men in 2011 (ILO, 2011). Also we can say that women face more barriers to access paid work, because women's rate of unemployment (14.49%) nearly doubles men's rate of unemployment (8.24%), according to CASEN 2009. The traditional heavy load of domestic work is linked to women's difficulties to join the world of paid work. The same source provides information about women's grounds for not seeking work, and those related to domestic

¹⁰ **Texto** -Lenguaje y Comunicación. 1º básico. Tomo II. "Proyecto Bicentenario" creada por Departamento de Investigaciones Educativas de Editorial Santillana

work (26.3% by household chores and 13% for exercising caretaker role) account for about a 40% of those).

The second aspect is the quality of jobs that incorporate women. Women's employment "[...] explain 54% of the variation in employment in the last 23 months (384,000 jobs), however, 41.7% of these jobs consist of women's self-employed, working as domestic servants or in unpaid family jobs (Fundación Sol, 2012). Women present higher levels of vulnerability than men (ibid. pp.7). This refers to have a written contract, indefinite settlement of salary and pension contributions, health and unemployment insurance. This refers to the quality of work they choose. The INE report finds that only 16% of the working age female population has access to a permanent employment contract, unemployment insurance and pension contributions. 27.2% of the working age female population access to informal jobs with no contract, no social protection, or defined fixed-term contracts, or they are underemployed.

Moreover, according to Fundación Sol's studies (2011, 2012), women's employability has deteriorated to a greater degree as a result by the current trend of workers' "supply" or "outsourcing" (90% of female employment increment during the current government work in an outsourcing modality). These systems prevent or hamper the chances of negotiating the employment's terms by the workers, and weaken the access to social guarantees as well. The information reflects how precarious is female employment in Chile, this linked to the information on the law 20,123 in the Chilean official and complementary report shows the need to design better strategies and practices in employment aiming to overcome this insecurity.

The discussed above is aggravated by the huge wage gap between women and men. Women earn on average 48,8% less than men (INE, quarter Oct.-Dec. 2010). Despite the enactment of law 20,348 that equals wages between women and men.

Taking the above into account we require the CEDAW Committee to:

- Require the Chilean state to redistribute unpaid domestic labor among the state, women, men and society as a whole.
- Instruct the State party to incorporate domestic work into the Educational Programs curriculum as a social responsibility that not only belongs to women.
- Demand to the State party the dissemination of the Law 20123's contents on outsourcing, to comply with the worker's right to information.
- Require the Chilean State to audit the proper application of the law 20123's contents concerning outsourcing.
- Request an evaluative study about the impact of the law 20123, especially regarding its relationship with the precariousness of women's employment and with the Decent Work Principles promoted by ILO.
- Urge the Chilean state the development and effective implementation of monitoring mechanisms to ensure compliance with the law 20,348 which equates wages between men and women.

ARTICLE 12: HEALTH

The silent and gender-blind privatization reform carried out by the present government has a negative impact on the right to health of various types of women. Its effects can be observed in health status, access to and use of health services, health care funding, among others. This becomes evident in gaps that show that women do not enjoy the right to health on an equal footing with men. Also, the lack of governmental will to implement the Gender Policy in Health (Política de Género en Salud, 2010) and Health Policy in Gender Violence (Política de Salud en Violencia de Género, 2009), contribute to this situation (*Matamala, Eguiguren y Díaz, Tensiones y Silencios en la Reforma de la Salud, 2011*). Some of these issues are detailed below.

The law 20,418, Norms on Information, Orientation and Performance in the regulation of fertility (Normas sobre Información, Orientación y Prestaciones en materia de regulación de la fertilidad, 2010), is framed in international human rights instruments on sexual and reproductive health signed by Chile, according to which it is committed to ensure the provision of health services, education and justice for all people. CSOs have denounced this non-compliance, especially in adolescents' lack of access to emergency contraception, and the condoms' shortage. The Observatory of Gender Equity in Health (Observatorio de Equidad de Género en Salud *ibid*, p. 20) states that the lack of access to emergency contraception has helped keep the teen pregnancy as a public health problem. Fundación ProSalud presented to the Advisory Council on Gender and Women's Health of the Health Ministry (Consejo Consultivo de Género y Salud de las Mujeres del Ministerio de Salud), a report on adolescents being denied emergency contraception in municipal health clinics (ProSalud, 2011). The Faculty of Health Sciences, Universidad Central, states "the delivery of emergency contraception has not been optimal" (Dides et al, 2011). According to this study give municipalities argue lack of stock, but contradictorily they don't replace it with the Yuzpe¹¹ method. The research adds that while in 2011 the number of municipalities that do not provide emergency contraception decreased to 10.9% (35 municipalities) the occurrence of this legal transgression puts in evidence the lack of monitoring and evaluating of the law's implementation.

Chile is among the five countries in Latin America and the Caribbean, where abortion is prohibited in all circumstances. There are an estimated of 120,000 induced abortions per year, the figure is uncertain due to lack of official data (*Maira, Hurtado y Santana, 2010*). From the 90, "The State has ignored the recommendations of international human rights committees on laws, policies and practices relating to abortion" (*Shepard y Casas, RHM, 5/2009*), including the Committee CEDAW's recommendations. Although since 2009 instructions from the Health Ministry (Ordinario A15/1675 del MINSAL) states that cases of abortion complications shall not be prosecuted and their confidentiality shall be upheld, still women interned in public hospitals for unsafe abortions report suffering mistreatment

¹¹ The Yuzpe method is a less effective alternative to Emergency Contraception Pills. It consists on big and precise doses of certain contraceptive pills containing etinilestradiol y levonorgestrel in a precise time frame.

and intentional care delay¹². In the Advisory Council on Gender and Women's Health of the Health Ministry (session 5/10/2011), Health Ministry authorities acknowledged that there has been no follow up to its implementation. Finally, it is worrying that the Chilean parliament refused to legislate in 2012 on three bills that sought to legalize abortion on grounds of health, rape and severe fetal malformation.

CSOs working on HIV/AIDS, women's organizations and UN agencies in Chile and PAHO and UNFPA have expressed the MINSAL (Health Ministry) their concern and disagreement with the Rules of Test for HIV (Reglamento del Examen para la detección del VIH, Decree No. 45 2011). That decree mandates pregnant women to undergo compulsory HIV testing, and in case they have a positive result, their sexual partners must be located. This decree reinforces a hygienist approach linked to "health police methods" that violates the free decision on the diagnosis and reinforces stigma and discrimination. Although Circular 47/2011, issued later, said that women could refuse the test, it has not been widespread, not even in the health sector.

The State of Chile continues its silence about the complaints of HIV+ women sterilized without consent in public hospitals. Given the lack of official response, Vivo Positivo, supported by the Center for Reproductive Rights, sued the State of Chile before the IACHR (*Dignidad Negada, 2011*).

The Chilean official reports do not mention any actions aiming to overcome historic and persistent gender discrimination in the Chilean system of private health insurance (Instituciones de Salud Previsional, ISAPRE). This non-solidary system discriminates women, because based on "associated risk" because of their sex, increases arbitrarily the costs of their health insurance plans, especially during their fertile years (*Matamala, Eguiguren y Díaz, 2011, pp. 20-21*).

In conclusion, in Chile the right to health and women's sexual and reproductive rights are not protected nor guaranteed. This means that the free and autonomous decision making of individuals in general is hindered, and those obstacles get considerably bigger for women and youth in particular, affecting their quality of life, liberty, and overall health.

Taking the above into account we require the CEDAW Committee to:

- Urge the State of Chile to ensure social health protection based on the principles of universality, solidarity funding and equality, incorporating gender analysis into all policies and monitoring their implementation.
- Require the State of Chile to implement actions to ensure timely and non-discriminatory access to the services that the Law 20,418 states, especially contraception, with delivery of emergency contraception pills, and condoms. Also, access to information on matters of sexual and reproductive health.
- Urge the State of Chile to review the laws that criminalize abortion in all circumstances on grounds of being discriminatory, unfair and because they affect disproportionately poor women and adolescents. In addition, to monitor regularly

¹² Ver: <http://www.biobiochile.cl/2011/09/29/formalizaran-a-universitaria-de-valparaiso-por-realizarse-un-aborto.shtml>

compliance with Ordinario MINSAL A15/1675 which enforces confidentiality and not prosecution in cases of unsafe abortion complications.

- Require the State of Chile to repeal the regulation on mandatory HIV/AIDS testing for pregnant women and screening of their sexual partners, and to respond to complaints about non-consensual sterilization suffered by HIV+ women.

ARTICLE 14: MIGRANT WOMEN

The 2011 official report did not reach on this issue, however, because of the explicit Committee's requests about migrant women's access to social services, the issue was addressed in a supplementary report on May 2012. The lack of mention on the first report is hard to understand, because Chile has a migrant community of approximately 370.000 (2.3% of the population). It is composed mostly of women, in the case of Peruvian (56.8%) and Colombian migrants (58.5%) (Ministerio del Interior, 2010).

Of 193 migrants interviewed in the cities of Arica, Iquique, Antofagasta y Santiago 81% was women. Of the total interviewed 70% were the head of their families, and only 2% owned their homes (Fundación Instituto de la Mujer et al, 2011). The data reports their impaired quality of life that violates their rights protected by, inter alia, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, ratified by Chile in 2005. However, the official reports don't address this topic. It is important to inform, that homeownership is quite difficult for migrants in Chile. To apply for a housing subsidy a migrant needs to get a permanent residence permit and then wait five years. If we add the number of years in which migrant women and men have had another type of visa, we are talking of an 8 to 10 years period without being able to apply for a housing subsidy. This impairs the quality of life of women, especially if they are the head of their families.

Despite what the State party indicates, pregnant migrant women in irregular situation face obstruction when trying to access health care. This contravenes the instructions of Circular 1179 of 28/01/2003, supplemented by Circular 6232 of 26/05/2003 that protect the right of pregnant immigrant women in an irregular situation to receive healthcare in health clinics and public hospitals during their pregnancies, childbirth and postpartum. Thus, there are cases like that of a young Peruvian pregnant woman with gestational diabetes. She was denied care, because she lacked a Chilean identity card. She was required a "certificate of residence". A requirement that does not exist in the above mentioned circulars. At eight months, she went to Juan Noe Hospital's E. R. with irreversible abortion's symptoms (Fundación Instituto de la Mujer et al., 2011).

Despite what the supplementary official Chilean report indicates about educational entry, stay and progress, some schools don't formally promote the student or issue a certificate of approved courses until the student brings her/his study certificate from their country of origin and a birth certificate validated in their country and in Chile, Even though they can validate it in the latter. In some cases, this causes the failure in the same course for up to three consecutive years (Red Chilena de Migración e Interculturalidad, 2011).

About nationality, the concluding observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) on the Initial Chilean Report (September 2011) encouraged the Chilean government "to grant citizenship

to children born in Chile from parents in a irregular migratory situation, when they can not transmit their nationality" (paragraph 33). However, public authorities and officials deny it, arguing that they are children of foreigners *in transit*, regardless of the actual time of stay. In short, they are not given Chilean citizenship and remain stateless, unless they can acquire their parents' nationality, if the country of origin permits it. Nor can obtain the Rol Único Tributario (RUT), a document that could allow them to claim social and state benefits. (Red Chilena de Migración e Interculturalidad, 2011)

This state of affairs –as the above mentioned studies show- is maintained by the lack timely information about migrants' rights and responsibilities provided by the Chilean State.

Taking the above into account we require to the CEDAW Committee to:

- Request to the State Party to disseminate widely among public officials, the rights of immigrant women to avoid misunderstanding or ambiguous interpretations.
- Exhort the State party to guarantee that immigrant families, especially those headed by women, can access housing subsidies after obtaining their permanent residence without being required an added period of stay in the country.
- Demand the Chilean government to abbreviate the process of regularizing migration and cross-institutionalize mechanisms in order to ensure timely and quality health care for women who ask for these services for them or their children.
- Demand the Chilean state to loosen the student or temporary visa requirements for children of women in an irregular migratory situation.
- Exhort the Chilean government to grant citizenship to children born in Chile from a mother in an irregular migratory situation.
- Request the Chilean government to spread, massive and regularly, updated information aimed at immigrant women about their rights in the country, emphasizing those related to health, education and housing.

II PART: ADDITIONS TO THE CEDAW DEBATE

ABOUT SEXUAL DIVERSITY: REQUESTS ABOUT LESBIANS

The cases of the lesbians Karen Atala, Sandra Pavez and Mayra Espinoza – all presented to The Inter-American Court of Human Rights – beyond their actual outcomes, illustrate the links the CEDAW should establish between recognizing Human Rights violations based on sexual orientation and gender and the condemns towards people who discriminate or exercise violence for this reason. Indications like the Resolution AG /RES-2435 (XXXVIII-O/08), General Observation ECOSOC E/C.12/GC/20; OAS' Resolution AG/RES. 2504 (XXXIX-O/09); The Declaration of The United Nations Human Rights Council (UNHRC) (2011); AG/RES. 2721 (XLII-O/12) inter alia, are evidence of the indicated.

The joint work developed by the LTGBI political networks have mobilized reactions among the governments representing the Chilean State, these reactions have been directed to equate rights among homo/heterosexuality. In this context, lesbians are decriminalized in what respects to the contents of article 365 of the Penal Code that sets a different age of consent between homo and heterosexuality. On 2011, a Dialogue Commission about

LTGBI Sexual diversity (Mesa de Diálogo por la Diversidad Sexual) is conformed. On 2012, a law that establishes measures against discrimination is approved. In conformity with the The Inter-American Court of Human Rights ruling in the Karen Atala case, the government should develop actions regarding non-discrimination and to make a public reparation for the rights' violations committed.

It cannot be overstressed, that tensions regarding gender exist. Which means that masculine and feminine homosexuality are not neutral, they reproduce the tensions and exclusions characteristic of the relationship between heterosexual men and women. These tensions have caused an exodus of lesbians from LTGBI organizations, which are now led by gay men. Considering that those organizations had been behind formal processes of political incidence about sexual diversity issues, there are concerns about the underrepresentation of the lesbian voice within them. Lesbian's voices and interests are underrepresented or misrepresented in the contents of laws and policies that they mobilize.

Taking the above into account and the invisibility of the lesbian specificity in the reports by the Chilean State, we request the Committee to:

- Request an explanation to the State Party about why the article 365 of the Penal Code decriminalizes lesbians, but keep sanctions in the case of gays and transvestites.
- Require data about the Dialogue Commission about LTGB Sexual Diversity's work (Mesa de Diálogo por la Diversidad Sexual in Spanish). Emphasizing the information about participation by lesbians and the mechanisms in which their underrepresentation will be corrected in future actions.
- Urge the Chilean State to invest resources on discrimination prevention, emphasizing the lesbian specificities, as a way of mitigating the weaknesses of the anti-discriminatory law.
- Exhort –in the context of The Inter-American Court of Human Rights ruling in the Karen Atala case- State actions in favor of non-discrimination explicitly including lesbians.
- Demand to the State Party to consider lesbians in the equal opportunities approach between men and women, and to express this in the specific actions that the Gender Agenda promotes.

CONCLUDING COMMENTARIES

The traditional notion of gender discrimination it is underpinned on a universalized concept of "woman", and does not recognize other variables that intersect -class, ethnicity, sexual orientation, age, disability, and country of origin. Those variables operate in multiple ways on the infringement of "women" rights. Therefore, it is essential that in the CEDAW monitoring and reporting processes, the analysis will account for these of these differentiated realities so as to broaden the range of justice in the eradication of violence and discrimination against all women.

The above can be modified and improved through a collaborative work between governments and citizens, however the State is not assuming its inescapable responsibility of installing -deliberative and binding- participative mechanisms. These will include specifically women's and lesbian's organizations. These organizations, in recent decades, have shown great political capacity to address violence holistically redirecting misguided governmental interventions. It is necessary to stress that the current government relationship with CSOs is weakening. In more than one occasion, the government has refused to use proactive dialogue to solve civil claims; by contrast, it is trying to criminalize social protest.

Currently, the State has been deficient providing the necessary information for human rights ownership and exercise. This is the case with information related to Human Trafficking, Migration, Health, Education, among others. In this line, it is important to emphasize that lack of information, or biased available one, favors the violation of rights of all women.

We hope that the CEDAW Committee indications to the State of Chile could achieve a real and concrete effect on the political will of the State party. Thereby, the latter will guarantee the compliance with international community agreements aimed to eradicate violence and discrimination affecting all types of women in the country. So far, the recommendations arising from previous processes have not influenced the decisions adopted by the State; the complete abortion ban in Chile is one of the emblematic examples. Otherwise an evaluation process incorporating every voice -especially the voices of diverse types of women- will be required in order to build the path that this instance will traverse to achieve its mission.

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