



CHILE

ALTERNATIVE REPORT FOR THE EXAMINATION OF THE STATE OF CHILE TO THE CEDAW COMMITTEE AT ITS 69th SESSION

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GENERALITIES

Chile hasn't ratified the CEDAW Optional Protocol, whose draft law¹ entered the Parliament in 2001 and is still pending.

In the framework of the preparation of the report to the Committee, the government held informational meetings that didn't contemplate participatory dimensions.

Deficits persist in terms of human rights institutions. The creation of the Ombudsman's Office remains pending, and the legal initiative for the National Mechanism for the Prevention of Torture² hasn't been approved.

In December 2017, President Bachelet presented the First National Plan for Human Rights, carried out by the Ministry of Justice. Although the importance of this effort is recognized, it's necessary to guarantee that it's effectively implemented and monitoring mechanisms are established, with the participation of civil society.

Recommendations:

- **Ratify the Optional Protocol of the CEDAW.**
- **Create the Ombudsman's Office, incorporating a specialized unit on women's rights.**
- **Approve the bill that creates the National Mechanism for the Prevention of Torture, guaranteeing a gender approach and compliance with international standards in matters of independence, coverage at the national level, and adequate financing to the extent of its mandate.**
- **Ensure the implementation of the National Human Rights Plan, establishing a monitoring and follow-up mechanism, with the participation of civil Society.**

ARTICLE 1: EQUALITY AND NON-DISCRIMINATION

Violences

Violence against women is a problem of great magnitude in the country and we don't count with the legal and institutional tools to face it. According to information from the Ministry of Women (MMYEG), in 2017 there were 42 femicides³ and 112 frustrated. However, this figure only includes the restrictive figure of femicide. The Chilean Network against Violence against Women counts a total of 65 femicides⁴.

The National Survey of Domestic Violence against Women and Sexual Offenses of 2017⁵, carried out by the Ministry of the Interior, shows that the general violence declared by the surveyed women increases from 18.2% to 21% between 2012 and 2017, and 38.2% them, between 15 and 65 years old,

¹ Bulletin n° 2667-10, in second constitutional proceeding. Procedure at: <http://www.senado.cl/appsenado/templates/tramitacion/index.php#> (01/10/18, 17:52).

² Bulletin n° 11245-17, in first constitutional proceeding. Procedure at: <http://www.senado.cl/appsenado/templates/tramitacion/index.php#> (01/12/17, 16:27).

³ Review figures at: <http://www.minmujeryeg.cl/sernameg/programas/violencia-contra-las-mujeres/femicidios/> (01/10/18, 17:52).

⁴ Review figures at: <https://docs.google.com/spreadsheets/d/1OY8YymIGJzEYTBVKwpkGE-vDsYz3rKSjNe1TUj3qt40/edit?ts=588a2a74#gid=0> (01/10/18, 17:56)

⁵ For more information, go to: <http://cead.spd.gov.cl/centro-de-buenas-practicas/> (01/10/18, 17:48).

state that they've suffered violence at some time in their lives (36% psychological violence, 16% physical violence and 7% sexual violence).

Street sexual harassment⁶, according to the Observatory Against Street Harassment (OASH), is perpetrated in 93% by men and 99% of the victims are women. More than half of the girls suffer from street sexual harassment at least once a week, which means that a woman will have suffered 600 harassment situations at the age of 25⁷.

The State hasn't promoted concrete measures to guarantee the safety of women in public and private spaces. Violence is not yet considered a public safety issue that affects more than half of the country's population.

In the Institutional Violence Survey, applied by the Margen Foundation (member of the RedTraSex) it's observed that in the case of sex workers, this violence is perpetrated by security and justice agents, being victims of police harassment, in a context of abuse of the legal police tool of preventive control of identity. Aggressions aren't denounced for fear of reprisals or for distrust in the judicial system. This is exacerbated when it comes to migrant women⁸.

In January 2017, the government presented a bill on the right of women to a life free of violence⁹, which is currently under first constitutional procedure. Some aspects of special concern with regard to the content of the bill refer to the fact that it doesn't impose precise and concrete obligations on the set of state bodies in matters of prevention, punishment, protection and reparation of women victims of violence; the absence of a conceptualization of violence committed by agents of the State, of institutional violence, gynecological-obstetric violence, lesbian and transphobic violence; and a weak approach to intersectionality in discrimination against women.

In addition, in terms of sexual violence, it contains a worrying provision that allows the judge - at his discretion - to attend to the victim's previous sexual conduct to determine his condition as such, which is contrary to any international standard. In relation to the tools for the protection of victims, it contemplates the faculty to the Ministry of Women to provide legal representation only to adult women, excluding girls and adolescents.

The OASH promoted the presentation of a project to typify street sexual harassment that's in second constitutional process since 2016¹⁰.

⁶ Sexual Street Harassment is any practice of sexual connotation exercised by a person unknown to another, in public spaces (street, public transport) or semi-public (squares, universities, shopping centers) that usually generates discomfort in the victim. It has a sociocultural base, being a behavior strongly rooted in Chilean society. Example of the above is the so-called "piropo", expression that aims to manifest a compliment or opinion on the appearance of another person, which is confused and considered part of the "popular poetry", founded in a patriarchal and macho society, where is the man who has the power to harass, being the victim blamed and judged socially.

⁷ *Ibid.*

⁸ The survey was applied between the months of May and August of 2017. The specific document for Chile is not yet online. However, the synthesis document of all the countries of the region is available in: <http://www.redtralsex.org/Trabajo-Sexual-y-Violencia-2841>

⁹ Bulletin n° 11.067-17, in first constitutional procedure. Procedure at: https://www.camara.cl/pley/pley_detalle.aspx?prmID=11592&prmBoletin=11077-07 (12/13/17, 16:15).

¹⁰ Bulletin n° 9.936-07, in second constitutional procedure. Procedure at: https://www.camara.cl/pley/pley_detalle.aspx?prmID=10360&prmBoletin=9936-07 (12/13/17, 16:18).

Recommendations:

- Enact a comprehensive law that considers all forms of violence, including institutional violence, gynecological obstetrics and intersectionality of discrimination suffered by women, especially migrants, indigenous, disabled, lesbians, transsexuals, sex workers, women deprived of liberty and with HIV/AIDS, and that contemplates preventive measures of obligatory character with adequate budget for its execution and implementation.
- Guarantee an effective coordination mechanism for the protection measures for victims of violence and implement specialized units in the justice agencies.
- Promote that all public institutions implement awareness and training programs on equality and non-discrimination, and comprehensive prevention of violence against women.
- Establish new hospital regulations, protocols and curricula in the academic chairs for the approach of sexual and reproductive health, for guaranteeing the human rights of women and girls, particularly in the case of women with disabilities and indigenous women.
- Implement permanent campaigns to prevent violence against women, particularly to prevent sexual violence in public and private spaces, in educational spaces and mass media, and street sexual harassment.
- Insist on the recommendation of the Committee referred to the establishment of a general strategy and plan of action to prevent and eliminate all forms of violence against women.
- Insist on the recommendation of the Committee referred to the topic of all forms of violence resulting from acts or omissions from state agents at all levels, including the police, be systematically and effectively investigated, that the guilty parties be prosecuted and convictions are imposed.

Anti-discrimination Regulations

In 2012, Law No. 20.609 was enacted, which establishes measures against discrimination, whose shortcomings have become evident, both by the omission of objectives aimed at guaranteeing the prevention, sanction, eradication and reparation of the consequences of discrimination, and for the absence of a public institutionality for equality and non-discrimination, with budgetary resources, execution of preventive measures and powers to install affirmative action measures. Even though President Bachelet committed modifications to said law, this hasn't happened.

Recommendations:

- Insist on the recommendation made in 2012, so that the State adopts a general legal definition of all forms of discrimination against women that covers both direct and indirect discrimination, and establishes in the Constitution the principle of equality between women and men, in accordance with article 2 a) of the Convention, with a view to achieving formal and substantive equality between women and men.
- Carry out an impact evaluation of the implementation of Law 20.609, in order to identify shortcomings and promote relevant legal and institutional changes to ensure its effectiveness.

Women Deprived of their Liberty

Since the enacted of Law No. 20.000 in 2005, which sanctions the Illicit Traffic of Narcotic Drugs and Psychotropic Substances, the population of women deprived of their liberty has increased explosively and, in general, they have committed non-violent crimes and traffic in small amounts, which suggests that they are the last link in the drug trafficking chain¹¹.

The deprivation of freedom, given the unequal distribution of roles in society, causes deep problems in contexts in which women must fulfill the double role of caregiver and provider¹².

It is urgent that Chile fulfills the commitment acquired in the 2016 UNGASS, referring to incorporate a gender and human rights perspective in confronting the problem of drug trafficking and consumption.

With regard to prison conditions, the violation of sexual and reproductive rights is of particular concern. Noteworthy is the situation that affected Lorenza Cayuhan in 2016, a Mapuche woman deprived of liberty at the time of delivery, who had her daughter shackled and in the presence of male custodians¹³. Or the case of Jennyfer, who is being held in the prison of Llancahue of Valdivia, and lost her daughter of almost six months of gestation after being complaining for several days of pain without being treated, being forced to give birth to her deceased daughter in the presence of officials of the Gendarmerie of Chile¹⁴. They are added to the numerous complaints and testimonies of women who have suffered obstetric violence in both public and private health services¹⁵.

Civil society organizations promoted the presentation of a bill that proposes to modify the Chilean Criminal law, adding a new cause of inadmissibility of preventive detention in the case of pregnant women or mothers of children less than three years of age; incorporating a norm that suspends the execution of the sentence. The draft bill was presented in the Senate in 2017, but hasn't been discussed¹⁶.

¹¹ Chile has increased its female prison population by 36.8% in just 10 years, from 2,284 women in prison to 3,126. Figures available in: <https://html.gendarmeria.gob.cl/doc/vgenero.pdf> (01/12/17, 16:34).

¹² For more information, review *"Drug Policy and Human Rights: Impact on Women"*, Regional Center for Human Rights and Gender Justice, Corporación Humanas (Chile), EQUIS, Justice for Women (Mexico) and Regional Center for Human Rights and Gender Justice, Corporation Humanas (Colombia), Chile, September 2015, in: <http://www.humanas.cl/wp-content/uploads/2016/01/Libro-Humanas-opt.pdf> (12/13/17, 16:38).

¹³ The seriousness of the human rights violations committed against Lorenza Cayuhán and the intersectionality of the discrimination suffered by her, were recognized by the Supreme Court of Chile, which accepted an appeal for a habeas corpus filed by the Public Defender's Office in representation of Lorenza Cayuhán. However, no action was taken in order to repair the serious violations of their rights committed against Lorenza and her daughter Sayén. Supreme Court, sentence of 01/12/16, Role N° 92.795-2016, entitled *"Pia Campos Fields by Lorenza Beatriz Cayuhán Llebúl against Gendarmerie of Chile"*. Available at: <http://www.pjud.cl/documents/396729/0/AMPARO+LORENZA+CAYUHAN.pdf/b4c0a036-ee59-419b-8b42-f04ae12531c6> (08/30/17, 14:20).

¹⁴ Journalistic note on the case: <http://www.theclinic.cl/2017/02/05/parir-tras-las-rejas-cuando-jennyfer-perdijo-hija-esperanza/> (01/02/18, 10:11).

¹⁵ Some testimonies of women victims of obstetric violence are collected on the OVO Chile Observatory of Obstetric Violence website. Available at: <http://ovochile.cl/testimonios/> (08/31/17, 12:02). More background at: El País Online, *The silenced abuse behind cesarean*. Available at: https://elpais.com/elpais/2017/08/24/planeta_futuro/1503582688_802126.html (08/31/17, 12:09).

¹⁶ Bulletin n° 11.073-07, in first constitutional procedure. Procedure at: https://www.camara.cl/pley/pley_detalle.aspx?prmID=11587&prmBoletin=11073-07 (01/10/18, 16:50).

The Ministry of Justice has reported the development of a new regulation of Correctional Facilities, which includes a gender and human rights approach. However, this hasn't yet been promulgated or its contents disclosed.

Recommendations:

- Incorporate a focus on human rights and gender in the state response to drug trafficking and consumption, promote the establishment of alternative measures to deprivation of liberty for women involved in minor crimes, of small amounts and non-violent.
- Implement follow-up mechanism to the commitments adopted in the 2016 UNGASS, which includes civil society.
- Guarantee the respect and protection of the human rights of women deprived of liberty, especially their sexual and reproductive rights, promote their social reintegration and guarantee conditions of equality and non-discrimination in access to education and work measures.
- Promulgate and implement the new Regulation of Penitentiary Establishments, ensuring that it includes a focus on human rights and gender.

LGTBI

The gender identity bill, which enshrines the right of transgender people to change their name and registration sex, has been debated in Congress since 2013, facing the resistance of the conservative sectors. It's in third constitutional procedure¹⁷.

Appraising the circulars of the Ministry of Education that advance in the recognition and protection of the right to education of transgender children, both in the access and during the educational trajectory¹⁸, it is urgent to guarantee its implementation and control throughout the country and in all types of establishments (public and private) and that this right be protected beyond the Circular.

In 2015, the law that creates the Civil Union Agreement (Law No. 20.830) was enacted, establishing a family statute for couples of the same or different sex, but omitting to recognize and protect the children of same-sex couples. In September 2017, the Government presented a project of Equal Marriage¹⁹, which includes filiation rights, both with regard to couples of women who have children with the support of assisted human reproduction techniques and allowing adoption to same-sex couples. However, there has been no progress.

In 2016, a parliamentary motion aimed at recognizing and protecting the rights of sons and daughters of same-sex couples was impelled by feminist and lesbian organizations. The initiative is in the first constitutional process in the Senate²⁰.

¹⁷ Bulletin n° 8924-07, in second constitutional procedure. Procedure at: https://www.camara.cl/pley/pley_detalle.aspx?prmID=9331&prmBoletin=8924-07 (01/10/18, 17:00).

¹⁸ Circular n° 0768, Superintendence of Education, dated April 27, 2017, on the rights of girls, boys and trans students in the field of education. Available at: <https://www.supereduc.cl/wp-content/uploads/2017/04/ORD-N%C2%BA0768-DERECCHOS-DE-NI%C3%91AS-NI%C3%91OS-Y-ESTUDIANTES-TRANS-EN-EL-%C3%81MBITO-DE-LA-EDUCACI%C3%93N-A-SOSTENEDORES.pdf>

¹⁹ Bulletin n° 11.422-07, in first constitutional procedure. Procedure at: https://www.camara.cl/pley/pley_detalle.aspx?prmID=11934&prmBoletin=11422-07 (01/10/18, 17:22).

²⁰ Bulletin n° 10.626-07, in first constitutional procedure. Procedure at: https://www.camara.cl/pley/pley_detalle.aspx?prmID=11052&prmBoletin=10626-07 (01/10/18, 17:43).

Recommendations:

- Approve the gender identity law, guaranteeing that includes the due protection of the rights of transgender children.
- Ensure that in all educational establishments, the rights of LGBTBI children are respected in conditions of equality and non-discrimination, incorporating training spaces for public workers responsible for implementing the current regulations.
- Guarantee the filiation rights of sons and daughters of same-sex couples, regardless of the legal bond of their parents.

Migrant Women

The Latin American migration to Chile has quadrupled since the end of the civic-military dictatorship; and since 2001 it has been characterized by a strong presence of women, indigenous people and, more recently, Afro-descendants²¹.

In the National Institute of Statistics (NIS) there is no disaggregated information regarding migrant women²², which has hampered the work of migrant women's organizations nationwide.

Regarding public policies aimed at migrant women, during 2016 only 1.3% of the actions were directed to this population, which is insufficient considering that they represent 52.4%²³ of the total.

The situation of migrant women with a dependent visa of their husbands is worrying because this modality prevents remunerated work and contract, violating their right to work and not complying with the General Comment No. 26 of this Committee²⁴.

Regarding access to health, the State's report refers to Circular A 15, No. 06 of the Ministry of Health, announcing the expansion of health services for migrant women, especially during their pregnancy, regardless of their regularity status. However, there are numerous cases where these rights have been denied by officials incurring in racist and xenophobic practices, leaving migrant women, both regular and irregular, without health care. The situation is exacerbated due to the lack of dissemination in health centers to officials and migrants regarding their rights, and in some cases the lack of interpreters further.

It is worth highlighting the emblematic case that occurred in 2014 to a Bolivian woman who was denied emergency medical care for her 9-month-old son, a situation that ended with the baby's death²⁵.

²¹ Report of the Ibero-American Observatory on Human Mobility, Migration and Development (OBIMID), July/August 2016, p. 5, in: http://www.extranjeria.gob.cl/media/2016/08/informe_julio_agosto_2016.pdf (01/12/18, 16:39).

²² "Institutional Precariousness and Arbitrariness. Conditions for the recognition of migrants in Santiago. A look at local policies". Thayer, Luis Eduardo. Center of Studies of Regional Development and Public Policies of the University of Los Lagos, FONDECYT n° 110679.

²³ "Migration in Chile. Brief report and characterization. Report of the Ibero-American Observatory on Human Mobility", Pedemonte & Silva, 2016.

²⁴ The regulation on migration in Chile, establishes in point 6 on dependent visas, that the dependent residence visa does not authorize the development of remunerated activities, which leaves migrant women vulnerable, because it reinforces economic dependence and the need to continue with their partner to maintain their migratory status, seriously undermining their personal autonomy, making them vulnerable to perpetuate cycles of interfamily violence.

²⁵ News report from the National Institute of Human Rights, at: <https://www.indh.cl/directora-del-indh-pide-que-se-investigue-muerte-de-bebe-boliviano-no-puede-ser-que-en-chile-existan-ciudadanos-descartables/> (12/13/17, 17:37).

Press records indicate that migrant women in an irregular situation and those with language barriers are subject to total lack of protection when they are victims of violence. The case of Joanne Florvil, a Haitian woman who went to the Office for the Protection of Rights of the Municipality of Lo Prado, suffers the theft of her belongings and, unable to communicate because she doesn't speak Spanish, leaves the office leaving her daughter behind. Because the woman didn't know how to explain herself, professionals from that office called the police and denounced her for abandoning her daughter, a criminal offense in Chile, causing her arrest and the institutionalization of her daughter. When taken to the police unit, the woman suffered multiple blows to the head which are still a matter of investigation, and which caused her death²⁶.

Migrant women often burden themselves alone with care work within their families, without support networks, subjected to precarious and highly demanding jobs. They carry an overload that impacts on a psychological, emotional and physical level and on their quality of life, which is passed on to children and other care subjects.

The xenophobic and discriminatory expressions, particularly towards Haitians, Colombians and those from the Andean region, threaten the integrity, security and rights of immigrants. The mistreatment of these communities by their employers, public officials and citizens in general, materializes a double discrimination, for which it's important to consider the particular situation of migrant workers, that although it has similarities with the rest of the workers, it has specific aspects of discrimination.

Decree Law No. 1094, the migrant regulation in Chile, prepared with a logic of national security, lacks a focus on human rights and gender, and the new bill that is under discussion²⁷, although it recognizes the right to migrate and alludes to differences of gender, doesn't specify these concepts and reinforces with several of its measures the idea of restricting rights to "order" migration.

Recommendations:

- **Develop periodic monitoring systems of migratory flows disaggregated by sex, in order to increase knowledge of the phenomenon of migration and adopt appropriate public policies, particularly for women.**
- **Guarantee wide dissemination of the rights of migrant women aimed at all public officials, to prevent violations of the rights of women.**
- **Regularly disseminate updated information to migrant women about their rights in the country, emphasizing those related to health, education and housing.**
- **Guarantee the existence of interpreters in public health services.**
- **Approve a new legal framework that establishes the right to migration as a human right.**
- **Guarantee security conditions in the border crossings of the country in order to avoid any situation of violation of rights and, especially, prevent sexual violence against women.**
- **Include migrant women as a main target of the Equality Plans between Women and Men, and consider the particular situation of migrant women in all public policies.**

²⁶ News report on: <http://www.biobiochile.cl/noticias/nacional/region-metropolitana/2017/09/06/madre-acusada-de-abandonar-bebe-esta-internada-grave-comunidad-haitiana-asegura-inocencia.shtml>; complemented by the information given by the Haitian community in Chile.

²⁷ Bulletin n° 11.395-06, on first constitutional procedure. Procedure at: https://www.camara.cl/pley/pley_detalle.aspx?prmID=11905&prmBoletin=11395-06 (12/13/17, 17:20). On January 9, 2018, the Government Commission on the Chamber of Deputies rejected the idea of legislating, pending the pronouncement of the Senate.

- **Develop promotion actions on non-discrimination and against xenophobia. Conduct annual campaigns directed to the national population on the contributions of migrant women and men to the economic, social and cultural development of Chile.**
- **Strengthen public policies to ensure adequate care for children, especially for the most vulnerable groups.**
- **Establish social protection policies for migrant women and girls with disabilities, guaranteeing access to a humanitarian visa and recognition of legal capacity.**

ARTICLE 5: MODIFICATION OF SOCIOCULTURAL PATTERNS

The achievement of material and substantive equality for women requires the modification of the structural conditions that are at the basis of the discrimination and violence against women, guaranteeing conditions of equality and non-discrimination in the exercise of rights.

The complexity of the educational reform promoted by President Bachelet still prevents us from knowing whether or not it contemplates guaranteeing an education aimed at equal opportunities and results for children and young people.

Recommendations:

- **Guarantee that the Chilean educational system eradicates all practices that undermine the material and substantive equality for girls and women in the country.**
- **Incorporate the modification of cultural patterns as a priority of public policy to be addressed from different sectors: education, health and public safety.**

ARTICLE 6: TRAFFICKING OF WOMEN AND EXPLOITATION OF PROSTITUTION

In recent years, with the increase of migration to Chile, human trafficking occurs more regularly. The official information indicates that the victims are mostly men. However, as there are greater barriers to women's access to justice, it's estimated that there's a high number of women victims that hasn't been detected.

The Office of the Undersecretary of Crime Prevention prepared the "*Guide for the Detection and Referral of Victims of Trafficking*", with the purpose of providing tools to public officials to identify possible victims, guide them in the reporting and referral process. However, this guide hasn't been applied properly.

It's essential that there are specialized personnel for this type of crime. The offer of attention to victims has focused on victims of trafficking, coordinated around the *Intersectorial Protocol for Attention to Victims of Trafficking in Persons*.

Although there's an Intersectorial Group for Trafficking, coordinated by the Ministry of the Interior that prepares annual plans with goals, actions and indicators, and that has cross-sectional participation of incumbent actors, lacks adequate financing.

Recommendations:

- **Ensure the training of public officials in order to improve the early detection of cases of human trafficking, and strengthen the protection for the victims.**
- **Grant public financing to the Intersectorial Group for Trafficking and ensure that within its framework of action, the prevention, punishment and reparation of traffic victims, is considered.**

ARTICLE 7: PUBLIC AND POLITICAL LIFE

Law No. 20.840, which replaces the Binominal Electoral System with one of an Inclusive Proportionality and Strengthens the Representativeness of the National Congress, establishes a system of representation quotas, imposes an obligation on political parties that the nominations presented don't exceed 60 % of the same sex.

The application of the new regulations in the congressional elections of 2017 allowed the proportion of women legislators to increase from 15,8% to 22,7% (22,5% deputies and 23,2% senators). Even so, Chile remains below the regional average, far from the necessary parity.

According to information in the written press, the economic contributions associated with candidacies and women's elections that the State gives to political parties, have been destined for purposes other than promoting the participation of women. In addition, it is evident that regular activities of the parties would have been carried out under the Feminine Participation Fund²⁸.

Recommendations:

- **Carry out campaigns to encourage the nomination to representation positions for girls, adolescents and women.**
- **Generate training spaces to strengthen women's leadership.**
- **Establish quotas of representation in different organs of popular election.**
- **Supervise the use of the Feminine Participation Funds, and effectively sanction expenses that deviate from said purposes.**

ARTICLE 11: EMPLOYMENT

Although Chile has experienced significant economic growth that has opened new employment opportunities, gender gaps persist. It's urgent to reduce the gaps between men and women, as well as between poor women and those with higher incomes, both in the level of participation and in the quality of the jobs they access.

According to the NIE, in 2016 there was a female employment rate of 44% and more than 97% of the people who declared themselves outside the labor force for permanent family reasons were women²⁹, which accounts for a strong sexual division of labor.

The employment of women continues to be concentrated in few branches and occupations, and in positions of less status and power. A gender gap persists in remunerations and also an unequal distribution in the use of the time. In addition, women are discriminated in social security systems with higher health contributions and lower pensions.

The legislation provides for pre and postnatal leave for women, and allows a full-time parental leave to be transfer up to a maximum of 6 weeks. In 2016, only 0,18% of these licenses were used by men.

Child care is guaranteed through the Labor Code that establishes the obligation to install daycare centers (or to cover the cost of this service) in companies, industrial establishments and services, but only in the case that they have more than 20 women.

²⁸ More information at: <http://m.elmostrador.cl/noticias/2017/12/20/cuentas-asados-aseo-y-viajes-indignacion-por-uso-que-partidos-politicos-dan-a-los-fondo-mujeres/> (01/26/18, 15:15).

²⁹ Gender Indicators, National Institute of Statistics, review at: http://historico.ine.cl/genero/indicadores/autonomia_economica.php (12/20/17, 17:43).

Recommendations:

- Promote measures of co-responsibility between men, women, companies and the State, in matters of domestic work and unpaid care.
- Modify the Labor Code referring parental care, establishing the obligation of the father to enjoy this permit.
- Modify the Labor Code referring right to a nursery, extending it to all workers with family responsibilities.
- Implement a national system of care, accessible and universal, for men and women with family responsibilities, who work in informal activities or in companies excluded from the previous regulations.
- Reduce the labor week to 40 hours, so that men and women can reconcile private life and work.
- Take the necessary measures so that in the public administration and in public companies it is possible to reach, by the year 2030, parity between men and women in senior management positions.
- Promote measures that eliminate gaps in remuneration between men and women, streamline the process of amendment of Law No. 20.348, ensuring that the final approved drafting includes the obligation of equal payment for work of equal value, the distinction between direct discrimination and indirect and the enumeration of criteria to compare charges between men and women.
- Promote the generalized application of Chilean Standard NCh 3262-2012 in the measurement of wage gaps, monitoring and analysis, ensuring the existence of evaluating bodies and certifiers to advise companies, organizations and public institutions in this matter.
- Promote measures that eliminate discrimination against women in the field of social security, such as correcting the pension calculation system used by the Pension Fund Administrators (FAP) that considers tables of life expectancies differentiated by sex.
- Promote measures that eliminate all forms of violence against women in the workplace.
- That the government of Chile, the representations of workers and the representatives of companies support the proposal in debate about the adoption of an International Labor Organization Convention on gender violence in the workplace.

ARTICLE 12: HEALTH SERVICES AND FAMILY PLANNING

On 2017, the law n° 21.030 that regulates the decriminalization of the voluntary interruption of pregnancy in three grounds was enacted. This law allows overcoming, in part, the total criminalization of abortion imposed by the civic-military dictatorship, for 27 years. However, it doesn't account for the legitimate decision of women who, due to multiple causes -which doesn't correspond to the State to ponder- decide to interrupt pregnancies to make effective their right to decide the number and spacing of children.

The limited time limits defined for the ground violation aren't sufficient. Girls older than 14 years are subject to the same period of 12 weeks contemplated for adult women and those under 14, have a period of 14 weeks.

The determination of the concurrence of the ground violation is entrusted to a health team. However, the law doesn't include a complaint mechanism against the eventual negative decision of the health team.

The widest conscientious objection extends to all the personnel that develop their functions inside the surgical pavilion during the intervention and, in an unprecedented way, considers the legitimacy of which institutions and legal persons declare themselves objecting. The latter is a result of the decision adopted by the Constitutional Court³⁰.

The law establishes mechanisms to accompany the decision of women, an issue that is debatable as this accompaniment isn't included in any other medical intervention and consequently perpetuates the social stigma associated with the decision to terminate a pregnancy.

The operationalization and enforcement of the law will depend on the enactment of the respective regulations by the Ministry of Health, which hasn't contemplated the participation of civil society and, having met the deadline of 90 consecrated days since the enactment of the law, its content hasn't been disclosed.

In the case of women deprived of their liberty, there are no records referring to sexual and reproductive health and to Infections and Sexually Transmitted Diseases. Nor about morbidity and the actual coverage of health services. All the above supposes a violation of their right to health.

Recommendations:

- **Recognize and guarantee the sexual and reproductive rights of women.**
- **Advance in the legalization of the interruption of pregnancy according to a system of deadlines and not only of causes.**
- **Promulgate the regulation of the accompaniment of the termination of pregnancy in three grounds, ensuring that it is done with a focus on rights and guaranteeing non-dissuasive access to the medical benefit.**
- **Promulgate the regulation of the accompaniment in the termination of pregnancy in three causes, ensuring that it is done with a focus on rights and guaranteeing non-dissuasive access to the medical benefit.**
- **Guarantee access to health for women deprived of their liberty and free delivery of supplies during their menstrual cycle.**

ARTICLE 14: RURAL AND INDIGENOUS WOMEN

The National Indigenous Development Corporation doesn't consider the gender perspective in its policies and programs. Neither has the Ministry of Women included the ethnic variable in its interventions. This translates into the absence of relevant comprehensive public policies aimed at improving the condition of indigenous women, designed and implemented in consultation with indigenous peoples.

Employment in the agro-export sector, in which many women work at the harvest season, is characterized by conditions of great precariousness in terms of contracts, hygiene, health and safety.

It's worrying that Chile declares itself "a food-power country" and hasn't yet ratified ILO Convention n° 184 on safety and health in agriculture.

³⁰ Constitutional Court, judgment of 08/28/17, n° 3.729 (3.751)-17-CPT.

Recommendations:

- **Ensure and promote the full participation of people belonging to indigenous peoples, especially women, in all matters and public policies.**
- **Strengthen the protection of labor rights of temporary workers in the agro-industry.**
- **Ratify Convention No. 184 from ILO, on safety and health in agriculture.**
- **Raise information on gender, disability and indigenous intersections for the design and consultation of relevant policies, plans and programs on the inclusion of indigenous women with disabilities.**

ARTICLE 15: EQUALITY BEFORE THE LAW AND LEGAL CAPACITY

Forced Sterilization

The legislation still contemplates ways to substitute the will of women and girls with mental and intellectual disabilities that allows the practice of sterilization without their consent, violating the right to recognition of their legal capacity, in accordance with Article 15 of the CEDAW and the Article 12 of the CRPD.

The legislation violates the free and informed consent through Law No. 20.584, on Rights and Duties that People have in relation to Actions related to their Health Care; it also violates the Exempt Resolution No. 1110 of the Ministry of Health on Norms of Surgical Sterilization in Persons with Mental Illness; and the Decree No. 570 of the Ministry of Health on Hospitalization of Persons with Mental Illness and the Establishments that provide it³¹.

It's worrisome that these practices are subject to administrative procedures and controls - such as those carried out by the Ethics Committee of the establishments or the National Commission for the Protection of Persons with Mental Illness - lacking the autonomy and impartiality necessary to safeguard rights, since they depend on the health authority.

It should be noted that the Bill on the Protection of Mental Health³², currently under discussion in the Senate, is currently in parliamentary debate. This bill maintains the possibility of performing sterilizations without consent of people with mental and intellectual disabilities, despite the explicit recommendations that have been made recently to the State by the CRPD Committee.

Recommendations:

- **Generate quantitative and qualitative information regarding the situation of forced sterilization of women with disabilities and women living with HIV, in order to have adequate information to implement public policies that guarantee the rights.**
- **Repeal regulations that allow involuntary sterilization in persons with disabilities and expressly prohibit their practice in the absence of free and informed consent.**

³¹ Annual Report on the Situation of Human Rights in Chile, National Institute of Human Rights, 2014, p. 109-122. At: <http://www.indh.cl/wp-content/uploads/2014/12/INDH-2014-Final.pdf> (12/14/17, 15:40); Annual Report on Human Rights in Chile, Diego Portales University, 2016, p. 173-215. At: <http://www.derechoshumanos.udp.cl/derechoshumanos/images/InformeAnual/2016/InformeAnual2016comp leto.pdf> (12/14/17, 15:40).

³² Bulletin n° 10.563-11, in second constitutional procedure. Procedure at: https://www.camara.cl/pley/pley_detalle.aspx?prmID=10987&prmBoletin=10563-11

- Approve and implement a mental health system that guarantees access under conditions of equality and non-discrimination.
- Ensure that the mental health bill incorporates a human rights approach that prioritizes the will of people with mental disabilities.
- Guarantee the social protection of women with disabilities of childbearing age as subjects of sexual and reproductive rights and legislate in favor of an assisted motherhood.
- Repeal Article 1447 of the Civil Code and guarantee the Universal Legal Capacity, through systems of gradual support for the autonomy of persons with disabilities.

Electroconvulsive Therapy (ECT)

During 2017, the Ministry of Health convened a group of experts in mental health, with the aim of updating the Technical Standard on Modified Electro Convulsive Therapy, which dates back to 2000.

In the review of the current application of this procedure, information on the use of ECT was requested for 81 public and 31 private mental health services, of which only 12 provided data. Of the latter, in 8 the ECT was involved, and in 85,7% of the cases the procedure was carried out without having the free and informed consent of the affected person.

The absence of data disaggregated by sex is worrisome, a circumstance that certainly makes the universe of women and girls with mental health problems or psychosocial disabilities invisible to those who are involuntarily affected by this procedure. More worrying was the observation of the current use of this procedure in pregnant women, despite the fact that the scientific evidence collected by the Ministry of Health warns of a series of adverse effects.

Recently the State of Chile received recommendations from the Committee on the Rights of Persons with Disabilities³³ in order to prohibit the application of medical and scientific procedures without the consent of people with mental disabilities, so it's alarming that these situations continue to occur.

Recommendations:

- **Explicitly prohibit ECT in pregnant women, and ban it in women with mental disabilities, without their free and informed consent.**

ARTICLE 16: LEGISLATION ON MARRIAGE AND FAMILY

We value the presentation of a bill on equal marriage³⁴, but we regret that it was submitted six months before the end of this government and that there is no amendment to the law No. 19.620 on adoption of minors, that allows civil cohabitants to adopt, as would be appropriate according to the family statute that Law No. 20.830 on civil union agreement enshrines.

The State of Chile hasn't complied with the Friendly Settlement Agreement in force since 2007³⁵, within the framework of the case denounced by Sonia Arce before the Inter-American Commission on

³³ Committee of the Convention for the Rights of Persons with Disabilities, 2016, CRPD/C/CHL/CO/1, para. 25, 26; para. 41, 42.

³⁴ Bulletin n° 11.422-07, in first constitutional procedure. Procedure at: https://www.camara.cl/pley/pley_detalle.aspx?prmID=11934&prmBoletin=11422-07.

³⁵ Inter-American Commission in Human Rights (2007), "Sonia Arce Esparza v. State of Chile", Friendly Settlement Agreement, Case n° 12.433, 5/03/2007. The Friendly Settlement Agreement is published in the Official Gazette of Chile, dated May 3, 2008. Available at: <http://www.leychile.cl/Navegar?idNorma=270873>.

Human Rights due to the discriminatory regulation of a patrimonial regime of marriage, conjugal society. This regime, regulated in the Civil Code and consecrated as the supplementary regime that governs marriages celebrated in Chile that don't manifest a different one, consecrates man as the administrator of social goods and even of women's own property, and only in extraordinary causes, to be prove by the woman, she could enter to administer the goods, or a third party in her place.

In 2015, in the concluding observations on the combined fourth and fifth periodic reports of Chile in the framework of the evaluation by the Committee on the Rights of the Child, the State was recommended to rise the age of marriage to the age of majority. It hasn't been fulfilled.

The lack of protection in which children of same-sex couples find themselves is worrying. It's urgent to have a legal status in accordance with the obligations that the State has assumed in terms of equality and non-discrimination, protection of families and the rights of children. In 2016, civil society organizations promoted the presentation of a bill³⁶ to regulate the filiation rights of children of same-sex couples, which hasn't been discussed.

Recommendations:

- **Approve the bill that consecrates en equal marriage, that doesn't discriminate according the sex of the spouses.**
- **Modify the patrimonial regime of conjugal society, recognizing full legal capacity to women and equal rights to men and women with respect to social goods and property.**
- **Increase the age of marriage at 18 years old.**
- **Legislate on filliative rights, managing to protect children of same-sex couples.**
- **Repeal legislation contrary to civil and family rights because of disability in civil marriage, guaranteeing the integral social protection of these families.**

³⁶ Bulletin n° 10.626-07, in first constitutional procedure. Procedure at: https://www.camara.cl/pley/pley_detalle.aspx?prmID=11052&prmBoletin=10626-07.