

Visitantes



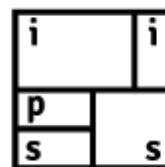
**Asociación Indígena
We Rayen Lof**



**MESA DE CULTORES DE LA MÚSICA DE LA
BOHEMIA TRADICIONAL DE VALPARAÍSO**



**ASOCIACIÓN GREMIAL CHILENA DE
DESARROLLADORES DE VIDEOJUEGOS**



ALTERNATIVE REPORT FOR THE EXAMINATION OF THE FIFTH PERIODIC REPORT OF THE STATE OF CHILE TO THE COMMITTEE ON ECONOMIC, SOCIAL, AND CULTURAL RIGHTS IN ITS 78TH SESSION

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General points and aim of this report

1. Colectivo Visitantes, an organization whose primary objective is to implement the human rights approach to the exercise of the arts, cultures and heritage, and thus promote the exercise of cultural rights, is the coordinating entity for the preparation of this report. The document presents what, in the judgment of all participating organizations, constitute the main problems facing Chile in the area of cultural rights, enshrined in article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). This report was prepared for the fifth review cycle that Chile has before the Committee on Economic, Social and Cultural Rights (CESCR) and that is why, in addition to making a diagnosis of the problems and challenges, also includes recommendations to advance the guarantee of the rights of article 15. The data, figures and points of view collected are part of the work of collecting information from the organizations participating in this report. However, secondary, statistical and documentary sources are also included, such as a review of the implementation of cultural policies, programs and projects. The recommendations presented are elaborated on the basis of this analysis, from diverse sources of information, including figures and data collected by the Chilean State, and therefore, we hope that they will be valued by the 18 expert members of the CESCR, in consideration of their social foundations and technical solvency.
2. The organizations that participated in the preparation of this Report are: Colectivo Visitantes¹, ONG Pueblos Originarios - Memoria & Sociedad², Asociación Indígena We Rayen Lof³, Balmaceda Arte Joven⁴, Mesa de Cultores de la Música de la Bohemia Tradicional de Valparaíso⁵, Red Salas de Teatro Metropolitana⁶, Observatorio por el Derecho a la Comunicación⁷, Asociación Gremial Chilena de Desarrolladores de Videojuegos⁸, Cátedra UNESCO de la Universidad Academia de Humanismo Cristiano⁹, Coordinadora Nacional de Sitios de Memoria¹⁰, Fundación Ser Inclusivo¹¹ and the Instituto Internacional para la Filosofía y los Estudios Sociales (IIPSS)¹².

Introduction

3. **This report is groundbreaking, as it marks the first time that a coalition of organizations has focused specifically on Article 15.** Although other alternative reports refer to problems that account for the violation and non-compliance of the article, this report incurs a greater depth and understanding of the different dimensions and implications of understanding culture from a rights-based perspective. The unprecedented and specific nature of this document highlights the importance of cultural rights, understanding these as the backdrop or atmosphere in which we live and coexist: we are imbued with culture and, in turn, we constantly generate culture.
4. **This coalition was able to report that CESCR's recommendations to Chile specific to the right to culture have been only 7 in the last 45 years:** For the first cycle in 1980, there are no recommendations on art. 15 in E/1980/WG.1/SR.8 and 9, E/1981/WG.1/SR.7 or in E/1984/WG.1/SR.11 and 12. Regarding the second 1988 cycle, and despite the fact that Chile submitted information on article 15 and CESCR recognizes it in paragraph 206 of E/1988/14-E/C.12/1988/4, there was no recommendation in this regard.

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On the third cycle in 2004, there were two recommendations on article 15, in paragraphs 15 (on cultural stereotypes) and 33 (on the cultural rights of indigenous peoples) of E/C.12/1/Add.105. Finally, for the fourth cycle, there were 5 recommendations expressed in paragraphs 8, 9, 10, 11 and 31 in E/C.12/CHL/4. **Clearly, this shows a situation of invisibility of the relevance of the right to culture in Chile.**

5. Culture not only reflects our expressions, traditions and knowledge, but also empowers people to exercise other human rights, promoting identity, participation and individual and collective freedom. In this sense, the right to culture plays an essential role in the realization of the ideal of human rights, since it promotes dignity, equality and freedom, allowing each person and community to fully develop their potential in an enriching and diverse cultural environment, and in accordance with their health needs, ethnic or tribal belonging, etc.
6. The creation of the Ministry of Cultures, Arts and Heritage (MINCAP), successor to previous institutions such as the National Council for Culture and the Arts (CNCA) and the Directorate of Libraries, Archives and Museums (DIBAM), follows the fourth cycle of Chile's review before CESCR. The operation of MINCAP began in March 2018, which has implied the redistribution of budgets and policies, programs and social projects, as well as the relocation of the old institutions that respond to cultural issues, as well as the creation of a new institutional structure.
7. This report seeks to evaluate how the State has complied with Article 15 since the existence of the MINCAP and likewise, how the State has complied with Article 15 through the cultural policies, programs and projects implemented by other ministerial portfolios, regional governments and municipalities.
8. The report is organized into three chapters. Firstly, it reviews the latest recommendations made by the CESCR in 2015 (E/C.12/CHL/CO/4) and the State's response 2022 (E/C.12/CHL/5). Secondly, it responds to the List of Questions raised in 2020 (E/C.12/CHL/QPR/5), adding more information and/or refuting the information provided by the State in 2022. Thirdly, it reports situations of violation and non-compliance of the article beyond those raised in E/C.12/CHL/QPR/5, with their respective proposals for recommendations for the correction of these situations. This last aspect obeys a series of observations regarding the role of the State and its erroneous, biased and incomplete understanding it holds regarding cultural rights, a matter that was endorsed by the Special Rapporteur on cultural rights, Alexandra Xanthaki, on her visit to Chile in 2024 in párr. 21, 33, 66 y 72 of her report A/HRC/58/60/Add.1., and that will be explained through the diagnoses that were raised by this coalition.

Recommendations made by CESCR in 2015 for the fourth periodic reporting cycle of Chile (E/C.12/CHL/CO/4)

9. With regard to the recommendations of paragraphs 8(b), 8(c), 11(c) and 11(d) of E/C.12/CHL/CO/4, and the preliminary question, paragraph 27 of E/C.12/CHL/QPR/5, the State of Chile reports in paragraphs 185 to 188 of E/C.12/CHL/5 on the development of the Draft Law (PL) on Cultural Heritage, which would replace the current Monuments Law 17.288. The PL has been in the second constitutional procedure in the Senate since March 2023.
10. According to Bulletin No. 12.712-24, the PL will formalize in art.1 the existence of indigenous people (PO) and the Chilean Afro-descendant tribal people (PT), and in its art.4 it states that "the right to participate in cultural life is intertwined with their right to self-determination and includes the right to free, prior and informed consent in matters related to natural and cultural resources that affect their identity and cultural life" (p.9). which could be an advance in its recognition. However, the PL does not seek to replace Supreme Decree (DS) No. 66 on the Indigenous Consultation as indicated in paragraph 41, but rather integrates it. Regarding the role of the Council National's Cultural Heritage, it does not specify that the representatives of PO have a binding vote, so in practice, the decisions made by the Indigenous Consultation and the vote of the Council will be opposed. The same could happen with the indigenous representative in the Regional Councils.



11. In addition, paragraph 59 of the PL indicates that it would be the Government that has the duty to respect the cultural right to heritage, and the free, prior and informed consent of both peoples, as well as due diligence in the face of territorial development projects that could compromise their cultural rights. Therefore, the effectiveness of these provisions will depend on their interpretation and implementation and is therefore not constituted as State policy, which could mean setbacks in the matter.
12. On April 6 and 19, 2024, the MINCAP held the "National Agreements on Afro-descendant Tribal People"¹³ and the "National Agreement on Indigenous Consultation: New Heritage Legislation"¹⁴ between the State and representatives of PT and PO organizations regarding the Heritage PL, focusing the agreements on the protection and management of indigenous cultural heritage, with emphasis on the active participation of the PT and PO. It is imperative that the PL collects these agreements.
13. Regarding the policies and programs related to the taking of necessary measures for the protection of the cultural rights of POs and PTs, we can add that in response to previous question 6 in E/C.12/CHL/QPR/5 that these have not been a priority in the National Human Rights Plans Business and Human Rights (PAN). For the PAN-2, which covered the period from 2022 to 2025, Pillar 1 indicates the duty of the State to protect human rights, through the strengthening of the knowledge of officials of the Environmental Assessment Service (SEA) on aspects of OP to be considered in the evaluation processes within the framework of the Environmental Impact Assessment System (SEIA). In addition, Pillar 2 includes actions to strengthen the consent of the PO but does not make explicit issues of Indigenous Consultation nor does it establish that final decisions must necessarily be conditioned to the result of such consultations.
14. Unfortunately, in the "*Third Diagnosis of Business and Human Rights*" carried out in 2024 by the ILO for the Southern Cone, the European Union's Global Gateway, and the Corporate Sustainability Program of the Faculty of Law of the Pontificia Universidad Católica de Chile (PSC-UC), it does not specifically recognize the effects that the exercise of business has on the cultural rights of POs and PTs and what to do in terms of prevention and due diligence. The design of the PAN-3, to be operated from 2026 to 2028, is not published. The Interministerial Committee for the PAN has met 10 times, but the minutes are not available¹⁵.
15. Finally, the organizations of this coalition report that the provisions of Indigenous Law No. 19,253 or the obligations of the State under Convention 169 are binding, incidental or considered when interpreting the current heritage laws and the PL, nor used for the elaboration of the commitments of the NAP-2 and PAN-3. Neither the Environmental Law (MA) No. 19,300 nor the Peatlands Law No. 21,660 specifically establishes mechanisms for the protection of the cultural rights of both peoples, an issue that should be prevailing in the development of projects such as those entitled in articles 10 and 11 of the MA Law, which regulate the implementation of the SEIA. SEA and Environmental Impact Assessments (EIA).
16. **For all the above, this coalition recommends the following to comply with the indications of the CESCR in 8.b), 8.c), 11.c), 11.d) and 31.c) of 2015 and thus guarantee the cultural rights of PO and PT according to points 1.a) and 2 of Article 15 of the ICESCR:**
 - a. **It is imperative that the Heritage Law PL includes the agreements adopted with different representatives of PO, which include the recognition of living and indivisible heritage (Pillar I, point 2), guaranteeing collective cultural rights (Pillar III, point 2), the creation of a "Special Unit for Indigenous Heritage in the MINCAP (Pillar II, point 4), the creation of new categories for the protection of sites of cultural significance and cultural landscapes (Pillar II, points 5 and 6), the participation of the Advisory Council of Indigenous Peoples with voice and vote (Pillar III, points 3 and 4) and the monitoring and sanctions against damage to indigenous heritage (Pillar II, point 8).**

¹³National Heritage and Culture Service [SNPC], 2024 <https://www.pueblosoriginarios.gob.cl/consulta-previa-indigena-y-afrodescendiente/acuerdos-consulta-previa>

¹⁴ Ditto.

¹⁵ <https://www.planderechoshumanos.gob.cl/documentacion>



- b. **It is imperative that the Heritage Law PL includes the agreements adopted with different representatives of PT, which include the "indivisible" recognition of the heritage of the Afro-descendant people (Pillar III, agreement 14) and the safeguarding of sites of Afro-descendant cultural significance (Pillar II, agreement 11), which is aligned with the International Convention against Racial Discrimination and the integration of the principle of "good living" of Afro-descendants in heritage and educational policies (Pillar II, Agreement 7).**
 - c. **Modify Law 21.151, which recognizes the Afro-descendant people, to include explicit heritage protection and the inclusion of census categories in all areas of public policy.**
 - d. **Modify the legislative hierarchy, especially through the Indigenous Law. Likewise, to demand that the state prevail over and respect ILO Convention 169, interposing the right to indigenous consultation in each intervention project in areas of indigenous development.**
 - e. **Modify articles 10 and 11 of the Environmental Law, incorporating the need to maintain cultural heritage in each protected area and the obligation to consider and respect the PO heritage in environmental planning and assessment, as well as the promotion of their participation and recognition of their knowledge.**
17. With regard to what is indicated in paragraphs 9 and 10 of E/C.12/CHL/CO/4, it can be stated that the rights enshrined in article 15 are those with the fewest indicators and monitoring of the ICESCR, within the different data collection programs of the National Institute of Statistics (INE), Ministry of Social Development (MIDESO) and MINCAP. The State's statement in paragraph 64 of E/C.12/CHL/5, and in response to the previous question, paragraph 10 of E/C.12/CHL/QPR/5, is insufficient. The latest National Survey of Cultural Participation (ENPC) of the MINCAP is from 2017, so there is no information in 8 years on the right to enjoy culture in equality and without discrimination, nor on cultural participation, or use of ICT and ICT in the cultural field.
18. In 2017, MINCAP published the National Culture Policy 2017-2022. Along with it, sixteen regional policies (one for each region of the country) and 7 sectoral policies for the same five-year period (Policy for the Promotion of Architecture, Policy for the Promotion of Design, National Policy for the Performing Arts, National Policy for Crafts, National Policy for the Visual Arts, National Policy for the Audiovisual Field and the National Policy for the Field of Music).
19. In 2024, MINCAP published the National Five-Year Strategy 2024-2029, which reviews its previous versions, emphasizing the elements of continuity and change, but does not present an analysis of the status of implementation, monitoring of these tools or the impact they would have on the population. Neither of the two national policies, 2017-2022 or 2024-2029, incorporates indicators with a human rights approach that allow the exercise of Article 15 to be visualized, broken down by criteria of age, sex, ethnic origin, urban and rural population, etc., or other categories that allow us to see that actions in the matter seek to undermine discrimination in access. The existing information is the number of people attending cultural centers, public libraries, museums, galleries, fairs and festivals, national parks and heritage sites, theaters, cinemas, which rarely includes age and sex identification.
20. Nor are there any statistical instruments that allow comparing access to culture in the private and public spheres.
21. **Therefore, in order to comply with and reinforce the recommendations of the CESCR in 9 and 10 of 2015 and thus guarantee a monitoring of the exercise of Article 15 with a human rights approach, it is suggested:**
- a. **Carry out the ENPC at least every 3 years, including the disaggregation of data according to special protection groups (GEPs), and that the instruments have criteria that allow the intersectionality of the GEPs.**
 - b. **Include in the next Five-Year Strategies quantifiable goals that can at least be disaggregated into ethnicity, territory and gender, with impact assessment on historically excluded groups. This information must be available to the public as a form of accountability and transparency.**



- c. Align the regional and sectoral policies of the MINCAP with the standards of the ICESCR and with the General Comments of the CESCR. To this end, it is advisable to seek support from UNESCO, ECLAC and NHRI for the development of measurement and training methodologies for INE and MINCAP officials**

22. With respect to the recommendations in paragraphs 31(a) and 31(c) on the implementation of bilingual intercultural education and the language of PO or PT in E/C.12/CHL/CO/4, and in response to preliminary question 26 of E/C.12/CHL/QPR/5, the measures reported by the State in paragraph 182 of E/C.12/CHL/5 are insufficient. In addition to the National Corporation of Indigenous Development (CONADI) program, the Ministry of Education (MINEDUC) implements the Intercultural Bilingual Education Program (PEIB) according to Decree 280 of 2009. However, it establishes the voluntary nature of implementation in establishments with a number of less than 20% of PO student enrollment, which in practice results in the concentration and segregation of students of PO descent in some establishments, thus losing the possibility of choosing other schools and other educational projects, so that from the perspective of substantive equality, the possibilities of students to receive education in their own educational system would be violated. mother tongue, as well as access to their worldview. Likewise, the intercultural education of the entire population is being violated and the promotion of the languages of PO to the rest of the non-indigenous population is made invisible, in violation of points 1.a) and point 2 of article 15.
23. Currently, there are no education programs in the indigenous language of migrants, such as Haitian Creole, Bolivian Quechua, Peruvian Aymara, etc., which violates the right to the mother tongue of these people. What the State reported in paragraph 53 of E/C.12/CHL/5 in this regard is insufficient.
24. Based on the agreements indicated in paragraph 12 of this report on the Heritage PL, a public policy for the revitalization of the PO languages is necessary, which could be financed by the Cultural Heritage Fund (Pillar I, point 6) and PT. Also, the inclusion of the intercultural approach through the Principle of cultural integrity of ILO Convention 169.
25. **To guarantee access, promotion and dissemination of indigenous languages and thus reinforce recommendations 31.a) and 31.c) of the CESCR of 2015 and ensure this right from point 1.a) of art. 15, it is suggested:**
 - a. **Amend Decree 280 in its art.2 to achieve universality in the implementation of the PEIB; in its article 4 so that the indigenous language is part of the national curriculum in accordance with Law 29.253; and repeal art. 5.**
 - b. **Modify Decree 280 by including articles that expand the scope to migrant and PT languages, and that it is coordinated with the Spanish as a Second Language Program (EL2) of the MINEDUC.**
 - c. **The modifications to Decree 280 must be accompanied by mass teacher training in PO and PT languages and pedagogical materials adapted to each territory, an issue that can be carried out through the Center for Improvement, Experimentation and Pedagogical Research (CPEIP) of the General Education Division (DEG) and/or the Directorate of Public Education (DEP) of the MINEDUC. As well as be included in the Standards of Initial Teacher Training and in the Framework of the Law of Good Teaching of Law No. 20,903**
 - d. **Articulate the Patrimony PL with the PEIB and the provisions of paragraphs 21, 16.a) and 16.b) of this report.**
 - e. **Amend Law 21.151, which recognizes the Afro-descendant people, to include explicit patrimonial protection, of linguistic and educational rights.**
 - f. **Amend Articles 3 and 32 of the General Education Law (LGE) to include PTs recognized in the Law. 21.151.**



Issues of particular importance raised by CESCR (E/C.12/CHL/QPR/5) in 2020 for the submission of the fifth periodic report of Chile

26. On the prior issue parr. 3 in E/C.12/CHL/QPR/5, this coalition considers the State's response in paragraphs 18 to 20 on access to culture and the training of MINCAP workers to be insufficient to be able to be guarantors of the cultural rights of citizens. As indicated by Special Rapporteur Alexandra Xanthaki in paragraphs 25, 55 and 56 of A/HRC/58/60/Add.1, MINCAP focuses only on the aspect of access to cultural manifestations, but not on the participation and contribution of all people in cultural life. Although the MINCAP narrative includes the concept of "cultural democracy", this is not reflected in the name of the ministry, nor is it operationalized in its policies, programs or protocols, as we pointed out in para. 18 and 19 of this report.
27. **That is why as a coalition, and to increase the recognition of cultural rights, we want to take up the recommendations of the report A/HRC/58/60/Add.1 so that they are fulfilled by 2030, considering that the process of elaboration of sectoral policies is open, specifically those indicated in:**
- a. **Regarding the recommendations of paragraph 98, we rescue points b) and c), which implies providing training to MINCAP officials on what cultural rights are and what participation in cultural life implies**
 - b. **Regarding the recommendations in paragraph 99, we emphasize the implementation of those in point a), b), e), f) and g), which are related to strengthening the work with UNESCO, incorporating the rights perspective in the Heritage PL, increasing funding for the Culture, Memory and Human Rights Unit and strengthening intersectoral work on intercultural issues. recognition and preservation of historical memory, and to promote various forms of financial support for artistic-cultural creation, which involves special measures for GEP in the National FONDART, and the Performing Arts, Music, Book and Reading, Creative Economy and Audiovisual funds. As well as ensuring diversity in the cultural programming prepared by the State. This, as we pointed out in paragraphs 18 and 19, must be reflected in the State's statistical and monitoring indicators and tools, to identify gaps in the exercise and have better monitoring.**
 - c. **Finally, on paragraph 100, we emphasize b), c) and d) that aim at greater participation and rapprochement of citizens in the decision-making of the MINCP, to give space to narratives of historically displaced groups in cultural programming, and to reinforce the participatory monitoring and evaluation of the ministry's policies and plans.**
28. On the prior issue parr. 9 in E/C.12/CHL/QPR/5, we as a coalition think that the State's lack of response in E/C.12/CHL/5 on the budget invested in culture is a very bad signal. The budget granted to institutions, public policies, programs and initiatives associated with the promotion of cultural and artistic expressions is linked to the right to participate in cultural life, since it affects the availability or presence of cultural goods and services, as well as their accessibility and dissemination. In recent years, the State has highlighted the need to increase the MINCAP budget, until it corresponds to 1% of the Budget Law. Today, it corresponds to about 0.5% according to Law 2025. The Observatory of Cultural Policies (OPC) carried out an analysis in 2024 that shows that in 2025 the Budget Law wanted to mask existing programs by increases for MINCAP. On November 6, 2024, the 2025 budget PL supposedly considered a 46% increase over the previous year for MINCAP. However, the OPC revealed that the increase was 32.2%, since the remaining 13.8% corresponded to previous public initiatives. Although these were cultural activities, they had been carried out for years by other ministries and services.
29. Subsequently, the Budget Directorate (DIPRES) indicated that \$62 million pesos (40%) corresponded to programs already existing in other ministries and services. In addition, the approval of the 2025 Budget Law meant a 5% cut for the MINCAP, as for the rest of the State. With this, the OPC concludes that the real growth of the budget for cultural initiatives in 2025 was 25%.
30. On November 14, 2024, following the partial rejection of the budget for culture in the 2025 Budget Law by the joint commission of the Chamber of Deputies, various actors from the cultural world – including artists,



cultural workers, sites of memory and trade unions – demonstrated in front of Congress, demanding the approval of the funds under the slogan "Culture is not spending, it's investment." Likewise, the Executive stressed that "culture is not the final wagon of the train queue" and defended its promise to increase the resources allocated to Culture to 1% of the National Budget¹⁶.

31. This was not the first time that the State of Chile has made such a mistake. During the discussion of the 2021 Budget Law, a similar situation occurred, as the OPC pointed out at the end of 2020. A growth in Culture was announced that was actually artificial, since it did not involve additional resources, but were transfers from other programs or institutions that were going to suffer cuts. For example, the Performing Arts Fund grew by 344%, but this budget came from another program of the same Undersecretariat. Likewise, the Audiovisual Fund announced a 12% increase, but these resources came from the Creative Industries program of the Corporation for the Promotion of Production (CORFO). In general, that year a good part of the MINCAP programs faced a reduction in their budget. The National Heritage Promotion and Development Program decreased its resources by 28.1%, the National Plan for the Promotion of Reading by 12%, the Public Library Network by 10.2%, among others, in addition to a 14% decrease in personnel spending by the Undersecretariat of Cultures and the Arts.

32. **In view of this situation, we believe that it is pertinent to recommend the following:**

a. That a state-government commitment be generated that involves gradually increasing the budget for MINCAP initiatives by a total of 1% between now and 2030.

33. On the prior issue parr. 10 in E/C.12/CHL/QPR/5, we again consider that the State's response in parr. 59 is insufficient. Although Libraries, Archives and Museums have had a free access policy since March 3, 2015, only 26 museums belong to and are financed directly through the National Service of Cultural Heritage (SNPC), which represents 6% of the total offer. The creation of the Registry of Museums of Chile (RMC) has been a step forward in collecting information on the functioning of these spaces and their attendees. By the end of 2023, the existence of 439 museum spaces was recorded. Most of the entities are regional (44%), followed by the national (29%) and, finally, the community (21%). Regarding the main collection, almost half of the museum entities in the country are historical (48%), followed by far below the artistic collections (15%) and archaeological collections (11%). Funding comes mainly from local governments, i.e. municipalities (20%), followed by private associations, such as corporations, foundations and individuals (18%, 16% and 13% respectively). Only 16% of museums collect systematic information from their visitors¹⁷. The report does not allow us to see if there are actions dedicated to cultural participation with a greater incidence than spontaneous or programmatic visits, and/or if there is another assessment of the approach of the communities or audiences of interest to the museums. There are museums that have groups of friends and volunteers, but the impact of these relationships on the work of museums and galleries is not analyzed.

34. In addition to the above, according to the latest ENPCC, 29.4% of those surveyed have never attended a museum in their lives. Compared to other countries in the region, Chile's attendance figure is high, but it is still low when compared to European countries, where it is around 50% on average. Now, from the *2021 Report Panorama of cultural participation in Chile*, it can be deduced that the subjective reasons related to cultural participation are mainly associated with cultural capital (34.5%), that is, due to disinterest, lack of habit and fear of facing an access barrier – impossible payment – and/or symbolic together with territorial barriers¹⁸.

35. In summary, there is very little public and free offer of museums available to the population, and very few of these spaces collect sociodemographic data from their attendees, so it is not possible to know whether or not they are reaching the most marginalized population and/or GEP.

¹⁶ <https://www.theclinic.cl/2024/11/14/la-presion-del-mundo-de-las-culturas-para-que-congreso-apruebe-presupuesto-para-cultura-2025-no-es-gasto-es-inversion/>

¹⁷ https://www.registromuseoschile.cl/663/articles-124905_archivo_01.pdf

¹⁸ <https://observatorio.cultura.gob.cl/index.php/2021/01/28/panorama-de-la-participacion-cultural-en-chile-una-mirada-desde-la-experiencia/>



36. The SNPC has the Fund for the Integral Improvement of Museums (FMIM) that between 2018 and 2023 benefited 213 museum entities. The projects are mainly for musicographic improvement (59%) and collection development (41%). There are no incentives to generate projects that are related to points 1.a) and 1.b) of Article 15.
37. As for the creation and implementation of the Creation Centers (CECREA), these spaces are aimed at people between 7 and 19 years of age, and their objectives are the promotion of the right to creation, which has developed a lot of documentation on its creative-pedagogical model and orientations based on human rights¹⁹. However, there are only 14 centers for a total of 4,951,574 children and adolescents (NNA) between 10 and 19 years old, according to 2024 data from the INE²⁰. In addition, there are no centers in the regions of Atacama, Maule, Ñuble or Magallanes, leaving 284,214 children and adolescents out of the program.
38. As for digital tools to ensure access, the existence of subtitles or audiobooks on different public platforms does not imply the use of people with disabilities (PwD). According to data from the INE in 2024, there are 3,900,776 PwD in Chile²¹. At least, to date, the State has not been held accountable by the MINCAP or by the National Disability Service (SENADIS).
39. **In consideration of all the above, we consider it pertinent to recommend the following actions:**
- Increase funding for museums and museum spaces that are dependent on regional or municipal governments. Ideally, a fixed budget percentage should be designated according to the regional reality, an issue that is replicated for municipal spaces. Given that local governments and municipalities have disparate budgets due to the tax realities of each commune, we also recommend that funding for museums and museum spaces be through the Municipal Common Fund (FMC).**
 - The increase in funding should be to reduce barriers to access through the design and execution of cultural mediation programs, especially in rural and peripheral areas, and in campaigns to train audiences and audiences based on cultural participation, to combat the "lack of interest" associated with the cultural capital gaps of the population.**
 - Increase the staffing for the allocation of the IMFF, so that they can better assist and advise cultural and heritage spaces in the formulation of projects that encourage participation in cultural life (art.15 (a) ICESCR).**
 - That MINCAP be transparently accountable for the actual use of tools such as subtitling and audiobooks by PwD, to understand whether or not these reasonable adjustments are fulfilling their role.**
 - Expand the coverage of CECREA to the regions mentioned in paragraph 36.**
40. With regard to the prior issue paragraph 28 in E/C.12/CHL/QPR/5, of indicating measures related to points 1.b) and 2 of Article 15 of the ICESCR with a focus on GEP, we reiterate that despite the fact that the MINCAP is governed by the principles of "democracy and cultural participation" as indicated in its response by the State in paragraphs 197 and 198, in practice, its policies and programs do not have indicators that allow the impact to be accounted for, recognizing cultural diversity and allowing the exercise of cultural rights, especially for women, PwD and people living in poverty. Although the promotion of collective memory processes is mentioned, there is no recognition of historical memory as part of the cultural and social identity of people, an issue that this document addresses in paragraphs 91 to 94.
41. There is a tendency to equate audience promotion with cultural participation. The Audiences and Territory Unit of the MINCAP is a key instance for the implementation of cultural policies with a focus on access, participation and cultural democratization. Since 2020, it has carried out five versions of the "School of

¹⁹ <https://cecrea.cultura.gob.cl/documentos/>

²⁰ <https://censo2024.ine.gob.cl/estadisticas/>

²¹ Idem



Audience Development" and other initiatives that have been expanding the conception of cultural democracy and participation²². This instance is aimed at managers and artists and other key cultural agents.

42. The access measures indicated in paras. 199 and 200 are, in our assessment, insufficient because they do not constitute in themselves measures of special protection or reasonable adjustments to target the GEP.
43. **For all of the above, it is pertinent to carry out the following actions:**
- a. **Cultural democracy requires institutional mechanisms that recognize audiences as actors in the ecosystem, beyond their role as spectators. To delve into the concept of cultural democracy and participation that MINCAP officials have, through the work of the Publics and Territories Unit.**

Current Application of Article 15 of the ICESCR, with Emphasis on Points 1.a), 1.b), 2, and 3

Gaps in access, participation and enjoyment of artistic-cultural expressions

44. According to Peters (2021),²³ inequality in access to artistic-cultural goods and services for Chileans has not only increased in the last fifteen years but has also recently observed a distancing of the national population from the cultural offer available in publicly funded cultural spaces. such as museums, theaters, cultural centers and libraries, among other spaces. Despite the growth in public investment in the creation of cultural infrastructure, the available evidence shows an accelerated decrease in attendance at these spaces, with the main gaps detected at the territorial levels (both at the urban and rural levels, as well as between regions), by economic income, age groups and gender.
45. According to the latest ENPC, 17% of Chileans attended, in the last twelve months, a public library. The same percentage visited a cultural center in a year. One in five, meanwhile, attended a museum in the same period. 14% did the same for plays, 16% for visual arts exhibitions and less than 6% for a classical music concert. According to statistical estimates, these figures would have been further radicalized considering the effects of the pandemic and the availability of new cultural offerings via streaming platforms.
46. One of the sectors especially affected by this scenario is books and reading. According to the *"Study of Reading Habits and Perceptions in Chile"* (2024) by Ipsos Chilean Chapter²⁴, two out of three Chileans did not read books and/or novels in the last week. In the order of priorities for cultural leisure, reading is ranked 11th, surpassed by activities such as listening to music, watching movies or videos and using social networks via cell phones. In the same study, they highlight that, when carrying out a historical review of the phenomenon, the gaps in reading and access to books by socioeconomic level and years of schooling have increased exponentially²⁵.
47. This same trend is observable in access to a large part of the cultural offer considered as "traditional", such as theater plays, dance, visual arts and libraries. This directly affects the right to access culture at the individual and collective level, as it is considered that a part of the Chilean population maintains persistent social gaps in access to the offer financed and promoted by the State (Peters, 2021).
48. The information from the Red de Salas de Teatro Metropolitana (RSTM) also allows us to reach similar conclusions regarding theatre and the performing arts (AAEE) in general, which would be caused by different

²² https://publicosyterritorios.cultura.gob.cl/escuela-de-desarrollo-de-publicos-2025/?fbclid=PAZXh0bgNhZW0CMTEAAadMsoEz1xRn8HVO9GyZMg67SZIMVKPLOqsuo5UNz9Tj6MbFxoq_uwMVKFqdeQw_aem_4dz2GuvqEZOAZ1MtzrSlw

²³ Peters, T. (2021). Institutionalization and cultural consumption: continuities and transformations of the logics of access to the arts in Chile (2003 – 2017). *Athena*, (523), 77-94. <https://doi.org/10.29393/AtAt523-411TPIC10411>

²⁴ Available for download in: <https://www.ipsos.com/sites/default/files/ct/news/documents/2022-04/Ipsos%20-%20Informe%20de%20H%C3%A1bitos%20y%20Percepciones%20Lectoras%20en%20Chile%20%28prensa%20masivo%29%20VF.pdf>

²⁵ The results of the Ipsos study are presented in the following note: <https://www.latercera.com/culto/noticia/leen-poco-los-chilenos-esto-revela-un-ultimo-estudio-en-el-dia-del-libro/>



factors. From 2019 to 2021 there was a 92% drop in attendance. It went from a total of 1,938,891 attendances in 2019, to 154,707 attendances who participated in theater and dance shows²⁶, only from sectoral institutions. We talk about assistance, because there are no ways to make sure that different people have agreed. It is noted that due to the pandemic, the temporary closure of spaces and new digital formats, the habits of the population have changed so far. Organizations such as RSTM move more than 430,000 people on average annually, independently, and carry out studies and evaluations on the cultural participation of their audiences. Through these instruments they have been able to collect the need for citizens to promote more permanent links between artists, spaces and communities²⁷.

49. In general, AAEE faces barriers to accessing adequate physical spaces due to restrictive municipal regulations and prohibitive costs, as detailed in the *Report on Cultural Infrastructure in Chile* carried out by the OPC²⁸. The State of Chile has not developed public policies that recognize the fundamental role of independent theaters in the cultural ecosystem. These organizations, which represent 70% of the national theater activity, lack a specific legal framework that guarantees their sustainability, access to financing and participation in decision-making.
50. In general, the AAEE ecosystem is sustained based on financing through the Support Program for Community Cultural Organizations (PAOCC), which, although valued by the sector, does not allow projection beyond one year, since its application and execution are annual. This prevents the possibilities of generating a sustained work of cultural democracy between citizens and these spaces, and at the same time limits access to citizenship. In the last year, 4 theaters of the RSTM closed because they did not obtain PAOCC financing²⁹.
51. Another situation noted is the centralism of the AAEEs. Theatre companies and media artists in regions face problems of access to production and circulation, as well as funds. 85% of MINCAP's competitive funds are concentrated in the Metropolitan Region, perpetuating territorial inequalities. This violates the right to participate in cultural life in regions, as evidenced by the 2020-2023 Fund Distribution Analysis³⁰.
52. Finally, one of the most striking gaps is the access of PwD to the AAEE. According to SENADIS, only 12.8% of the adult population with disabilities attend theater, concerts or dance³¹. In 2023, the RSTM and y Fundación Ser Inclusivo proposed an accessibility plan based on the diagnosis of the 26 associated theaters, which allowed them to generate an accessibility program, encouraging the cultural participation of PwD and including accessibility elements for their free participation. It included audio description, sign language, simultaneous subtitling, Braille posters, and digital formats compatible with screen readers. This achieved a 40% increase in the number of PwDs in its rooms and the creation of an accessibility guide for theatres³².
53. **To reverse this situation, and thus comply with point a) of article 15 of the Covenant, the following recommendations are proposed:**
 - a. **It is recommended, along the same lines as suggested in paragraphs 39.a) and b) of this document, the implementation of plans to promote artistic production and cultural access at the municipal level with guaranteed long-term communal budgets and non-discretionary budgets according to change of authorities. The definition of a minimum percentage of the municipal budget allocated to cultural promotion and access would be an advance in the right to access to culture.**

²⁶ <https://observatorio.cultura.gob.cl/index.php/2022/12/19/estadisticas-culturales-informe-anual-2021/>

²⁷ https://redsalasdeteatro.cl/wp-content/uploads/2024/08/Informe- Publicos_2022.pdf

²⁸ <https://www.observatoriopoliticasculturales.cl/wp-content/uploads/2021/04/Resumen-Ejecutivo-Diagn%C3%B3stico-Espacios-Culturales-RM.pdf>

²⁹ https://www.instagram.com/redsalasdeteatro/p/DFQE-4ZOQCJ/?locale=pl&hl=ar&img_index=1

³⁰ <https://www.fondosdecultura.gob.cl/estadisticas/>

³¹ <https://www.senadis.gob.cl/descarga/i/7442/documento>

³² <https://redsalasdeteatro.cl/noticias/lanzamiento-del-plan-de-accesibilidad-de-la-red-salas-de-teatro-de-santiago-un-compromiso-hacia-la-diversidad-cultural/>



- b. It is recommended that plans such as the "Culture Pass" increase their coverage to larger groups with low economic income and cultural capital and, in addition, that the bonus be extended to teachers in the poorest schools in the country.
- c. It is recommended to expand the "Points of Culture" program at the national level, increasing its budget and agreements with new local spaces in rural and/or difficult-to-access territories. These actions would make it possible to focus on the social sectors that, historically, have maintained a distant condition from cultural institutions in Chile, thus promoting effective participation in the cultural life of Chileans.
- d. Reformulate the logics for granting the PAOCC, so that it can give greater continuity to the applicant institutions, under criteria of promotion of diversity and cultural participation.
- e. Establish permanent working groups with the sector for the co-creation of policies.
- f. Funding for reasonable accommodations for PwD in cultural spaces. Ongoing training in inclusion for managers. This should be done by the MINCAP in alliance with SENADIS and civil society organizations that work on the rights of PwD.

The exercise of the human right to culture and its relationship with freedom of expression and freedom of the press (article 9 of the International Covenant on Civil and Political Rights)

54. In 2022, the National Television Council (CNTV) released the results of a study aimed at whistleblowers of situations that violate audiences. It was revealed that PwD, PM, and children and adolescents are among the GEPs who appear the least on screen, and those who are most dedicated by the media to showing are migrants. The groups that are shown on television being harmed are the POs and people in poverty. In this context, more than half of those who denounce consider that open television constantly reproduces denialist discourses, and 68% consider that it is part of the social role of the media to broadcast programs that contribute to the exercise and respect of human rights³³. This reveals the stereotypes, invisibility and hate speech towards some specific cultural identities, which would be circulating in our country and, therefore, the need for those who work in the field of communications to have the tools to combat them.
55. The Special Rapporteur for Freedom of Expression (SLR) of the Inter-American Commission on Human Rights (IACHR), Pedro Vaca Villareal, visited Chile during 2024 and pointed out as worrying the concentration of media in Chile and the lack of representation of social and cultural diversity in content. It also found that the closure of community radio stations in the country is a problem that threatens freedom of expression and at the same time, threatens local cultural expressions. Online messages are reported that promote harassment against groups based on ethnic-racial origin, gender, sexuality or socioeconomic status, which affects their right to participate in cultural life³⁴.
56. It is possible to evidence a historical gap in the access of certain groups to the mass media, and therefore³⁵, to the possibilities of participating in culture and expressing their cultural identity. The UNESCO Chair of the Universidad Academia de Humanismo Cristiano (UAHC) agrees in its report that in Chile narratives have been monopolized by the hegemonic media, making the narratives of certain peoples or communities invisible, an issue that violates the public expression of cultural identity.
57. This situation of invisibility and censorship on social networks towards different cultural identities and even artists was reported in the *2020 Report: Freedom of expression in Chile*³⁶. An example is the complaint filed by the Metropolitan Municipality under the State Security Law No. 12,927 against the artist Marcela Inostroza for her performance at Cine Arte Alameda, the complaint that the Carabineros de Chile made against the feminist collective LASTESIS for a video performance; the elimination of graffiti and murals of denunciation during the social outbreak and the pandemic, the result of which is the criminalization of an artistic expression, demonstrating a lack of commitment to the freedom of artistic creation and attacking

³³ <https://cntv.cl/estudio-repositorio/consulta-a-denunciantes-tv-y-derechos-humanos/>

³⁴ <https://www.oas.org/pt/CIDH/jsForm/?File=/es/cidh/expresion/prensa/comunicados/2024/108.asp>

³⁵ <https://libros.uchile.cl/1458>

³⁶ <https://fcci.uchile.cl/agenda/172648/libertad-de-expresion-en-chile-informe-2020>



respect for collective memory, eliminating part of the cultural heritage of the city. The case of the Pliegue collective, which was preparing a documentary on the social outbreak, received threats and hacks on its Instagram account, which forced them to suspend its premiere.

58. The same report documents various forms of censorship and limitation of freedom of expression in the digital environment, showing how the policies of platforms and the actions of third parties restrict access to culture and information. There was prior censorship of Instagram the dissemination of the documentary "La Utopía de las Mariposas" of the Wallmapu International Indigenous Film Festival (Ficwallmapu), again preventing the expression of PO's identity on social networks and censoring cultural and artistic works that address political and social issues.
59. The decisions that States make regarding the press, about what is communicated or not, are public policies that are related to democracy, but also to culture. These speak of how the vision of the world built by individuals and collectives is conceived and the conditions for its expression and dissemination. It is key to develop public policies that ensure the right to freedom of expression and the cultural identity of socially vulnerable, excluded and/or discriminated actors. Faced with this, community communication, legitimized by the participation of the communities themselves in their development, offers the possibility of speaking and being heard, in their own terms. Community media can today be dynamizers of their communities so that they can recount their own issues in a decentralized and multiplatform way. Given that community media are not commercial but social, they require support measures and access to public funds that guarantee their development and sustainability.
60. **Some recommendations to strengthen the right to the expression of cultural identity are:**
 - a. **Improve the financing possibilities for local and community media, as community cultural organizations, facilitating their access to funds such as the PAOCC, which aim at their structural strengthening, through the financing of management plans, which allow their development and sustainability.**
 - b. **Repeal or modify laws that criminalize artistic expression and criticism of power, such as the State Security Law No. 12,927, ensuring that the legislation is not used to restrict freedom of creation and expression.**
 - c. **Establish effective mechanisms to protect artists, communicators and independent media from threats, harassment and censorship, both in the physical and digital environments. This must be an effort between the MINCAP, the Ministry of Telecommunications (MTT), the judiciary and the Forces of Order and National Security.**
61. The media have a primordial role in the defense, development and transmission of peoples' cultural values and knowledge. Access to the media by different social groups, including indigenous peoples, is a fundamental element for participation in cultural life.
62. Having representation in spaces and programs of the different media, as well as the possibility of founding their own media autonomously, makes it possible for indigenous peoples not only to participate, but also to promote their own identity, language, culture, self-representation and collective rights. For indigenous communities, language is one of the pillars on which culture is based, being in particular the vehicle for the acquisition and transmission of their worldview, knowledge and values. In this regard, the Inter-American Court of Human Rights has stressed that "language is one of the most important elements of a people's identity, precisely because it guarantees the expression, dissemination and transmission of its culture" (Case of López Álvarez v. Honduras. Merits, Reparations and Costs, Judgment of February 1, 2005, and Case of Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala, Judgment of October 6, 2021, para. 127).
63. ILO Convention 169 highlights the importance for indigenous peoples of the right to culture and the protection of their languages (Article 28). It requires States to make known to these peoples their rights and obligations, through the mass media (Article 30). In turn, the United Nations Declaration on the Rights of Indigenous Peoples establishes in Article 16 that "indigenous peoples have the right to establish their own means of information in their own languages and to have access to all other non-indigenous means of



information without discrimination of any kind; States shall take effective measures to ensure that the public media adequately reflect indigenous cultural diversity; States, without prejudice to the obligation to fully ensure freedom of expression, should encourage private media to duly reflect indigenous cultural diversity."

64. The indigenous peoples of Chile show high rates of poverty, social exclusion and obstacles to the full enjoyment of economic, social and cultural rights. The Mapuche people suffer from persistent stigmatization in the media, which manifests itself through criminalization, the construction of negative stereotypes, and the lack of adequate representation in the news (Fuente Alba and Cañete, 2018).³⁷ In the media system, the worldview of native peoples, their forms of social organization, their knowledge systems and their relationship with the land and nature are ignored. Stigmatization contributes to discrimination and racism in Chilean society, affecting the daily lives of Mapuche people³⁸.
65. Indigenous peoples also encounter obstacles in creating their own means of communication. The regulatory framework for radio and television does not reserve frequencies for this type of media, they do not establish special procedures that favor their creation and sustainability. At present, there are no public policies aimed at financing or promoting the creation of content for radio and television in the languages of indigenous peoples. Of the more than two thousand radio concessions, less than 20 have been allocated to radio stations of indigenous communities, while on television none of the more than 800 concessions have been allocated to indigenous peoples (García, 2022).³⁹
66. In 2013, the Committee on the Elimination of Racial Discrimination⁴⁰ recommended that the State of Chile "take the necessary measures, including those of a legislative nature, to reduce the restrictions on community media faced by indigenous peoples, in order to promote the languages of indigenous peoples", and in 2017 the Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights recommended that the State of Chile, It is necessary to "formulate a comprehensive policy to promote the sector, which especially covers indigenous peoples in the country." However, to date these recommendations have not been complied with.
67. **To address the gaps recently exposed, the following recommendations are presented:**
 - a. **To promote the creation and dissemination in the media, both public and private, of content created by indigenous communities, which allows the dissemination of their cultural expressions.**
 - b. **Promote such reforms as may be necessary to facilitate financial support for informational, scientific, artistic, and educational programs of indigenous cultures in their languages, as well as radio and television frequencies and concessions for indigenous projects.**

The Exercise of the Human Right to Culture of POs and PTs and its relation with other rights of the ICESCR

68. The We Rayen Lof Indigenous Association, a Mapuche organization in the Metropolitan Region, points out the existence of a significant gap between the declarations of state authorities, in particular mayors and councilors, regarding the economic, social and cultural rights of the PO and PT. A clear example of institutional cultural violence was the removal of the flag of the Mapuche people and the Wiphala flag from the building of the municipality of the Santiago Centro commune, once the new mayor Mario Desbordes

³⁷ Alba Cariola, Fernando and Darío Cañete Pacheco. 2018. Mapuche social stigmatization in Bio Bio, Chile. The reality constructed by the TV news. Chasqui 138: 191-209. <http://hdl.handle.net/10469/15779>

³⁸ For more information, see IACHR-RELE (2017): Situation of Freedom of Expression in Chile. 2016 Special Country Report. OEA/Ser.L/V/II. Inf. 16/17. http://www.oas.org/es/cidh/expresion/docs/publicaciones/informe_pais_chile.pdf

³⁹ García-García, J. (2022). Regulatory environment and public policies for the sustainability of community media in Chile. <https://www.observacom.org/proyectopidc/entornos-regulatorios>

⁴⁰ Committee on the Elimination of Racism and Discrimination, CERD (2013): Concluding observations on Chile, adopted at its 83rd session (CERD/C/CHL/CO/19-21)



took office⁴¹. The execution of cultural initiatives for PO is at the will of the elected local governments, since these actions are not regulated.

69. The Indigenous Negotiation Tables have been abandoned since before the pandemic, with no commitment to reactivate them. These instances were key to the oversight, implementation and execution of agreements. Even before its decrease, the We Rayen Lof Indigenous Association points out non-compliance with respect to the lack of representation of PO authorities in relevant meetings at the local level, which affects the right to autonomy, self-determination and cultural relevance. The Organization's diagnosis is that discourses associated with the indigenous persist with terrorism, witchcraft or physical violence, thus implying the exclusion and criminalization of indigenous leaders and cultural and spiritual expressions.
70. Added to this situation is the underfunding of the Special Program for Health and Indigenous Peoples (PESPI) of the Northern Metropolitan Health Service, which serves the POs of 8 communes of the capital: Renca, Quilicura, Huechuraba, Independencia, Recoleta, Lampa, Til Til and Colina. According to data from the INE, the program should serve 81,520 indigenous people, which corresponds to 15% of the total indigenous population of the RM⁴². This has meant the loss of cultural identity, by not guaranteeing access to ancestral medicine. It has also generated "ethno-stress", which increases physical and psychological comorbidities due to the forced disconnection from traditional practices.
71. During the 2022's Constituent Process, 2 initiatives were presented as Indigenous Peoples' Initiatives: No. 244 - "KUME FELEN: Indigenous Health from the Mapuche Vision with Cultural Relevance"⁴³ and No. 221 - "Human and collective rights of indigenous peoples with cultural relevance",⁴⁴ both identify as serious problems the forced medicalization of PO due to the imposition of Western treatments without considering ancestral practices, despite the fact that 85% of the Mapuche communities in the RM prefer ancestral treatments; the denial of spiritual ceremonies in psychiatric centers; 60% of the Machi report discrimination when treating patients in public health centers; and the lack of PO language interpreters. In other words, in addition to violating the exercise of Article 15, the right to health and informed consent enshrined in Article 12 of the ICESCR is being violated.
72. **Based on this information, it is pertinent to recommend:**
- Reactivate and strengthen the indigenous working groups in the RM, with binding participation of traditional authorities.**
 - Increase the budget for intercultural health, guaranteeing access to ancestral medicine.**
 - Sanction institutional discrimination and train public officials in indigenous rights.**
 - Creation of a National Intercultural Health System: Coordinated by autonomous indigenous councils (binding participation) with the inclusion of traditional therapists (machi, lawentuchefe) in the public health network.**
 - Legal recognition of Mapuche medicine: Validation of ancestral diagnoses and treatments (laws that equate its status to that of Western medicine).**
 - Development of participatory protocols, with an intercultural approach for Western health centers that include ceremonial spaces in hospitals and registration of patients with ethnic self-identification for public statistics.**

⁴¹ <https://radio.uchile.cl/2024/12/07/natalia-caniguan-y-retiro-de-desbordes-de-bandera-mapuche-son-formas-de-racismo-institucional/>

⁴² <https://censo2024.ine.gob.cl/estadisticas/>

⁴³ <https://www.chileconvencion.cl/wp-content/uploads/2022/03/244-KUME-FELEN-La-Salud-Indigena-desde-la-Vision-del-Mapuche-con-pertinencia-cultural.pdf>

⁴⁴ <https://www.chileconvencion.cl/wp-content/uploads/2022/02/221-Derechos-humanos-y-colectivos-de-los-pueblos-originarios-con-pertinencia-cultural.pdf>



Understanding cultural diversity and its impact on public policies

73. As part of the Balmaceda Young Art's Studies Collection (BAJ), the research *Promotion of Cultural Diversity through the empowerment of young people* (Keller & Vergara, 2024)⁴⁵ explains how the concept of cultural diversity acquires normative recognition following the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) (ratified and promulgated by the State of Chile in 2007, through Decree 82. With this, a conceptual framework and instruments for its promotion and protection are built. From that milestone "it is understood as the multiplicity of ways in which the cultures of groups and societies are expressed, whose transmission occurs within and between them" (Keller & Vergara, 2024, p. 24). A diverse world is, therefore, a value to be preserved and promoted.
74. In recent years, Chilean society has become more culturally diverse, which has implied challenges for institutions, including the formal and non-formal education system, which must respond to an increasingly complex environment. Diversity is unfortunately accompanied by ambivalent discourses regarding conflicts involving gender dissidents, indigenous peoples and the foreign population, among other groups. There is a dichotomy between growing equality and discrimination (and criminalization) in public discourse. Given the lack of information or education in this regard, there is no consensus in public opinion on the relevance of cultural diversity and why its expression and protection are key (Keller & Vergara, 2024).
75. As the study mentions, this ambivalent situation especially affects young people. One of the findings of the study is the lack of knowledge that this age group has about the notion of cultural diversity. When asked, in general the references are non-specific and tend to identify it with other concepts, such as migration. In view of this, the BAJ project analyzes how the approach to content related to the 2005 Convention, in non-formal art education workshops, affects the appreciation of cultural diversity by young people. They conclude that the effect is positive, that they generate awareness of its meaning and importance for the construction of a more just and tolerant society. This occurs both due to the exposure of the contents of the workshop, and as a result of the context of non-formal educational intervention.
76. On the other hand, the young participants perceive that although they have freedom of expression their identities, institutional and family contexts are barriers to its exercise. In this way, their homes and schools are not suitable places where they can freely express their cultural identity. Thus, it is key to highlight the role of non-formal art education, made up of safe spaces for such expression and that do not have inhibitors, except for those that young people themselves construct to safeguard the security and intimacy of these spaces.
77. **With this in mind, the following recommendations are presented:**
- Build and disseminate a univocal conception of "cultural diversity", based on what is indicated in the 2005 Convention, which allows for the delineate of an agenda for its promotion.**
 - Strengthen non-formal education spaces, such as the educational programs of cultural institutions and organizations, since unlike schools, they offer a framework of greater freedom that offers greater possibilities for the expression of the cultural identity of children and young people. In this, to give greater prominence and capacity for influence to artist-educators and mediators, facilitators of educational experiences.**
 - By linking these cultural spaces with the development of freedom of expression and expressions of cultural diversity, it is hoped that the MINCAP will understand culture as a cross-cutting area, key to the full exercise of rights, which transcends artistic disciplines.**
 - Develop a Program for the Promotion and Dissemination of Cultural Rights through the media, formal and non-formal education spaces, with the aim of generating a pedagogy around the notion of rights focused on children, young people and adults. In this framework, respect for cultural diversity must be promoted, emphasizing the richness and challenges of coexistence between different communities.**

⁴⁵ <https://www.balmacedartejuven.cl/site/wp-content/uploads/2024/08/educacion-artistica-e-interculturalidad-baj.pdf>



Employment situation of workers of the arts, heritage, sciences and technology

78. The Roundtable of Traditional Bohemian Music Cultists of Valparaíso (MBTV)⁴⁶ reveals that informality, precariousness and low valuation of the sector puts at risk the conservation, development and dissemination of this trade, which is intangible cultural heritage⁴⁷, and necessary for the development of the city of Valparaíso and the country.
79. This situation of vulnerability is general for artists and cultivators of traditional arts and craft fields, in which their work is not stable or sustainable. The longest-lived live their old age in very poor conditions, of disability or illness, and lack the minimum conditions to develop their lives with dignity, being forced to remain active until a very old age. This not only threatens their creative capacity according to point 3 of art. 15, but also their social security according to art. 10 and their right to work according to art. 6 of the ICESCR. On the other hand, the violation of art. 10 and art. 6 of traditional cultists ultimately affects all citizens, since it endangers the exercise of these practices and cultural heritage, therefore, indirectly violates point 1.c) and point 2 of art. 15.
80. The 2022 Cultural Statistics⁴⁸, published by MINCAP, show how the national labor market, in the field of culture, is characterized by its high rates of informality. Likewise, *The Scenario of the Cultural Worker in Chile* (by J. Brodsky, B. Negrón and A. Possel)⁴⁹ complements this panorama with information on similar items in the Valparaíso region.
81. As measures to contribute to its dissemination, the Municipality of Valparaíso, in coordination with the MBTV and other state programs, implemented for more than four years the “Emblematic Local Musical Seal”⁵⁰, which recognizes gastronomic commercial spaces that include artists and cultists of the MBTV in their programming. The MBTV participates in a periodic discussion for the updating and improvement of this initiative. Despite its achievements, the measure has not been enough to improve the working conditions of artists and cultists.
82. For its part, the RSTM, as indicated in paragraph 50 of this report, notes that the forms of financing for cultural spaces are also an impediment to job continuity, since it only allows the cost of fixed-term contracts, excluding these social security workers. Only 30% contribute to pensions.
83. **As an extended recommendation on labor rights and social security, and equally in accordance with point 3 of art. 15 we propose:**
- a. **a legal plan or tool (ideally a Law) that guarantees the right to cultural work in an equitable, dignified and sustainable manner. This is key to contribute to the legitimization, legislation, dignification and appreciation of this intangible cultural heritage, and to do so in such a way that its promotion goes hand in hand with other public policies of work, social security, health, housing, among others, effectively promoting decent work.**

Economic development, development of non-traditional cultural and creative industries, and its relation with the promotion of cultural diversity and cultural diplomacy

84. On the other hand, it is important to note that we identify important gaps in the formation of specialized arts-technology human capital, which would be in violation of points 2 and 3 of article 15. Videogames Chile has reviewed the curricula of the careers related to video games taught in the country, and as a trade union group they have identified that the same video game development teams in the country identify the

⁴⁶ Music of the Traditional Bohemia of Valparaíso (MBTV): <https://www.sigpa.cl/ficha-elemento/musica-de-la-bohemia-tradicional-de-valparaiso>

⁴⁷ UNESCO (2013) recognizes the Music of the Traditional Bohemia of Valparaíso in the Convention for the Safeguarding of the Intangible Cultural Heritage, as part of the "social uses, rituals and festive acts".

⁴⁸ <https://observatorio.cultura.gob.cl/index.php/2023/12/27/estadisticas-culturales-informe-anual-2022/>

⁴⁹ Negrón B., Brodsky J., Possel A. (2014). The scenario of the Cultural Worker in Chile. https://ec.cultura.gob.cl/wp-content/uploads/2020/10/0_50_El-Escenario-del-Trabajador-Cultural-en-Chile.pdf

⁵⁰ Emblematic Local Music Label <https://valpocultura.cl/convocatoria-postula-desde-ya-al-sello-local-musical-emblematico-de-valparaiso-ciudad-creativa-de-la-musica-2025>



gaps. In concrete terms, there is no more in-depth training in management areas and in several cases, the non-inclusion of English language teaching. This restricts access to jobs in the industry and hinders their initial insertion, professional growth and the development of national cultural content in this format, which mixes artistic expressions with technology.

85. Along with this, the absence of policies for the conservation of interactive digital heritage is regrettable, an issue that violates point 2 of art. 15. There are no repositories or videogames libraries for public access that have titles developed by Chilean studios (as a first priority) and with the necessary hardware to run such software. This becomes more relevant in the case of older titles, developed for computers and devices that are no longer marketed and that run the risk of being lost permanently.
86. As we have already mentioned, it seems to us that the "Cultural Pass" is a positive initiative, the marginalization of certain cultural goods and services, as is the case of video games, especially national creation, is not justified.
87. The video game sector, despite being today the largest creative industry globally (surpassing music and cinema together), receives a minimal fraction of state funding for cultural industries in Chile. This situation occurs both in the lines of support for the creation of content and in the tools of national and international dissemination. Globally, there are multiple studies that demonstrate the magnitude of the video game sector in terms of turnover, audience and cultural impact ⁵¹. At the local level, this gap is accentuated when observing the growing number of higher education institutions that offer careers oriented to video game development, reflecting the sustained interest of young creators. However, this educational boost is not accompanied by financing policies equivalent to those of sectors such as cinema or animation.
88. Video games represent a channel of enormous potential for the dissemination of cultural identities. However, the context of international competition and the pressure to adjust to more generic global narratives can discourage the incorporation of Chilean cultural content in projects, especially when they do not have state support.
89. Countries such as Poland, South Korea, and China have implemented specific policies that promote the creation of video games with their own cultural identity, recognizing their value as tools for cultural diplomacy, strengthening memory, and developing unique cultural industries⁵². In the Chilean case, there is still no specific fund that promotes the use of local cultural content (whether visual, linguistic, historical or mythological) as a central part of video game design. This absence can limit the diversity of narratives present in national production, as well as the potential to position Chilean culture and that of all the peoples who inhabit its territory in new global audiences.
90. **It would therefore be important for the State to take charge of the following:**
 - a. **Generate incentives for the creation of study programs that provide a mention or specialization in design, programming, art or management, to advance from the generalist approach that currently prevails, within a period of no more than 2 years.**
 - b. **Creation of regional video games libraries with free public access, within a period of no more than 4 years, aligned with the sectoral, regional or five-year policies of the MINCAP, in joint to the Ministry of Science, Technology, Knowledge and Innovation (MinCiencia)**
 - c. **Inclusion of Chilean video games in promotional initiatives such as the "Cultural Pass", articulating with civil society organizations and national companies. Along with this, it is important to implement necessary measures to allow the purchase of these goods through the digital distribution platforms where they are available, such as Steam, Nintendo eShop, Playstation Store and Microsoft Store, within a period of no more than 2 years.**
 - d. **Progressively increase, over a period of 3 years, of public funds allocated to the development and promotion of Chilean video games, seeking to bring state investment into line with that granted to similar creative sectors such as cinema or animation. This should include lines of support for:**

⁵¹ <https://www.deloitte.com/cl/es/about/governance/reporte-de-impacto-2024.html>

⁵² Examples of cultural funds in Asia aimed at video games with a national identity are KOFIC or K-Culture in Games.



development of projects in different stages; national dissemination and intentionality; and strengthening of training and professionalization spaces. This could be executed through MINCAP and its Executive Secretariat of Creative Economy (SEEC), in cooperation with the MinCiencia.

- e. **Another way would be to create a specific fund, aimed at the development of Chilean video games that integrate their own cultural content. This fund should promote the generation of projects that use heritage, historical or identity elements, facilitating their viability in the face of more standardized international market criteria. The fund can be managed jointly by institutions such as MINCAP and SEEC, the Corporation for the Promotion of Production (CORFO) and/or the Division of Cultures, Arts, Heritage and Diplomacy (DIRAC) of the Ministry of Foreign Affairs (MINREL) and linked to the State's cultural internationalization strategies.**

Memory as part of the citizen's heritage and the right to culture

91. Memory is a social construction, which is updated according to historical conditions. Memory allows people to link past and present in order to build their future. It is a fundamental element for the identity of citizens, communities, nations, etc., as it allows the transmission and preservation of cultural practices and visions of the world. The UNESCO Chair of the UAHC analyzed the various institutional definitions of cultural rights, stating that the scope of memory is not contemplated by them and, if it appears, it is subject to the colonial imaginaries of hegemonic groups and/or to the definitions of "official memory" in the case of crimes against humanity that occurred during the dictatorship.

92. With respect to Sites of Memory related to crimes against humanity, the lack of state protection and insufficient funds are an impediment to the right to culture and memory of citizens, since they deny them access to the truth of these crimes, violating not only the right of the victims to the truth, but also the right of the victims to the truth, but also to society as a whole as a form of reparation and guarantee of non-repetition. The government only allocated \$300 million CLP in 2024 for 17 Sites, an amount that covers less than 10% of their operational needs⁵³.

93. There is no law that protects Sites of Memory or their archives, records, documentation and/or testimonies, which leaves these spaces subject to the political will of each government. Again, this is an absence of symbolic reparation and of the State's duty to preserve and disseminate truth about these crimes.

94. In relation to memory and narratives that go against human rights and the recognition of the dignity of certain groups and people, or even directly denialist speeches, we recommend:

- a. **Cultural rights must be thought of as anchored in collective memories, since it is through their transmission, imaginaries, knowledge and experiences that shape collective identity. We cannot think of cultural rights separately from identity, memory and the vital space in which they interact, the territory.**
- b. **Adopt urgent measures to transform the official historical narrative disseminated in national museums and cultural institutions, which currently privileges hegemonic perspectives that make PO, PT and other historically marginalized groups invisible, distorted or criminalized. This means at least: critically reviewing the museographic narratives of at least the 26 museums of the SNPC, incorporating decolonial and participatory approaches that recognize the contribution and resistance of the PO, PT and other collectivities in the construction of the nation. And to train curatorial teams in cultural rights in general, and in particular, of the cultural rights of PO and PT.**

⁵³ <https://www.elmostrador.cl/cultura/2024/05/12/solucion-parche-a-crisis-de-sitios-de-memoria-a-pocas-semanas-del-dia-de-los-patrimonios/#:~:text=El%20presidente%20de%20la%20Coordinadora,expres%C3%B3%20en%20aquel%20momento%20Acedo.>



- c. **Generate financing policies for the construction, safeguarding, and activation of the archives of human rights organizations. Currently, these archives are subject to an annual competition to raise the necessary funds for their safeguarding and maintenance. It is important to ensure its sustainability. Likewise, it is key to encourage the existence of regional archives, linked to the protection and financing of sites of memory.**
 - d. **Formulate and publish a Law on Sites of Memory in the next 3 years, which ensures the recognition of the Sites as tangible and intangible cultural heritage, heritage protection and the participation of victims and their families, or those they designate, in the management of the spaces. The Law on Sites of Memory must be drafted with the participation of victims and family members. Or include the Sites of Memory in these same terms in the Heritage PL mentioned in paragraph 15 of this document.**
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