



**CHILE: SUBMISSION TO THE UN HUMAN RIGHTS COMMITTEE  
140TH SESSION (4 MARCH 2024 - 28 MARCH 2024)**

**Introduction**

CIVICUS: World Alliance for Citizen Participation provides the following information with respect to the human rights situation in Chile to the United Nations (UN) Human Rights Committee (the Committee) in advance of its seventh periodic review of Chile's obligations under the International Covenant on Civil and Political Rights (ICCPR) at the Committee's 140th session.

In this document, CIVICUS sets out its main concerns regarding the implementation of the ICCPR by Chile, focusing on civic space issues and, specifically, the rights to freedoms of expression (Article 19), peaceful assembly (Article 21) and association (Article 22). In particular, this submission provides information on some matters addressed in paragraphs 16 and 17 of the List of Issues Prior to Reporting adopted in 2019 by the Committee for the review of Chile.

**Key concerns**

- We are deeply concerned about attacks on journalists and human rights violations that occurred in the context of protests as a consequence of the use of excessive force by law enforcement personnel.
- We are further alarmed by the sustained repression of the Indigenous Mapuche community and harassment of environmental human rights defenders and feminist activists.
- We also underscore that proposed transparency and accountability regulations may burden civil society organisations (CSOs) with undue legal obligations, potentially undermining their operation.

**Context**

The student movement in Chile has been a driving force for social change. Chile's contemporary student protest movement began in May 2011, with widescale protests

attracting hundreds of thousands of people across the country. This served as a catalyst for future collective activism.<sup>1</sup>

In October 2019, students once again demonstrated their power, taking to the streets in Santiago to protest about an increase in the cost of public transport. Protesters' demands expanded, giving rise to a mass nationwide display of discontent over social inequality and discrimination.<sup>2</sup> Over the course of several weeks, millions of people joined protests in what is commonly referred to as Chile's 'estallido social' (social unrest or uprising). At the time, protesters raised historical demands with the aim of changing the country's economic and political system.<sup>3</sup>

This was a transformative period in Chile's history, exposing deep-rooted dissatisfaction with the enduring legacy of the Pinochet dictatorship that governed Chile from 1974 to 1990, showing that structural changes are long overdue.<sup>4</sup> Many called for a new social pact founded on human dignity and pluralism, pointing to the need to change the current constitution, which dates back to Chile's military regime.

A process to develop a new constitution emerged as a key demand of the protests and in October 2020, Chilean voters approved the creation of a directly elected Constitutional Convention, which began its work in July 2021.<sup>5</sup> While the process was launched with high hopes,<sup>6</sup> confidence in the Convention gradually eroded and support for the progressive draft constitution it developed declined over time.<sup>7</sup> On 4 September 2022, an overwhelming majority of Chileans rejected the adoption of the proposed constitution designed by the most inclusive process in the country's history.<sup>8</sup> Following this, the path toward a new constitution was prolonged, and mainstream political parties led the way. Once again, on 17 December 2023, the second proposed constitution was rejected.<sup>9</sup>

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<sup>1</sup> 'Keeping up the pressure: enhancing the sustainability of protest movements. Key findings of research on protest in Bahrain, Chile and Uganda', CIVICUS, April 2017, [https://civicus.org/documents/ProtestMovements\\_CIVICUS\\_Apr2017.pdf](https://civicus.org/documents/ProtestMovements_CIVICUS_Apr2017.pdf).

<sup>2</sup> 'Chile has awoken: several demonstrators killed and thousands detained in massive protests', CIVICUS Monitor, 31 October 2019, <https://monitor.civicus.org/explore/chile-has-awoken-several-demonstrators-killed-and-thousands-detained-massive-protests>.

<sup>3</sup> 'Report on the Human Rights Situation in Chile', Inter-American Commission on Human Rights (IACHR), 25 January 2022, [https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2022/018.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2022/018.asp).

<sup>4</sup> 'Eyes on Chile: police violence and command responsibility during the period of social unrest', Amnesty International, 14 October 2020, <https://www.amnesty.org/en/documents/amr22/3182/2020/en>.

<sup>5</sup> 'Chile: overwhelming majority approves Constitutional Convention', CIVICUS Monitor, 22 March 2021, <https://monitor.civicus.org/explore/chile-overwhelming-majority-approves-constitutional-convention>.

<sup>6</sup> 'Chile: hopes high as Constitutional Convention starts work', CIVICUS Lens, 27 July 2021, [https://lens.civicus.org/chile\\_constitutional](https://lens.civicus.org/chile_constitutional).

<sup>7</sup> 'Chile's constitutional process: back to square one?', CIVICUS Lens, 6 September 2022, <https://lens.civicus.org/chiles-constitutional-process-back-to-square-one>.

<sup>8</sup> '2023 State of Civil Society Report', CIVICUS, [https://www.civicus.org/documents/reports-and-publications/SOCS/2023/state-of-civil-society-report-2023\\_en.pdf#page=35](https://www.civicus.org/documents/reports-and-publications/SOCS/2023/state-of-civil-society-report-2023_en.pdf#page=35).

<sup>9</sup> 'Attacks on journalists and clashes on the 50th-anniversary of the military coup', CIVICUS Monitor, 31 January 2024, <https://monitor.civicus.org/explore/attacks-on-journalists-continue-clashes-on-the-50th-anniversary>.

The new government, under President Gabriel Boric, changed course in relation to the social uprising,<sup>10</sup> withdrawing some prosecutions of protesters and taking steps to provide reparations and access to justice for victims of repression.<sup>11</sup> Further, in May 2022, the Senate ratified the Escazú Agreement,<sup>12</sup> a binding environmental treaty that includes provisions to protect human rights defenders.<sup>13</sup>

### **Freedom of Expression (Article 19)**

Article 19.12 of Chile's Political Constitution recognises the right to freedoms of expression and opinion.<sup>14</sup> In 2001, Law No. 19,733 on Freedoms of Opinion and Information and the Exercise of Journalism was enacted, regulating the exercise of journalism and the right to access information.<sup>15</sup> Chile also has a law on transparency of public administration and access to information (Law 20,285), promulgated in 2008.<sup>16</sup>

In practice, these rights are generally well respected in Chile. However, some attacks on journalists still occur, particularly in the context of protests.

In May 2022, Chile's legislators took steps to advance the bill on the protection of journalists and media workers (149,64-24)<sup>17</sup> presented by Congresswoman Nathalie Castillo.<sup>18</sup> More than a year later, on 31 July 2023, the bill was approved on its first reading and returned to the Culture Commission of the Chamber of Deputies for its second report, which was issued on 22 January 2024.<sup>19</sup> Following the second report, the Chamber now has a 30-day period to process the bill.<sup>20</sup>

### **Attacks, harassment and intimidation on journalists**

CIVICUS has documented cases of journalists facing attacks, harassment and intimidation.<sup>21</sup> On 1 May 2022, during the Workers' Day march in Santiago, armed

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<sup>10</sup> 'Chile only country in South America to be upgraded in global ratings report on civic freedoms', CIVICUS Monitor, 16 March 2023, <https://monitor.civicus.org/country-rating-changes/chile>

<sup>11</sup> 'Chile. overview of recent restrictions to civic freedoms', CIVICUS Monitor, November 2022, <https://civicus.org/documents/reports-and-publications/ChileCountryResearchBrief.Nov2022.pdf>.

<sup>12</sup> Decree 209 promulgates the Regional Agreement on Access to Information, Public Participation, and Access to Justice in Environmental Matters in Latin America and The Caribbean (Escazú Agreement), 2022, [http://www.senado.cl/appsenado/templates/tramitacion/index.php?boletin\\_ini=14852-10](http://www.senado.cl/appsenado/templates/tramitacion/index.php?boletin_ini=14852-10).

<sup>13</sup> 'Escazú in Chile', Ministry of the Environment, <https://mma.gob.cl/escazu-en-chile/#pipe>.

<sup>14</sup> Political Constitution of Chile, 1980, <https://www.bcn.cl/formacioncivica/constitucion.html>.

<sup>15</sup> Law No. 19,733 on Freedoms of Opinion and Information and the Exercise of Journalism, 2001 (amended in 2022), <https://bcn.cl/2f8z0>.

<sup>16</sup> Law 20,285 on Access to Public Information, 2008 (amended in 2020), <https://bcn.cl/2f8ep>.

<sup>17</sup> Bill on Regulation of the Protection of Journalists and Communications Workers (Bulletin 14964-24), <https://www.camara.cl/legislacion/ProyectosDeLey/tramitacion.aspx?prmlD=15468&prmBOLETIN=14964-24>

<sup>18</sup> 'Chile three years on from social uprising', CIVICUS Monitor, 23 February 2023, <https://monitor.civicus.org/explore/chile-three-years-social-uprising>

<sup>19</sup> Bill on Regulation of the Protection of Journalists and Communications Workers, op. cit.

<sup>20</sup> The President of the Republic has made known the urgency of proceeding with this bill, which has been classified as simple for all legal proceedings. Accordingly, pursuant to Article 27 of Law 18918, Organic Constitutional Law of the National Congress, the Chamber of Deputies has a 30-day period to process the bill, <https://www.camara.cl/verDoc.aspx?prmlD=26289&prmTIPO=INFORMEPLY>.

<sup>21</sup> CIVICUS Monitor, 31 January 2024, op. cit.

assailants opened fire following an alleged altercation with protesters.<sup>22</sup> A day later, police arrested a 41-year-old man with a criminal record. According to the digital publication Ciper Chile, at least 11 people were reported to have used firearms against protesters during the march.<sup>23</sup> Additionally, four people were injured, three of them journalists covering the march.<sup>24</sup>

Francisca Sandoval, a 29-year-old journalist with La Victoria's Señal 3, was critically wounded and died from her injuries on 12 May 2022. The police apprehended three suspects in connection with the shooting. Sandoval is the first journalist to be killed in the line of duty in Chile since the end of the Pinochet dictatorship.<sup>25</sup> There is an ongoing investigation into the case.<sup>26</sup>

On 7 December 2022, journalist Juan Pablo Rojas was attacked by two people inside the offices of El Observador newspaper in Quillota, Valparaíso. The assailants, a man and a woman, presented themselves as members of a building occupation and asked to see him. According to reports, the man suddenly lunged and violently beat Rojas, knocking him down, breaking his glasses and punching him several times. As a consequence, Rojas broke his right cheekbone. The two assailants fled in an awaiting vehicle. The Regional Council of Valparaíso of the Chilean College of Journalists issued a statement condemning the attack on Rojas and calling for an investigation.<sup>27</sup>

In December 2022, news outlet Piensa Prensa reported that its staff and editor had received death threats in a coordinated campaign involving the use of bot accounts on Twitter.<sup>28</sup> In addition, journalist María Soledad Osorio filed a complaint against Carabineros police officers at the Linderos police station in Buin, Maipo province, who she said brutally assaulted her on 15 May 2022. Osorio was at the station filing a complaint for harassment. She said two officers assaulted her after she asked for changes in the account recorded by police and refused to sign an incomplete report that did not accurately reflect her case. 'They grabbed me by the arms, slammed me against a wall, and I fell down', Osorio told news outlets. Osorio said the officers beat her up, leaving bruises on her face, head, ribcage and limbs.<sup>29</sup>

On 27 March 2021, unidentified assailants opened fire on a television crew travelling near Tirúa in the Biobío region. Journalist Iván Núñez received an injury to his shoulder

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<sup>22</sup> 'Journalist Francisca Sandoval dies after being shot when covering protest', CIVICUS Monitor, 9 June 2022, <https://monitor.civicus.org/explore/chile-journalist-francisca-sandoval-dies-after-being-shot-when-covering-protest>.

<sup>23</sup> 'Chile: La periodista Francisca Sandoval muere a causa del disparo que recibió durante las manifestaciones del 1 de mayo', IFEX, 18 May 2022, <https://ifex.org/es/chile-la-periodista-francisca-sandoval-muere-a-causa-del-disparo-que-recibio-durante-las-manifestaciones-del-1-de-mayo>.

<sup>24</sup> CIVICUS Monitor, 9 June 2022, op. cit.

<sup>25</sup> Ibid.

<sup>26</sup> 'Las omisiones de Fiscalía en el caso de Francisca Sandoval', Doble Espacio, School of Journalism, University of Chile, 11 June 2023, <https://doble-espacio.uchile.cl/2023/06/11/las-omisiones-de-fiscalia-en-el-caso-de-francisca-sandoval>.

<sup>27</sup> CIVICUS Monitor, 23 February 2023, op. cit.

<sup>28</sup> Ibid.

<sup>29</sup> 'Uncertainty in Chile as draft constitution rejected in plebiscite', CIVICUS Monitor, 12 September 2022, <https://monitor.civicus.org/explore/chile-uncertainty-draft-constitution-rejected-plebiscite>.

and camera operator Esteban Sánchez was injured in the chest, arm, shoulder and eye. Sánchez lost vision in his right eye. As reported by the Committee to Protect Journalists, the attack took place when Núñez and Sánchez were returning from meeting with a spokesperson for Indigenous organisation Arauco-Malleco Coordination, which is involved in a land dispute with multinational forestry corporations and local farmers.<sup>30</sup>

### **Attacks and detention of journalists while covering protests**

On 23 May 2022, journalists reported facing harassment and assault while covering recurrent student protests outside Liceo de Aplicación secondary school in Santiago. The independent press organisation Muros y Resistencia published a video on Twitter showing police officers pushing independent journalists who attempted to film police allegedly using force against students.

On 24 June 2022, a TVN press team covering a demonstration was harassed and assaulted by a group of young protesters. Journalist Rodrigo Pérez of the Canal 13 programme Tu Día said a young woman approached their press team and attempted to take their microphone and camera as they filmed clashes between protesters and police.<sup>31</sup>

Another concerning case is that of journalist Carolina Trejo, who was detained in Santiago while covering protests commemorating the third anniversary of Chile's social uprising. On 18 October 2022, Trejo, a correspondent for news outlet Sputnik, was covering demonstrations near the Gabriela Mistral cultural centre when she was arrested. She later said she was charged with a misdemeanour for 'disobedience' and had to pay a fine.<sup>32</sup>

According to monitoring carried out by the Observatory of the Right to Communication (Observatorio del Derecho a la Comunicación), a CSO, in 2023, there were 80 violations of press freedom in Chile, of which more than 60 per cent were physical and verbal attacks.<sup>33</sup>

### **The Human Rights Committee should recommend that the Chile government:**

- Effectively prevent and combat acts of harassment, intimidation and violence against journalists and media workers to ensure that they are free to carry out their work without fear of violence or reprisals, particularly in the context of protests.
- Conduct prompt, effective and impartial investigations into allegations of violence against journalists to ensure perpetrators are brought to justice and punished and that victims receive appropriate reparation.

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<sup>30</sup> 'Chile: Constitutional Convention begins its work', CIVICUS Monitor, 21 July 2021, <https://monitor.civicus.org/explore/chile-constitutional-convention-begins-its-work>.

<sup>31</sup> CIVICUS Monitor, 12 September 2022, op. cit.

<sup>32</sup> CIVICUS Monitor, 23 February 2023, op. cit.

<sup>33</sup> 'Chile no está preparado para enfrentar ataques y otorgar protección a la prensa', Observatory of the Right to Communication, 19 January 2024, <https://observatorioderechocomunicacion.cl/chile-no-esta-preparado-para-enfrentar-ataques-y-otorgar-proteccion-a-la-prensa-2>.

- Formulate a comprehensive legal framework for the protection of journalists from attacks.

### Freedom of Peaceful Assembly (Article 21)

The right to peaceful assembly is guaranteed under Article 19.13 of the 1980 Chilean Constitution, which recognises ‘the right to peacefully assemble without prior permission and without weapons’, adding that ‘meetings in squares, streets and other places of public use will be governed by the general provisions of the police’.<sup>34</sup> The exercise of this right is subject to certain limitations and regulations established by Supreme Decree 1,086, approved in 1983.<sup>35</sup> The decree, which is of a regulatory nature,<sup>36</sup> sets out the rules and guidelines, including the requirements of notification for assemblies in public spaces, subject to certain conditions. In practice, however, it functions as a system of prior authorisation.<sup>37</sup>

For example, Article 2 establishes that to host a demonstration, participants must notify the competent authority two days in advance. Failure to comply with this requirement empowers the authorities to prevent or dissolve an unauthorised demonstration. In addition, the authorities can deny a request if they consider that there is ‘intense circulation’ in the streets, the demonstration could ‘disturb public transit’, or the demonstration would ‘take place in squares during hours in which they are habitually occupied for recreation or rest of the population’. This Supreme Decree gives rise to a regulatory incongruity over compliance with international human rights standards.

In this regard, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, during his visit to Chile in 2015, affirmed ‘this regulatory framework to be a de facto authorisation regime’.<sup>38</sup> He also expressed concern that this normative framework and particularly ‘the requirement of authorisation even when it is called ‘notification’ converts the exercise of the right to freedom of peaceful assembly into a privilege’.<sup>39</sup>

Some measures have been implemented over the past years to align the state’s police protocols with international human rights law. For instance, Decree 1,364 sets out guidelines governing the use of force in police interventions to maintain public order, including compliance with the law, avoiding the use of firearms and preferring the adoption of less harmful measures. Notably, Article 1.6 stipulates that ‘In instances of

<sup>34</sup> Political Constitution of Chile, 1980, op. cit.

<sup>35</sup> Decree 1,086 of Public Gatherings, Ministry of Interior, 1983 (amended in 1989), <https://bcn.cl/2lme1>.

<sup>36</sup> ‘Annual Report 2014 Program on Human Rights, Police Function, And Public Order,’ INDH, 13 July 2015, <https://bibliotecadigital.indh.cl/server/api/core/bitstreams/b44a92b7-04c1-4a7d-a037-84d2e6e77f4a/content>.

<sup>37</sup> IACHR, 25 January 2022, ¶135, op. cit.

<sup>38</sup> ‘Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on his mission to Chile’, Maina Kiai, 24 October 2016, Doc. A/HRC/32/36/Add.1, ¶17, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F32%2F36%2FAdd.1&Language=E&DeviceType=Desktop&LangRequested=False>.

<sup>39</sup> Maina Kiai, 24 October 2016, op. cit.



non-violent unauthorised assemblies, law enforcement officials shall refrain from the disproportionate use of force'.<sup>40</sup>

However, in 2021, Order 2,870, which amended the protocols for maintaining and restoring public order, imposed new restrictions on peaceful assemblies. The National Institute of Human Rights of Chile (Instituto Nacional de Derechos Humanos, INDH), expressed serious concerns about the Order's vague and ambiguous provisions, which not only include the commission of crimes or offences within illegal activities,<sup>41</sup> but also the assumption that a demonstration constitutes an 'unreasonable burden' on the rest of the population, when, among others, it causes severe and prolonged disruption to traffic, or impacts on the economy by blocking a major road for an extended period.<sup>42</sup>

The INDH underscored the importance of having a solid legal basis for any restrictions that the authorities may impose on traffic and pedestrian movement. This is in line with the principle of legality, which requires that all regulations must be clear, predictable and based on recognised legal principles. This is important to ensure that people can understand what is expected of them and the potential consequences of their actions under Order 2,870. The INDH also emphasised that the authority's powers and mandate to impose such restrictions must be written. Otherwise, this order might be overly broad and could allow for unlawful restrictions on the right to peaceful assembly.<sup>43</sup>

### **Excessive use of force and arbitrary detentions**

The excessive use of force to disperse demonstrations is of particular concern. For instance, crackdowns on protests have taken place in response to the mass protests of 2019 to 2022, with Chile's security forces often using disproportionate force against protesters.

According to the INDH, an estimated 3,777 victims of human rights violations and 6,805 incidents were reported between October 2019 and March 2020, with the majority being committed by law enforcement agents. Physical violence accounted for over 3,570 cases, while sexual violence accounted for 485 cases.<sup>44</sup> At least seven people were killed by law enforcement agents between October and December 2019.<sup>45</sup>

On the anniversary of the 2019 social uprising, in October 2020, protesters across Chile took to the streets. In response, across Chile over 500 people were reportedly detained.<sup>46</sup> Two years later, on 18 October 2022, protesters peacefully demonstrated,

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<sup>40</sup> Decree 1364. Guidelines relating to the use of force in police interventions for the maintenance of public order, Ministry of Interior and Public Security, Subsecretariat of Interior, 2018, <https://bcn.cl/2lbhw>.

<sup>41</sup> According to the Protocols for the Maintenance and Restoration of Public Order, in the context of a public gathering or demonstration, the following actions are considered unlawful: a) any crime detected in the act, b) the carrying of weapons, and c) the imposition of an unreasonable burden. Order 2,870. Updated protocols for the maintenance and restoration of public order, 2021, Carabiniers of Chile, <https://bcn.cl/2rp4c>.

<sup>42</sup> Ibid.

<sup>43</sup> 'Annual Report 2023. Human Rights Situation in Chile', INDH, 11 December 2023, <https://bibliotecadigital.indh.cl/items/4f69f396-6914-48b7-8e15-b9702fde6d13>.

<sup>44</sup> 'Mapa de violaciones de derechos humanos', INDH, <https://mapaviolacionesddhh.indh.cl/public/estadisticas>.

<sup>45</sup> 'Comisión de DD.H.H. revisa cifras a un año del estallido social', Senate of Chile, 4 October 2020, <https://www.senado.cl/noticias/carabineros/comision-de-dd-h-h-revisa-cifras-a-un-ano-del-estallido-social>.

<sup>46</sup> CIVICUS Monitor, November 2022, op cit.

but news outlets reported some violent clashes and over 25,000 security agents were deployed to police the protests. In Santiago, hooded protesters set up barricades and police attempted to disperse the protest with teargas and water cannon. The Ministry of Interior later stated that 195 people were detained and 42 injured during demonstrations throughout the day. There were also 15 cases of looting of shops. According to government information, around 150 protests were registered across the country.<sup>47</sup>

On the fourth anniversary of the social uprising, the government deployed 5,000 police officers on the streets — 3,000 in the capital and the rest in cities across the interior — with the aim of maintaining public order and preventing potential disorder. In Santiago, around 200 people gathered at what is now known as Plaza de la Dignidad, the epicentre of the 2019 uprising. According to media reports, the demonstration in Santiago ended in clashes with the police, resulting in at least 20 people being detained.<sup>48</sup>

According to reports, there has been a lack of accountability for the human rights violations committed during the social upheaval in Chile during 2019 to 2020. In November 2023, two UN experts urged Chilean authorities to take urgent steps to ensure justice and full reparations for victims who suffered serious human rights violations during these mass protests. The experts emphasised the need to prosecute and sanction state agents responsible for crimes committed during the protests, as thousands of victims are still waiting for justice, truth and reparation. Despite over 10,000 complaints having been filed by victims, few have resulted in convictions, and no high-ranking officials have been prosecuted. The experts stressed the importance of holding people responsible to account, particularly those at the highest levels of command, to prevent future human rights violations and ensure the right to freedom of peaceful assembly.<sup>49</sup>

### **Excessive force against Indigenous protesters**

Protests in the Indigenous Mapuche community are often met with force. On 29 April 2021, Indigenous land rights defender Alberto Curamil was seriously injured during a protest against the burning of a Mapuche home in Perquenco, Araucanía. The protesters used burning tyres to barricade a highway in support of community spokesperson Elena Paine, whose house had been attacked and burned. Curamil said police officers shot at protesters and then chased and shot at his car from a police vehicle. Curamil was wounded with rubber-coated pellets. The defender's nephew and son, both teenagers, were detained and released the following day. All three face charges for public disorder.<sup>50</sup>

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<sup>47</sup> CIVICUS Monitor, 23 February 2023, op. cit.

<sup>48</sup> CIVICUS Monitor, 29 January 2024, op. cit.

<sup>49</sup> 'Chile: UN experts call for justice and accountability for human rights violations during 2019-2020 protests', Clément Nyaletsossi Voule, Special Rapporteur on the right to freedom of peaceful assembly and of association and Morris Tidball-Binz, Special Rapporteur on extrajudicial, summary or arbitrary executions, 27 November 2023, <https://www.ohchr.org/en/press-releases/2023/11/chile-un-experts-call-justice-and-accountability-human-rights-violations>.

<sup>50</sup> CIVICUS Monitor, 21 July 2021, op. cit.



On 10 October 2021, student and Indigenous rights defender Denisse Cortés Saavedra was severely wounded during the March for Mapuche Resistance in Santiago. She died in hospital later that day. According to news reports, she was injured when clashes began as the police acted to repress the protest using teargas and water cannon. A police report said Cortés Saavedra was wounded by a projectile thrown by a protester but her family disputed this claim and called for an investigation. CSOs said Denisse Cortés was at the demonstration as a human rights observer, recording the arrests of protesters and monitoring the actions of the Carabineros de Chile's security forces. In this regard, excessive use of force against protesters by law enforcement forces was documented, including the use of water cannon trucks and teargas to disperse protesters. Seventeen people were detained and 10 others injured during the protest.<sup>51</sup>

**The Human Rights Committee should recommend that the Chile government:**

- Bring its legislation on peaceful assembly, in particular the Supreme Decree 1,086, into full compliance with ICCPR Article 21, as interpreted by the Committee in its general comment No. 37 (2020) on the right to peaceful assembly, and ensure that any restrictions imposed comply with the strict requirements contained therein.
- Ensure that all allegations of excessive use of force or arbitrary detention in the context of peaceful assemblies are investigated promptly, thoroughly and impartially, that those responsible are brought to justice and, if found guilty, punished with appropriate sanctions, and that victims obtain full reparation.
- Strengthen training to law enforcement officials on the right to peaceful assembly, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Human Rights Guidance on Less-Lethal Weapons in Law Enforcement.

**Freedom of Association (Article 22)**

The right to the freedom of association is guaranteed under Article 19.15 of the 1980 Chilean Constitution.<sup>52</sup> Law 20,500 on Associations and Citizen Participation in Public Administration, enacted in 2011, regulates the formation and operation of CSOs. The Law establishes the right of every person to associate freely, with the limitation that the association does not pursue an aim that is contrary to morals, public order or public safety.<sup>53</sup>

In general, CSOs and human rights defenders in Chile enjoy an enabling environment in law and in practice. However, some groups face restrictions and recurrent violations when exercising their fundamental civic rights. Indigenous defenders and communities face risks of violence, criminalisation and stigmatisation for defending their rights. In

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<sup>51</sup> 'Chile: HRD killed during protest, anti-migrant demonstrations and concerning internet bill', CIVICUS Monitor, <https://monitor.civicus.org/explore/chile-hrd-killed-during-protest-anti-migrant-demonstrations-and-concerning-internet-bill>.

<sup>52</sup> Political Constitution of Chile, 1980 op. cit.

<sup>53</sup> Law 20,500 on Associations and Citizen Participation in Public Administration, Ministry of General Government Administration, 2011, <https://bcn.cl/2f7nb>

recent years, there have also been cases of harassment and intimidation against environmental defenders and feminist groups.

Law 18,314 (the Anti-Terrorism Law), enacted in 1984, contains elements that violate human rights standards, both in terms of the broadness and lack of clarity of the definition of terrorist crimes and in terms of due process, due to its provisions on the extension of the period of judicial control over detentions, and the secrecy of parts of case files.<sup>54</sup> Application of this law has particularly affected people of Mapuche origin who have been criminalised without due process, as shown in the Iglesia and Luchsinger-Mackay cases.<sup>55</sup>

### **Repression and attacks against the Mapuche community**

Between 2020 and 2022, the government has responded to heightened tensions in the southern region of La Araucanía with emergency declarations and militarisation, stemming from a longstanding conflict between the Chilean state and Mapuche people. This security-oriented approach is particularly concerning in the face of the historical use of anti-terrorism legislation to criminalise Indigenous protesters and leaders. Some Indigenous activist groups criticise this response as a failure to address the multiple underlying causes of the conflict.<sup>56</sup>

Cases of violence against Mapuche leaders have been reported. On 4 June 2020, Mapuche leader Alejandro Treuquil was shot and killed in We Newén, a commune in the La Araucanía region. Days before, he had denounced police violence and harassment against his community to the INDH. Treuquil and three others were ambushed by an armed group. He and his family had received death threats prior to the attack and his partner had suffered a miscarriage after an alleged attack by police officers on the We Newén community.<sup>57</sup>

In another case on 9 June 2020, Dr Leonor Olate was ambushed by a group of three men who threatened, harassed and sexually assaulted her while saying that she should stop supporting the Mapuche. Dr Olate was treating an incarcerated Mapuche leader who had been on a hunger strike. Chile's Medical Board and Amnesty International have urged authorities to investigate this attack.<sup>58</sup>

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<sup>54</sup> Law 18,314 Determines Terrorist Conduct and Fixes Its Penalties, Ministry of Interior, 1984 (amended 2015), <https://bcn.cl/2k8cn>.

<sup>55</sup> In January 2013, Werner Luchsinger and Vivianne Mackay, an elderly couple, died in a tragic incident. Their house was attacked and burned by unknown people who entered their property. The Luchsinger-Mackay family-owned lands were the subject of a dispute and were claimed as Mapuche ancestral territory. As a result, at least two Mapuche leaders were automatically prosecuted without due process (Proceedings RIT 150-2017). 'Pre-Trial Injustices: criminalization of the Mapuche People through the Anti-Terrorism Law in Chile', Amnesty International, 9 August 2018, <https://www.amnesty.org/es/documents/amr22/8862/2018/es/>

<sup>56</sup> CIVICUS Monitor, 9 June 2022, op. cit.

<sup>57</sup> 'Chilean police forces repress protests with COVID-19 regulations', CIVICUS Monitor, 29 June 2020, <https://monitor.civicus.org/explore/chilean-police-forces-disrupt-and-repress-protests-covid-19/>.

<sup>58</sup> CIVICUS Monitor, 29 June 2020, op cit.

## **Harassment of environmental defenders**

There is a lack of protection for human rights and environmental defenders in Chile. As evidenced in multiple reports, human rights defenders face risks in carrying out their work because there is no approach that considers their special status and the particular risks they face. Although the Escazú Agreement came into force for Chile in 2022, no significant progress has been made so far.

Water defenders of the Movement for the Defence of Water, Land and Environmental Protection (MODATIMA) in the province of Petorca, Valparaíso region, have faced recurrent threats and harassment for their activism. They have campaigned against the drastic water scarcity faced by communities and smallholder farmers in Petorca, denouncing the impact of agribusiness and water privatisation. In February 2021, graffiti containing a death threat against MODATIMA member and human rights defender Verónica del Carmen Vilches Olivares was painted at a water treatment plant in Cabildo. In June 2021, a similar message was painted on the walls of the office of Cabildo's Rural Drinking Water Committee, which Vilches Olivares leads. She has reported facing harassment from unidentified assailants, including from people following her or showing up at her home.

In another case, in 2021, a journalistic investigation uncovered alleged surveillance of environmental defenders who oppose the Alto Maipo hydroelectric power project. According to Interferencia's report, published in November 2021, leaked documents showed that electricity company AES Andes SA had contracted cyber-intelligence services to provide reports on perceived 'threats' to the Alto Maipo project. Between February and August 2020, a consultancy firm provided reports with information on environmental groups such as the Metropolitan Network No Alto Maipo, the Movement for Water and Territories and the No Alto Maipo Coordinator, as well as on the company's workers.

These reports included personal information on environmental defenders and leaders of such groups, some of whom were labelled as 'eco-terrorists'. The consultancy firm also claimed to have infiltrated environmental groups' messaging chats. In addition, the intelligence reports mapped people such as lawyers working for communities affected by the hydroelectric project and 'unsatisfied' Alto Maipo workers, calling them 'potential internal terrorists'. In December 2021, Chile's Supreme Court declared admissible a protective action brought by leaders and members of environmental groups against Alto Maipo for alleged espionage. Anthony Prior, a member of the Metropolitan Network No Alto Maipo, told news outlets that with the legal action, environmental defenders hoped to obtain more detailed information on the monitoring conducted by the company and prevent the repetition of such practices by businesses.<sup>59</sup>

## **Harassment against feminist activists**

In 2019, feminist activist collective LasTesis, based in Valparaíso, gained international prominence after their performance denouncing rape culture, 'A Rapist in Your Path', became an anthem for feminist movements worldwide. In 2020, Chile's national police

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<sup>59</sup> CIVICUS Monitor, November 2022, op. cit.

force filed a criminal complaint against LasTesis for allegedly inciting violence against police officers. The legal action referred to the lyrics of a song titled '1312', released by LasTesis in May 2020, together with Russian feminist group Pussy Riot. In the song, the groups denounced police violence, entrenched inequalities and the rise in gender violence in the context of the COVID-19 pandemic.

News of this complaint on mainstream media resulted in threats and online harassment against four members of LasTesis and their families. At the time the case was made public, the Minister of the Interior Gonzalo Blumel publicly supported the complaint, stating that the police had the right to 'protect the dignity and image' of their institution. In January 2021, the Court of Guarantees of Valparaíso dismissed the criminal complaint.

However, a separate complaint was filed against LasTesis by the Chief Prosecutor of Valparaíso for allegedly violating article 318 of the Chilean Penal Code by endangering public health. The complaint was in relation to an artistic intervention carried out by LasTesis in October 2020 as part of the campaign for constitutional reform. The prosecutor alleged that LasTesis led a protest that brought together around 200 people without the authorisation required under pandemic-related restrictions. LasTesis was fined through a simplified legal proceeding, with the fine suspended for six months on the requirement that they did not reoffend.<sup>60</sup>

### **Concerns about proposed legislation on transparency and accountability of CSOs<sup>61</sup>**

As noted above, in general, no restrictions are placed on the exercise of the right to association. However, new proposed regulations may impose unduly burdensome requirements, such as on access to public capital transfer for public interest organisations, and could potentially open up the space for abuse and disproportionate and discriminatory restrictions on organisations.<sup>62</sup> Although there is a need for a new regulatory framework that reinforces control mechanisms and guarantees transparent access to public funding, this must be consistent with Article 22 of the ICCPR.

According to Article 17 of Law 20,500, organisations that receive subsidies, or public funds in the form of funding to implement projects, must report on the use of these resources, either by publishing information on their website or through another medium. Additionally, these organisations must provide an annual financial report in

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<sup>60</sup> Ibid.

<sup>61</sup> This section was jointly drafted with the support of Comunidad de Organizaciones Solidarias, a network of civil society organisations that believe in collaborative action for the construction of a more just, equitable, and sustainable country. See Comunidad de Organizaciones Solidarias, <https://comunidad-org.cl>.

<sup>62</sup> 'Public interest organisations include any legal person without profit-making purposes whose aim is the promotion of the general interest in matters of citizen rights, social assistance, education, health, the environment, or any other matter of public benefit, particularly those that rely on volunteer work and are registered in the Public Interest Organisations Registry'. Decree 1 approves the regulation that governs the registry of public interest organisations, the national council that administers it, the regional councils and the operation of the fund for the strengthening of public interest organisations, established by Law 20,500, Ministry of the General Secretariat of the Government, 17 January 2012 (amended 2022), Article 2, <https://bcn.cl/3hr41>.

the same manner. But there are no regulations or penalties for non-compliance with this requirement.

This was recently brought to light by the 'Convenios Case'. In 2023, around 53 institutions were scrutinised in 11 out of the 16 regions of Chile for potential cases of corruption involving over 32 million Chilean pesos (approx. US\$34,240). These investigations have been aimed at identifying potential offences such as influence peddling, fraud against public revenue and misappropriation of public funds arising from transfers from central or regional governments.<sup>63</sup> The investigations have however had a negative impact on CSOs, including delays in the provision of many regional funds and impacts on the ability of CSOs to access funding and carry out their activities.<sup>64</sup>

As a consequence, CSOs in Chile are currently facing a crisis of trust and public credibility. While Chilean society traditionally displayed a high degree of trust towards CSOs, today that perception has changed dramatically, as indicated by an Ipsos survey in August 2023.<sup>65</sup>

On 3 July 2023, the Ministry General Secretariat of the Presidency established an advisory-investigative commission, known as the Jaraquemada Commission, on the relationship between private non-profit institutions and the state. This commission concluded in its report that organisations that receive public funds do not currently have any active transparency obligations beyond the publication of limited documentation in relation to the initiatives they undertake.<sup>66</sup>

The report also presented several proposals aimed at ensuring greater effectiveness and transparency in the connection between private non-profit institutions and the state, including the modification of governance, transparency, integrity, control mechanisms and accountability requirements.<sup>67</sup>

It emphasises the need for a General Transfer Law to regulate resource transfers to non-profit organisations as there is no clear legal framework. In practice, this has created differential treatment from the state, which has no clear or transparent basis and can be excessively lax or abusive in terms of guarantees, eligibility requirements and accountability, among other factors, depending on the guidelines established for transfers by each service.<sup>68</sup>

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<sup>63</sup> 'Lío de platas: el mapa de las 53 fundaciones indagadas por la Fiscalía en 11 regiones del país', La Tercera, 11 August 2023, <https://www.latercera.com/la-tercera-sabado/noticia/lío-de-platas-el-mapa-de-las-53-fundaciones-indagadas-por-la-fiscalia-en-11-regiones-del-pais/DJZGZBQ7LFF3NFWSDPTP5N6CAA>.

<sup>64</sup> Information provided by Comunidad Organizaciones Solidarias.

<sup>65</sup> 'Encuesta de reputación corporativa especial percepción de fundaciones y ONGs', Ipsos, 30 August 2023, <https://www.ipsos.com/es-cl/reputacion-general-de-ongs-y-fundaciones-sufre-importante-baja-pero-no-afecta-de-manera>.

<sup>66</sup> 'Informe Comisión Asesora Ministerial para la regulación de la relación entre las instituciones privadas sin fines de lucro y el Estado', Ministry of the General Secretariat of the Presidency, August 2023, <https://www.integridadytransparencia.gob.cl/wp-content/uploads/2023/08/Informe-Comision-Asesora.pdf>.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

Currently, the allocation of public resources to private social welfare institutions (IPSFLs) is governed by the Budget Law of the respective year. This law allows the allocation of public funds to IPSFLs through various mechanisms, primarily through purchases or current and capital transfers. The discussion of the Budget Law 2024 introduced a set of new requirements and demands for partnerships between the State and IPSFLs as a regulatory response arising from the 'Convenios Case'.

Article 24 of the Budget Law 2024 establishes a series of requirements and parameters that IPSFLs must consider before entering into alliances with the state, including the stipulation that at the time of application to the public tender, the organisation must have been in existence for at least two years from their constitution.<sup>69</sup> The measures outlined in the Budget Law 2024 aim to strengthen transparency in the relationship between the state and CSOs and are seen as representing an opportunity to professionalise organised civil society. However, they could also pose challenges for a significant number of organisations, particularly those that have existed for less than two years, which may experience adverse impacts on their financial sustainability.

**The Human Rights Committee should recommend that the Chile government:**

- Guarantee the rights to freedom of association for CSOs and ensure that no one is criminalised for exercising their fundamental rights or subjected to threats, attacks, harassment, intimidation, or reprisals for their human rights work.
- Amend Law 18,314 to abolish provisions that are inconsistent with due process, including references to the recognition and protection of the rights of Indigenous peoples, prohibiting any discriminatory application of the law and providing adequate oversight of its implementation.
- Develop an action framework for compliance with the Escazú Agreement to move towards the implementation of comprehensive, relevant and effective measures that allow for protection against violence and criminalisation of human rights defenders.
- Adopt legislative measures to ensure access to transparent public funding mechanisms without unlawful interference, in accordance with Articles 17 and 22 of the ICCPR.
- Engage in consultations with CSOs to establish transparency and accountability mechanisms for their operation.

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<sup>69</sup> Public Budget Law 21,640 of 2024, Ministry of Finance, 18 December 2023, <https://bcn.cl/3h3fa>.