



**ALTERNATIVE REPORT FOR THE REVIEW OF THE  
CHILEAN STATE BEFORE THE COMMITTEE ON  
THE ELIMINATION OF RACIAL DISCRIMINATION IN  
ITS 83<sup>rd</sup> SESSION**

**(Nineteenth to twenty-first periodic report combined)**

**- August, 2013-**

**CORPORACIÓN HUMANAS- CENTRO REGIONAL DE DERECHOS  
HUMANOS Y JUSTICIA DE GÉNERO**

**CENTRO DE ESTUDIOS PARA EL DESARROLLO DE LA MUJER- CEDEM.**

**CIUDADANO GLOBAL**

**CORPORACIÓN ONG RAÍCES**

**INSTITUTO CATÓLICO CHILENO DE MIGRACIÓN -INCAMI**

## Introduction

1. Corporación Humanas has been established as the coordinating entity for the preparation of this report, which presents, what in the opinion of all adherent member organizations, are the main problems and challenges facing Chile in terms of racial discrimination, including recommendations to advance in terms of respect, protection and guarantee of the human rights of indigenous peoples and immigrants residing in the country.

## The Convention in the national judicial order; the institutional, legislative and public policy framework for implementation (Articles 1, 2, 4 and 6)

### Human Rights Institutionalism

2. The law creating the National Human Rights Institute (NHRI) was enacted in November 2009 and it was incorporated in July 2010. While recognizing that the establishment and operation represents a step forward in the institutionalization of human rights in our country, it must be acknowledged that this does not comply with the Paris Principles.

3. In the area of institutionalism for human rights protection, the presentation and discussion of the president's proposal on a Human Rights Undersecretariat for coordination of public policies in the field is valued. The future creation of this action coordinator and executive advisory government entity, however, does not preclude the need for a People's Ombudsman in the country for the protection and defense of human rights against actions by public and private bodies. On the other hand, it is concerning that the government project excludes entrusting the Human Rights Undersecretariat functions and powers for reparations of serious violations of human rights.

4. In the same vein, it should be noted that in Chile an Ombudsman of the People does not exist, and the bills pending in Congress for its creation have been paralyzed since 2009, without the government granting them the necessary legislative emergency.

5. It is troubling that to date there has not yet been a National Human Rights Plan designed and implemented, which is a fundamental instrument for the fulfillment of international obligations that apply to the State of Chile for human rights. The plan should establish objectives, responsibilities and clear goals for each of the public agencies involved, which may be evaluated in determined time periods.

6. In relation to the scope of Human Rights international obligations, ratification is required for the Optional Protocol of CEDAW, the Protocol of San Salvador, the Optional Protocol of the ICESCR, Convention 189 on Decent Work for Domestic Workers and Convention 184 of the ILO on Safety and Health in Agriculture.

### 7. Recommendations:

**a) Strengthen NHRI's monitoring powers over state bodies, ensuring its autonomy, independence, pluralism, stability and representativeness and increasing its budget to ensure the performance of its functions nationwide.**

**b) Accelerate the debate on the Human Rights Undersecretariat and give it powers of defense, guarantee and repair of serious human rights violations.**

c) Encourage the debate on the People's Ombudsman<sup>1</sup>, including specialized Ombudsmen for Women, Migrants and Indigenous Peoples.

d) Develop, with broad citizen participation, a National Plan on Human Rights, including compliance indicators agreed on with the civil society organizations for the effective evaluation of its implementation.

e) Ratify the Optional Protocol of CEDAW, the Protocol of San Salvador, the Optional Protocol of the ICESCR, Convention 189 on Decent Work for Domestic Workers, and Convention 184 of the ILO on Safety and Health in Agriculture.

### **Mechanism for consultation and participation of indigenous peoples**

8. The lack of a mechanism for consultation and participation of indigenous peoples in all matters administrative and legal that may affect them directly, particularly investment and development projects, implies a serious breach of international obligations that the State of Chile has assumed.

9. In the last year, the debate on the consultation mechanism has presented shortcomings in the participation and representation of indigenous peoples. After numerous criticisms that arose over Decree No. 124 for failing to meet international standards in terms of consultation, the government installed a "Roundtable Consensus" to develop the indigenous consultation mechanism. However, the board was unable to meet its goal due to lack of adequate indigenous representation, exclusions in the call and problems in their work methodology, among other multiple failures. As a result, a regulation that allows for the realization of the right to prior consultation has not yet been established, administrative and legal proposals without consultation have been issued and several bills in Parliament are being analyzed omitting the participation of indigenous peoples.

10. In January 2012, the Parliament approved the constitutional reform on special territories for Easter Island and Juan Fernández Archipelago<sup>2</sup>. While the original proposal submitted by former President Michelle Bachelet was in its moment consulted with the Rapa Nui people<sup>3</sup>, during the legislative process the text to be inserted in the Magna Carta was substantially modified, upon the request of President Piñera's government, which presented a substitutive modification. This modification was not subjected to a process of consulting the Rapa Nui people directly affected by the legislative action and during the discussion before Congress there was no consultation process despite the significant change in the constitutional text in debate, flagrantly transgressing the obligation to consult established in Convention 169 of the ILO.

11. Meanwhile, the parliamentary discussion that took place in 2012 on the denominated Fisheries Act also did not consider a mechanism for consultation and participation of indigenous peoples<sup>4</sup>.

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<sup>1</sup>Proposed constitutional amendment for creating the Ombudsman of the People, message presented by former President Michelle Bachelet to the House of Representatives on December 4, 2008; it was approved by the House of Representatives at the first stage on March 10, 2009 and submitted to the Senate, without any recorded advancement nor has the government promoted discussion by allocating legislative emergency (Journal of Laws No. 6232-07).

<sup>2</sup>Republic of Chile, Law No. 20,573 special territories constitutional reform for Easter Island and Juan Fernández Archipelago, published in the Official Gazette on March 6, 2012 (Journal of Laws No. 6756-07).

<sup>3</sup>Message No. 1487-357, S.E. message of the President of the Republic with which a constitutional reform bill is initiated amending Article 126 bis of the Constitution on the special territories Easter Island and Juan Fernández Archipelago, October 28, 2009 (Journal of Laws No. 6756-07).

<sup>4</sup>Bill amending within the field of the sustainability of aquatic resources, access to industrial and artisanal fisheries and regulations for research and general law enforcement of fisheries and aquaculture contained in Law No. 18,892 and its amendments; message presented by President Sebastian Piñera before the House of Representatives, December 14, 2011 (Journal of Laws No. 8091-21). Republic of Chile, Law No. 20,657 modifies in the field of the sustainability of aquatic resources, access to industrial and artisanal fisheries and

This, despite being clearly a legislative measure likely to directly affect indigenous peoples whose livelihoods are centered on maritime resources such as Lafkenche, Rapanui and Kawésqar.

12. The Fisheries and Aquaculture Act was published in 2013 without having fulfilled the duty of consultation expected by the international law of human rights. This led to both senators<sup>5</sup> and deputies<sup>6</sup> submitting requests of unconstitutionality to the Constitutional Court for the bill established based on the infringement of a group of indigenous peoples' rights, particularly their right to be consulted in accordance with the provisions of Convention 169 of the ILO; the Constitutional Court rejected the request.<sup>7</sup>

13. Moreover, in the legislative debate of the presidential proposal on the *electric highway*, also incurred the total absence of prior consultation with indigenous peoples "through appropriate procedures and in particular through their representative institutions" in the Government's development process of the project.<sup>8</sup>

14. The proposal on the *electric highway* establishes fringes of easements of national interest in portions of public and private lands that have the potential of affecting indigenous territories, as the outline is prospected precisely in areas with a high density of indigenous communities. Despite this, it does not consider participation mechanisms involving indigenous peoples, communities and affected persons whose territories may be affected, or other mechanisms for citizen participation.

15. Particularly worrying, is the complete omission in the presidential initiative of considerations against the eventual partial or total loss of indigenous peoples' lands, considering it is an electric road proposal that would be located in indigenous territories. Furthermore, its implementation may involve the relocation of some populations.

16. It should be noted to the foregoing that there is concern about the lack of a consultation process with the indigenous peoples in the preparation of the presidential project on forestry development that amends and extends the Decree Law No. 701 of 1974 for twenty more years<sup>9</sup>. This being carried out despite the resulting impact on the Mapuche people involved in terms of access to their ancestral lands, preservation of their development model and the integrity of their

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regulations for research and general law enforcement of fisheries and aquaculture contained in Law No. 18,892 and its amendments, published in the Official Gazette on February 9, 2013.

<sup>5</sup>Request submitted by a group of senators who represent more than a quarter of the members of Senate to declare the unconstitutionality of Article 1, numerals 20, 3, (letter c) and 48 of the bill "amending within the field of the sustainability of aquatic resources, access to industrial and artisanal fisheries and regulations for research and general law enforcement of fisheries and aquaculture contained in Law No. 18,892 and its amendments" contained in Bulletin No. 8091-21, December 20, 2012, process Docket No. 2387-12 (cumulative with process Docket No. 2388-12).

<sup>6</sup>Request of a group of deputies representing more than a quarter of the incumbent members of the House of Representatives to declare the unconstitutionality of Article 1, numeral 20, (letter c), number 3 and number 48 of the bill of general law of fisheries and aquaculture contained in Law No. 18,892 and its amendments, included in Bulletin No. 8091-21, December 21, 2012, process Docket No. 2388-12 (cumulative with process Docket No. 2387-12).

<sup>7</sup>On January 23, 2013, the Constitutional Court ruled on the unconstitutional requests presented by senators and deputies, rejecting them (Constitutional Court, January 23, 2013, Dockets N°s 2387-12 CPT and 2388-12 CPT accumulated).

<sup>8</sup>Message No. 201-360, S.E. message of the President of the Republic with which it initiates a bill regulating the *electric highway*, August 30, 2012. Draft law regulating the *electric highway*, message presented by President Sebastián Piñera before the Senate, September 4, 2012, referred to the Committee on Mining and Energy (Journal of Laws No. 8566-08).

<sup>9</sup>Message No. 062-360, S.E. message the President of the Republic with which it initiates a bill for forestry development to amend and extend DL No. 701, September 28, 2012. Bill for forestry development to amend and extend DL N° 701, message presented by President Sebastián Piñera before the House of Representatives, October 2, 2012, referred to the Committee on Agriculture, Forestry and Rural Development (Legislative Bulletin No. 8603-01).

habitat. Nor is the parliamentary debate that has arisen due to the initiative contemplating the implementation of the necessary process of consultation with the peoples concerned.

### **Constitutional recognition**

17. There is concern about the lack of legislative progress on the bill on constitutional recognition of indigenous peoples, duly consulted and according to current international standards in the field.

18. In addition to the delay, the contents of the text adopted by the Senate generally deviates from the provisions of the norms and standards on indigenous peoples' rights.

19. Among the main problems, it is observed that the initiative does not recognize the ownership of rights to indigenous peoples which international law itself enshrines, it omits mentioning the right to self-determination, to their land rights and limits the current status of indigenous water, thus making it virtually impossible to meet the legitimate claims of the indigenous peoples. This is compounded by the lack of consultation on the proposed constitutional amendment, in its developing process and its legislative process in the National Congress.

### **Law on Measures against Discrimination**

20. Law 20,609 on Measures against Discrimination lacks effective tools to address discrimination. It does not clearly state that its goal is to prevent, punish, eradicate and repair discrimination. It omits the creation of a public institution for equality and non-discrimination, budgetary resources, preventive measures and affirmative action, among others; and, worse, it includes a provision that subordinates the rights of equality and non-discrimination for other constitutional guarantees.

#### **21. Recommendations:**

**a) Implement an effective consultation mechanism and in accordance to international standards, together with the representative institutions of indigenous peoples.**

**b) Incorporate constitutional recognition of indigenous peoples, duly consulted, in the Magna Carta.**

**c) To correct the shortcomings of the Discrimination Act, incorporating a public institution for equality and non-discrimination, budgetary resources, preventive measures and affirmative action, and eliminating the rule that establishes a hierarchy of rights over the rights to equality and nondiscrimination.**

## **Situation of native peoples, ethnic communities and other minorities (arts. 1, 2-7)**

### **Statistical information systems**

22. In relation to the statistical information systems in the country, it is worth mentioning the serious questioning on the methodology that has been the object of the National Socio-Economic Survey 2011 (CASEN) and the National Census of 2012<sup>10</sup>. Both instruments, which were characterized by their rigor, have been essential in the analysis of the national situation and the situation of vulnerable groups, becoming essential inputs for the generation of programs and public policies. These controversies call into question the reliability of official statistics in the

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<sup>10</sup>Irregularities were detected in the interpretation of the figures of the Census, which due to their severity resulted in the resignation of the director of the National Institute of Statistics and an internal audit that has not yet concluded. View: <http://www.latercera.com/noticia/negocios/2013/07/655-535046-9-director-del-ine-explica-los-pasos-que-vienen-en-la-revision-del-censo-2012.shtml>

country, in contravention of the State's obligation to generate reliable data on indigenous peoples and immigrant populations in Chile.

23. The production of official statistics on indigenous peoples, appropriately disaggregated by sex and other relevant variables, requires the implementation of a National Indigenous Census specifically targeting indigenous peoples.

24. In relation to the statistics of the afro-descendant population, lack of official recognition as an ethnic group results in the non-inclusion of this variable in the last National Census. This impedes accounting for the situation and living conditions in this sector of the Chilean population in this report.

### **Public policy**

25. The National Indigenous Development Corporation (CONADI) is the agency mandated to implement and coordinate state actions aimed at the development of indigenous peoples. The government reduced its budget for the year 2011 by 15.8% compared to the previous year<sup>11</sup>, a cause of concern since adequate funding is fundamental in order to help communities establish and maintain their own educational and health programs, traditional ceremonies and political organizations.<sup>12</sup>

26. In recent years isolated measures have been implemented designed specifically for indigenous women as a vulnerable group who have not succeeded in reducing the socioeconomic inequality gap regarding this group, especially in the areas of access to education, employment opportunities and participation in public bodies for decision-making. It demonstrates the lack of relevant comprehensive public policies that are designed and implemented in consultation with indigenous peoples.

27. CONADI has not mainstreamed its policies and programs in the gender perspective, nor has the body of advancement of women (SERNAM) included the ethnic variable in their interventions. This results in the absence of relevant comprehensive public policies aimed at improving the status of indigenous women.

### **Territory**

28. There are major shortcomings in all three branches of government in the implementation of Convention No. 169 of the ILO on indigenous peoples. The State has not adapted the delivery mechanism for land to the international standard. Nor has it on water, mining and geothermal energy<sup>13</sup>.

29. To date, the state has focused its actions on the return of land, ignoring the demands of the indigenous peoples that currently focus on territorial claims to protect and guarantee the material and cultural livelihood of their communities, and not the mere restitution of land.

30. While there have been nominal increases in the budget of the Land and Water Fund (FIAI), their purchasing power has been severely affected due to the rising price of land for speculative factors that were generated by the Fund's mechanism itself, which means that even if a budget increase has been registered, the percentage of hectares of land purchased has not increased

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<sup>11</sup>NHRI, 2011 Annual Report. Situation of human rights in Chile, at <http://www.indh.cl/informe-anual-2011-de-derechos-humanos-en-chile>

<sup>12</sup>NHRI, 2011, op. cit.

<sup>13</sup>Matías Meza-Lopehandía. Citizen Observatory. In Universidad de Chile Electronic Journal Radio, August 18, 2010.

significantly. For example, the lands acquired under Article 20 letter b) in 2004, are almost similar to those purchased in 1994, with a smaller budget<sup>14</sup>.

31. An evaluation conducted in 2008<sup>15</sup>, concluded that facing access to land with social demand, beneficiary families increased by 169.6%, increasing from 158 to 426 between 2004 and 2007 (evaluation period). However, they note that the situation is serious because 9 out of 10 applicants who meet the necessary requirements to access the land subsidy do not make it, which would indicate that there is a high unmet demand. In the case of access to land with historical demand by indigenous communities, it would have produced an equivalent increase to 20.9%, i.e. 627 families benefited the year 2004 to 758 families in 2007. However, there is an 11.8% decrease registered in the number of beneficiary communities in that period, which would imply that communities with a larger number of families benefited<sup>16</sup>. In the grant of legal certainty in land ownership, there was registered increase of 158.8% in the number of families, raising it from 3,746 to 9,695.

32. The assessment cited states that between 2004 and 2007 there would have been an increase in the percentage of women beneficiaries of subsidies for land acquisition. Before 2004, women accounted for about 19%, in 2004 this figure reached 50% and by 2008 this would amount to 57% of the total beneficiaries. This increase is associated with the implementation of the Program of Public Management Improvement in the Gender component, developed by CONADI and monitored by the National Women's Service, which would have favored mainly indigenous women heads of household. However, when analyzing the size of the property to which indigenous women access, it is observed that, for example, in 2006, 61% of women and 39% of men acquired farms of less than 10 hectares, this proportion is reversed when analyzing the allowances attached to a larger number of hectares, which would indicate that the most important gender gap is that which is related to the size of the property.

33. In short, the absence of a budget policy oriented toward restitution rights for lands that indigenous peoples have lost involuntarily, or that they have traditionally occupied even while not entitled, combined with the negligent management of resources provided for this purpose and the exclusion of decision-making participation in terms of the design and management of the land policy, creates frustration for indigenous peoples and encourages their social protest movements, which in turn are violently repressed by police forces under the Ministry of Interior.

### **Gaps in educational and occupational level**

34. One of the important indicators in terms of education is the illiteracy rate. While within the indigenous population there has been a decline in the illiteracy rate, it continues to present itself in the indigenous - non-indigenous gap. In 2009<sup>17</sup>, the illiteracy rate of the country's indigenous population is 6.2% and in the case of the non-indigenous population it is 3.3%. The Mapuche population is 6.6% illiterate.

35. When breaking down of these figures by sex, there is a significant gap that has been of concern to the CEDAW<sup>18</sup> Committee, as there is a 7.4% in 2009 of indigenous women who cannot read and write compared with a 4.9% of the indigenous men. The same applies when making the observation considering the urban-rural variable finding that the illiteracy in the rural indigenous population in 2009 reached 12.8%, maintaining the gender gap.

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<sup>14</sup>Toledo, Victor: "Balance of indigenous land policy 1994-2005". Working Paper, Center for Public Policy and Indigenous Rights, 2005, cited in: Report of the International Federation of Human Rights "Chile, the other Chilean transition: Mapuche rights, penal policy and social protest in a democratic state" No. 445/3, April 2006, p. 16.

<sup>15</sup>Final Report on evaluation of indigenous land and water fund program national cooperation panelists of indigenous development: Guillermo Dascal (coordinator) Cristian Moscoso, Juan Pacheco. August 2008.

<sup>16</sup>There are 100 families in communities of Merced Titles or residing particularly in the Province of Malleco, causing this situation.

<sup>17</sup>Ministry of Social Development, National Socioeconomic Characterization Survey (CASEN) 2009.

<sup>18</sup>Committee on the Elimination of Discrimination against Women, CEDAW/C/CHL/CO/5-6, par. 29.

36. Regarding the labor field, in the **indigenous population**, economic participation rate reaches 55.2% and when disaggregated by sex, 71% were active men, compared to a 40.1% of indigenous active women<sup>19</sup>, which shows a significant gap between the participation of indigenous women and indigenous men in the world of productive work and income-generating activities, a situation recognized by the CEDAW Committee in 2012<sup>20</sup>.

### **37. Recommendations:**

- a) **Elaborate statistical data on the situation of indigenous peoples, migrants and afrodescendants, in particular indigenous women, migrant women and afrodescendants women.**
- b) **Include all disadvantaged women, in particular indigenous women, migrant women and afrodescendants women, as a priority group in the design and implementation of public policies and programmes.**
- c) **Promote a review of the public policy in the field of indigenous territories bearing in mind the recommendations of the Human Rights Committee (2007) and the Special Rapporteur James Anaya (2009), and establishing an effective mechanism for recognizing the rights of indigenous peoples to land and natural resources. Allocate adequate resources for the fulfillment of this goal and take measures to eliminate the gender gap in relation to the size of property received by men and women.**
- d) **Establish programmes specifically designed to eradicate female illiteracy among indigenous women and to implement equal education opportunities for indigenous girls.**
- e) **Promote economic empowerment of indigenous women by supporting their businesses and productive undertakings, as well as the formalization of women's labor through employment contracts, pension contributions, and expanding the coverage of employment rights for women working informally to face female labor precariousness. In the case of seasonal-wage workers, a labor law reform is required in order to stop the term of labor contract and establish a season contract.**
- f) **Implement affirmative action to eradicate all forms of racial discrimination and accelerate the achievement of substantive equality in all areas, in particular in political and public life where women are underrepresented, as well as in education, health and employment, to which migrant, afro descendants and indigenous have limited access.**

### **Police violence against indigenous peoples and application of the Terrorism Act**

38. Facing the indigenous social protest over exploitation of natural resources caused by large investment projects in their territories and the claiming of their ancestral lands, in recent years the state has responded with a criminalizing policy that has led to the jailing dozens of Mapuche and since September 2010 has violated members of the Rapa Nui population.

39. In the framework of territorial claims made by the Rapa Nui clans and families that own only 13.7% of the island<sup>21</sup>, the state has acted violently repressing protest and litigating their demands.

40. In late 2010, the conflict with the Rapa Nui people deepened as an additional contingent of police from the mainland were sent to the island for the purpose of suppressing the protests, which resulted in unusual episodes of violence in the place, reporting bad treatment and excessive

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<sup>19</sup>Ministry of Social Development, National Socioeconomic Characterization Survey (CASEN) 2009.

<sup>20</sup>Committee on the Elimination of Discrimination against Women, CEDAW/C/CHL/CO/5-6, par. 33.

<sup>21</sup> Diego Portales University "Annual Report on Human Rights in Chile 2011", 2011, at <http://www.derechoshumanos.udp.cl/informe-anual-sobre-derechos-humanos-en-chile-2011/>



use of force that caused the intimidation of a population unaccustomed to a police presence of such magnitude<sup>22</sup>.

41. The peaceful takeovers of land, owned by the Treasury and individuals, were violently evicted at different times, resulting in several injuries by gunshot as well as many arrested and formalized<sup>23</sup>.

42. These facts led to the issuance of an injunction by the IACHR, on behalf of the Rapa Nui population<sup>24</sup> and a public statement of United Nations Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, in which he expressed his concern about the actions undertaken by the state against the villagers and made a call to end violent evictions and resume dialogue between the parties<sup>25</sup>.

43. Following these acts of violence, the state has chosen to pursue individual legal responsibilities for the crimes of theft and violation of peaceful abode. This prosecution of territorial claims is a further violation of rights as the problems of access to justice facing island, which by being located 3,680 kilometers from mainland Chile exposes it to the disadvantages inherent in remote areas, resulting in the accused persons not having adequate legal representation as local advocacy on the island has only one professional and the availability of other private lawyers is similarly limited. This is compounded by the lack of superior courts above a supervisory judge and the forbidding of the use of the Rapa Nui language in court proceedings, a right enshrined by the indigenous law and ILO Convention 169, which has not been properly protected<sup>26</sup>.

44. The prosecution of the conflict, as well as extending it in time, discourages legitimate territorial claims and reneges the obligation of the state to institute appropriate procedures in the legal framework to resolve land claims by the peoples<sup>27</sup>. The only alternative outlets to litigation have included the implementation of workshops with community members, which are ineffective because they do not have representatives elected by the people for this purpose, also breaching the standards set by the ILO Convention 169 for the implementation of the right to prior consultation<sup>28</sup>.

45. Following the evictions, in February 2011 the government announced a solution to one of the disputed lands where the Hotel Hanga Roa now stands. The agreement consists in that the current owners reserve the right to usufruct of the property for 30 years in exchange for transferring ownership of it to a foundation composed of community representatives. The irregularities of this negotiation are that the agreement was made between executive representatives and the legal owners of the land without the participation of the clan that claims these lands, who rejected the terms of the agreement. On the other hand, allowing the usufruct on indigenous territory violates the current domestic legislation on the subject (Law 19,253) and ignores prior consultation of the Rapanui community<sup>29</sup>.

46. In May 2012, the Supreme Court rejected the Clan Hito claim stating that no Rapa Nui ancestral property rights exist because, according to the court, after the Government of Chile took possession of the island in 1888, the people living there went on to land squatter status. This

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<sup>22</sup>NIHR, 2011, op. cit.

<sup>23</sup>Diego Portales University, 2011, op. cit.

<sup>24</sup>In MC / 10 Inter-American Commission asked the State of Chile to immediately cease use of armed violence in the execution of state administrative or judicial actions against members of the Rapa Nui population, including evictions from public spaces or taxed or private property, to ensure that the actions of state agents in the context of protests and evictions do not endanger the life or physical integrity of the members of the Rapa Nui population. <http://www.cidh.org/medidas/2011.sp.htm>

<sup>25</sup> <http://unsr.jamesanaya.org/esp/notes/el-relator-especial-expresa-su-preocupacion-por-los-desalojos-de-indigenas-rapanuis-en-la-isla-de-pascua>

<sup>26</sup>NIHR, 2011, op. cit.

<sup>27</sup>ILO Convention 169, Article 14.3

<sup>28</sup>NIHR, 2011, op. cit.

<sup>29</sup>Diego Portales University, 2011, op. cit.

decision contravenes Article 14 of the ILO Convention 169, which determines the obligation to recognize the people's right of ownership and possession of the lands which they traditionally occupy.

47. At the close of the report, the totality of claimed lands have been evicted and the rest of the legal cases remain in the courts, with continuing peaceful protests on the island for the prompt settlement of the conflict.

48. Regarding the Mapuche population, added to the incarceration of about 80 Mapuche people post 2009, is the charge of 55 Mapuches for terrorist offenses, resulting in violation of due process (extended periods of detention, witnesses with confidential identity), though, later they are acquitted or prosecuted for common criminal offenses<sup>30</sup>. The high rate of acquittals in trials related to the Terrorism Act brought against Mapuche peoples is evidence of its political and discretionary use by the state, which for a decade has been applied almost exclusively against these people, despite international recommendations in the field<sup>31</sup>.

49. After a hunger strike carried out for 83 days during 2010 by 34 Mapuche commoners held prisoners in Concepcion, Lebu, Valdivia, Temuco and Angol, demanding a fair trial (no law enforcement of the terrorism act and the end of double jeopardy) and the end of the abuse and mistreatment by state agents against their communities, which have included children<sup>32</sup>, changes were made to the Terrorism Act<sup>33</sup>. Although the reform allowed for the end of the hunger strike that lasted almost three months, the fact is that the approved amendments have failed to adapt national legislation applicable under international standards. The concept of sanctioned terrorism, even though it eliminates the presumption of terrorist purpose, does not meet the elements that define these crimes in accordance with international treaties and comparative law. Additionally, an exceptional set of provisions that severely limit due process for those involved in acts defined as terrorism remain unchanged<sup>34</sup>.

50. Furthermore, a partial reform of military justice<sup>35</sup> was approved which excluded minors and civilians tried by military courts, also the double jeopardy for Mapuche prisoners was removed. However, military contest held for police officers that commit crimes against civilians in violation of international standards on the subject were maintained, a matter of concern, for repression committed by the Police and Investigations Police against communities, including deaths of Mapuche commoners go unpunished.

51. Among the complaints to international organizations on applied violence by police, cases that stand out are warrantless raids and allegations of torture and ill treatment of prisoners<sup>36</sup>. The situation of violence against Mapuche children and adolescents is particularly serious, which was represented by civil society organizations before the Human Rights Commission. It was unveiled in the hearing, the violence by state institutions toward communities that are mobilized to reclaim

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<sup>30</sup>Since 2009 to date there have been eight open criminal cases in which there have been 55 people belonging to the Mapuche people charged with participation in terrorist offenses. Of those 8 criminal cases, 4 have been ruled upon by the courts, three of which resulted in the acquittal of the accused, and, one of which, 4 of the 19 charged were sentenced for common crimes. While none of those convicted were subject to the qualification of terrorist conduct covered by Law 18,314 in the crimes for which they were convicted, the evidence that helped in the sentence is the result of judicial proceedings falling under the eaves of said legal body, which within it, used eyewitnesses whose identity remained concealed.

<sup>31</sup>Committee on the Elimination of Racial Discrimination, CERD/C/CHL/CO/15-18, par. 15. Committee against Torture, CAT/C/CHL/CO/5, 29.

<sup>32</sup>Aylwin, José, "Bicentennial and the Mapuche cause. Chile's wound". Published in *Le Monde Diplomatique*. Santiago. October, 2010.

<sup>33</sup>Law No. 20,467 amending provisions of Law No. 18,314, which defines terrorist acts and set their penalty, published in the Official Gazette on October 8, 2010 (Journal of Laws No. 7211-07).

<sup>34</sup>Parliamentary Observatory, Balance of the legislature in 2010.

<sup>35</sup>Republic of Chile, Law No. 20,477, jurisdiction of military courts modified, published in the Official Gazette on December 30, 2010.

<sup>36</sup>War. Marta: "Why 14 Mapuches are still on hunger strike?" At [www.mapuexpress.net](http://www.mapuexpress.net). October 5, 2010.

their ancestral lands, where the case of a 5 year old girl being arrested and interrogated in 2006 in the field of Yeupekowas even recorded.<sup>37</sup>

52. During the years 2011 and 2012 the pattern of police violence has continued, with several episodes of police brutality in Mapuche communities that were violently raided by police with outcomes of children, women and elderly people, wounded and/or affected by the indiscriminate use of tear gas<sup>38</sup>.

53. A particularly serious case occurred in 2012, which involved the assault of two Mapuche women from the Jose Jineo community by police, who were beaten in the presence of minors<sup>39</sup>, and subsequently illegally detained as established by the security court, which ruled for their release. This prompted the filing of a request for protection by the National Institute of Human Rights to the Court of Appeals of Temuco – which has been received by the court - against officers of Area IX of the Araucanía on behalf of the children and adolescents of José Jineo Community, county of Padre Las Casas. The purpose is that police procedures do not violate the right to physical and mental integrity of children in the community, equality before the law, the right to privacy and inviolability of home and property law. According to testimony from the community, these cases are not isolated or rare, a pattern of violence exists in the Araucanía<sup>40</sup>. That is, despite the Court's ruling, police procedures continue to violate the rights of boys, girls and women in the communities.

54. In 2012, other violence has been reported that affects women of Mapuche communities in the Trafún Panguipulli sector, where police entered without a search or arrest warrant to inspect the homes of Ignacia Reinahuel, 80 years of age, and Uberlinda Pichilef, 60 years of age, where they also found a 13-year-old who then was forced to leave the house half-naked<sup>41</sup>. Indigenous women, especially Mapuche, have been constant victims of disproportionate use of force by State agents in the context of police operations, a situation recognized by the CEDAW Committee in 2012<sup>42</sup>.

55. In 2013, the Public Defender's Office, the National Human Rights Institute (NHRI) and the Indigenous Institute Foundation, filed an appeal of protection before the Court of Appeals of Temuco in favor of boys, girls, adolescents, pregnant women and all those who have been affected by the raid of April 30, 2013 by staff of the Chilean Investigative Police (PDI) in Mapuche communities "Mawidanche" and "Trapilwe" in the Freire commune<sup>43</sup>. The appeal is intended to clarify the allegations of the disruption or threat that may eventually affect the legitimate exercise of the rights to personal freedom and individual security of the protected.

## 56. Recommendations:

**a) End the criminalization of indigenous demands and cause a radical change in the ways in which the conflict with indigenous communities has been addressed. It is particularly recommended not applying the Terrorist Act as well as the creation of mechanisms for protecting and assisting child victims of institutional violence.**

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<sup>37</sup>Nest Foundation and NGO Network for Children and Youth of Chile (ROIJ Chile), "Institutional Violence Against Mapuche Children in Chile. Hearing before the Inter-American Commission on Human Rights in the Session 141 Period". March 25, 2011, at <http://meli.mapuches.org/spip.php?article2254>

<sup>38</sup>Coverage of Mapuche Winkul Wentu Mapu, raided by police in a repeatedly violent manner, available at: [http://www.chilevision.cl/home/index.php?option=com\\_content&task=view&id=425954&Itemid=186](http://www.chilevision.cl/home/index.php?option=com_content&task=view&id=425954&Itemid=186)

<sup>39</sup>Audiovisual footage of police aggression: <http://www.youtube.com/watch?v=C-IwIVZvHzQ>

<sup>40</sup> NHRI, "Observation Mission Report Araucanía Region" 17 to 20 January, 2012 at <http://www.indh.cl/wp-content/uploads/2012/03/mision-arauca-2012.pdf>

<sup>41</sup> <http://www.elciudadano.cl/2012/03/01/49016/carabineros-asalta-y-agrede-a-dos-ancianas-mapuche-de-trafun-en-sus-propias-casas/>

<sup>42</sup>Committee on the Elimination of Discrimination against Women, CEDAW/C/CHL/CO/5-6, par. 20 and 21.

<sup>43</sup> <http://www.indh.cl/corte-de-temuco-acoge-recurso-de-amparo-presentado-por-defensoria-penal-publica-con-adhesion-de-indh#sthash.loG2E9lw.dpuf>

**b) Ensure impartial and thorough investigations into all allegations of police violence, including sexual violence against indigenous women and girls, in order to punish those responsible, compensate victims and provide guarantees of non-repetition.**

**Effective participation of diverse Chilean ethnic groups in political and public life (Articles 2, 5 and 6)**

57. Regarding the **participation** of indigenous peoples, they still lack representation in Congress or regional governments, and their representation in local government is minimal. There have not been proposals for legal reforms to eliminate institutional barriers that limit the political organization of indigenous peoples and their integration into decision-making positions.

58. The participation of **indigenous women** in political decision-making positions is almost nil, especially troubling that they are not represented in parliament<sup>44</sup>.

**59. Recommendations:**

**a) To ensure and promote the realization of the right to political participation of indigenous peoples, with special emphasis on promoting the participation of women, in accordance with ILO Convention 169 and international guidelines.**

**Justice System and combat of racial discrimination (arts. 5 and 6)**

60. Regarding access to justice, there are several problems that violate the rights of indigenous women to a fair trial, a situation recognized by the CEDAW Committee in 2012<sup>45</sup>. In the country, the absence of judicial mechanisms that timely and effectively reestablish the rule of law and protect indigenous and afro-descendant women affected by discrimination in any area of their lives are still absent. This occurs, on one hand because domestic legislation has not kept pace with international standards, and on the other hand, because of the non-existent or inadequate implementation of international standards relating to indigenous peoples. Similarly, the law enforcement officials and judicial officers receive little or almost no training in human rights of indigenous women, retaining an inadequate understanding of cultural differences, and prioritizing stereotypes and discriminatory socio-cultural patterns that disqualify indigenous women, either in their role as victims of violence or charged with a crime, which is a barrier to access to justice for indigenous women<sup>46</sup>.

61. In the case of the shepherdess Aymara Gabriela Blas, who prompted the filing of a complaint with the Inter-American Commission on Human Rights through Corporación Humanas and the Citizen Observatory, clearly illustrates the discrimination against indigenous women by the justice system<sup>47</sup>.

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<sup>44</sup>Committee on the Elimination of Discrimination against Women, CEDAW/C/CHL/CO/5-6, par. 21.

<sup>45</sup>Committee on the Elimination of Discrimination against Women, CEDAW/C/CHL/CO/5-6, par. 15 and 25.

<sup>46</sup>Feminist Regional Network for Human Rights and Gender Justice, "Report for the 144th session of the Inter-American Commission on Human Rights. Progress and challenges for the access to justice for women in the Americas ", at <http://www.humanas.cl/wp-content/uploads/2012/04/Informe-para-el-144-per%C3%ADodo-de-sesiones-CIDH-Abril-2012.pdf>

<sup>47</sup>Gabriela Blas was incarcerated for the death of her 3-year-old son, whom she lost sight of while she was working on herding llamas and whose loss she reported promptly to police, that found the boy's body a year later. After a trial that showed several irregularities, such as interrogations that were not conducted in the native language of the accused or psychological tests that did not consider her ethnicity, the court sentenced her to 10 years in prison for neglecting a minor, resulting in death. Subsequently, the decision was reversed by the Court of Appeals, with the penalty in the second trial increasing from 10 to 12 years, a decision that cannot be reviewed by a higher court and, therefore, prevents monitoring of compliance with the guarantees

62. Another worrying situation regarding access to justice for indigenous women is the application of compensation agreements in cases of domestic or family violence. By request of the Criminal Defense, and in response to articles 9 and 10 of the ILO Convention 169, criminal courts have accepted compensation agreements between the victims and the charged of Mapuche origin, decisions that have been upheld by the superior courts<sup>48</sup>. It is alarming that such rulings are not based on Mapuche ancestral custom and have been issued in violation of international standards on women's human rights, which prohibits the impunity of these crimes.

### 63. Recommendations:

a) **Promote measures to ensure access to appropriate and effective judicial resources to investigate, punish and eradicate violence against indigenous women, as well as the actions to eradicate discriminatory socio-cultural patterns that prevent indigenous women full access to justice, which include training programs for members of the justice system and comprehensive prevention policies.**

b) **Ongoing training in human rights, specifically on indigenous women's human rights and international standards for police officials and operators of the administration of justice.**

**Enjoyment of human rights by groups vulnerable to racial discrimination (articles 2, 4, 5 and 7).**

### *Regulatory framework*

64. The Aliens Act, current regulatory framework on migration, dates from 1975 and does not meet international standards nor the reality of current migration, which has been characterized in the last period to be increasing, sustained and frontier-related. Among its many shortcomings, one that stands out is the discretionary power granted to the administrative authority for retention, neglect and expulsion of aliens and the lack of guarantees of due process. Additionally, Chilean nationality is not recognized for sons and daughters of undocumented aliens, who have been born in the country, in some cases becoming stateless, a situation of which the CEDAW Committee called for change<sup>49</sup>.

65. In June 2013 the House of Representatives entered the bill of Migration and Aliens<sup>50</sup>, which aims at updating the above legislation. The initiative, which has not advanced in its processing, lacks a focus on rights and is not adapted to the recommendations made by the Committee on

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of due process. This infringement of rights is based on that the cultural identity of Gabriela Blas was not considered in the judicial process, contrary to the provisions of ILO Convention 169, which states the obligation of the courts to consider the custom of the people when they rule on criminal matters, considering alternative sanctions to imprisonment. Quite to the contrary, the failure of basic due process demonstrates the confluence of multiple discrimination falling on Gabriela, who because of her ethnicity, socioeconomic status and the fact of being a woman, did not have access to a fair trial. While in May 2012, she was granted a presidential pardon that reduced her sentence by half, thanks to which allowed her to opt for prison privileges which granted her parole after more than four years in prison, the State still has not acknowledged its responsibility in the violation of Blas' rights to a fair trial and equal and non-discriminatory treatment, and has not yet committed to repairs for affected or measures to ensure the non-repetition of such situations in the country.

<sup>48</sup>So far, Corporación Humanas has recorded 2 cases: a) Judgment delivered by the Court of Appeals of Temuco on October 27, 2011 Docket No. 955-11; b) Judgment delivered by the Court of Appeals of Temuco on January 4, 2012 Docket No. 1192-2011. There is a third case, which, on the closing date of the report, was still being ruled on by the Court of Appeals of Temuco Docket No. 388-2012.

<sup>49</sup>Committee on the Elimination of Discrimination against Women, CEDAW/C/CHL/CO/5-6, par. 27.

<sup>50</sup>Message No. 089-361, Journal of Laws No. 8970-06

Migrant Workers<sup>51</sup>. The delay in the adoption of a new legal body on migration according to Human Rights standards is worrying because it impacts multiple situations faced daily by foreigners in the country.

66. In relation to the contents of the project, it is concerning that the protection of the rights of migrants and their families is not the focus of the initiative and that it is subject to administrative, institutional, procedural and economic aspects. One of the main shortcomings of the project emphasizes the maintenance of the maximum limit of 15% of foreigners working for companies that have more than 25 workers, criterion that would continue to apply to persons whose residence or establishment permit that has a term of stay for over a year and that have the opportunity to apply for permanent residence, in other words, there would be more accepting of only temporary immigrants. Moreover, streamlining the process of expulsion for those foreigners as offenders of the law could violate due process guarantees.

67. Is central that the new legal framework on migration address, inter alia, the right to freedom of movement and displacement of all people living in the national territory; the right to citizenship of children born in the country regardless of the immigration status of their parents; labor, union and foreign social security rights; the right of access to justice for the protection and defense of their rights, as well as due process guarantees against violation of national rules on migration; the right to protection of family and family reunification; the right to housing; the right to health and medical care; the right to education of the children of migrants. This in compliance with the international obligations assumed by the State of Chile, particularly with the provisions of the Committee on Protection of the Rights of All Migrant Workers and Members of Their Families.

### ***Rights of migrants***

68. The lack of guarantees of rights to labor, union and social security of migrants; to health care; to children's education; family reunification, among others, and the lack of policies to combat discrimination and stigmatization is concerning.

69. The available data on the migrant population in Chile has not been updated (given the aforementioned problems of the Census 2012), as the latest official figures date from the Census 2002, which creates an urge to generate reliable statistics that enable efficient diagnosis in the subject. The information available indicates that the immigrant population in Chile is composed mainly of women, who face multiple forms of discrimination based on their status as women and migrants.

70. Regarding the right to health, it is important to note that in order to access the private or public health system it is required to own a Chilean identity card, therefore, the migrants in an irregular situation or who are still processing their visa can not access the public health system. This situation is particularly serious in the case of the ill, elderly people, small children, and pregnant women.

71. Exceptionally, for pregnant women, a pregnancy or medical treatment visa exists that allows them care, following the submission of a medical certificate attesting to their status of pregnancy, in the public health system<sup>52</sup>. However, practice shows that pregnant women without identification are not treated in the medical office, forcing them to resort to private health providers to obtain a certificate of pregnancy. Those who are in the most precarious economic situations cannot assume that expense and cannot regularize their immigration status and, therefore, do not receive medical care during pregnancy, with consequences on the woman's

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<sup>51</sup>Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, CMW/C/CHL/CO/1.

<sup>52</sup>Department of Immigration and Migration, Circular No. 1179

health and that of the newborn. This prompted recommendations of the Committee on Migrant Workers and the CEDAW Committee.<sup>53</sup>

72. In relation to access to education for migrant children, despite the existence of a legal framework that promotes the inclusion of children to educational institutions and the possibility that they regularize their immigration status with a temporary student visa, in practice it is observed that the subsidized private educational establishments require the children to present their Chilean identity in order to enroll for the second time in Chile. That is, they will be admitted provisionally, as mandated by Circular No. 07/1008 (1531) of August 4, 2005, but will be denied further education for those who have not regularized their immigration status by the end of the school year.<sup>54</sup> Many times, this situation is explained due to economic difficulties of the parents in order to pay for visas, which should not have an impact on the right to education for migrant children, and also contravenes the Convention on the Rights of the Child. This situation was a matter of concern in the report of the Committee on Migrant Workers, in which the body recommended that there is ensured access to education for children as irregular migrants.<sup>55</sup>

73. It is worrying that according to the Casen Survey 2009; the vast majority of migrant women have not had general medical consultations. The average of those who have, have done it only twice. With regard to sexual and reproductive health of migrants, it is unknown whether they have information and free access to contraception and prevention information, free screenings and appropriate treatments for sexually transmitted diseases. It is concerning that almost half of women in quintiles II, III and IV have not had the Pap test done in the last three years, while 65.7% of women in the first quintile and 60% of women top quintile have had the examination.

74. In relation to the workplace, once migrant women try inserting themselves in the Chilean labor market, they face the difficulties of a society marked by inequality gaps, an unstable labor market, the lack of protection of the workers and immigration legislation linking the visa to an employment relationship, which leads the working migrants to tolerate illegal working conditions in order to maintain their immigration status in order. Additionally, migrant women have higher possibilities of performing informal jobs; the Casen Survey 2009 indicates that in all quintiles, the proportion of female migrants with an employment contract is less than that of the men. In the first quintile, only 28.5% of women have a contract, a percentage that exceeds 60% in the other quintiles. A significant number of women migrants are inserted in the Chilean labor market as private household workers, an occupational sector characterized by multiple violations of labor rights. The CEDAW Committee in 2012 urged the State to improve the employment situation of migrant women<sup>56</sup>.

75. The wage gap between men and women migrants from the Casen Survey 2009<sup>57</sup> is confirmed. Only in the first quintile do migrant women receive higher wages than men (in a ratio of 1 for women and 0.7 for men). In the other four quintiles women's wages are lower than men. In quintiles II and III the ratio for men is 1 to 0.8, in quintile IV it is 1 to 0.7, and in quintile V it is 1 to 0.6, confirming the increase in the wage gap between men and women as they increase their income levels.

76. With regard to access to housing, there are many restrictions by the state that hinder application to lease or housing subsidies by migrant families. This lack of protection promotes certain sectors to take advantage, who rent private rooms for family groups, where they do not

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<sup>53</sup>Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, CMW/C/CHL/CO/1, paragraph 31. Committee on the Elimination of Discrimination against Women, CEDAW/C/CHL/CO/5-6, par. 41.

<sup>54</sup>View Project Systematization "Citizenship and human rights protection of migrant population in Chile", implemented by the Institute for Women Foundation in 2010, along with four other organizations and funded by the European Union.

<sup>55</sup>Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, CMW/C/CHL/CO/1, paragraph 35.

<sup>56</sup>Committee on the Elimination of Discrimination against Women, CEDAW/C/CHL/CO/5-6, par. 33.

<sup>57</sup>National Socioeconomic Characterization Survey (CASEN), Ministry of Social Development, 2009.

have access to a private bathroom, drinking water and regular electricity, living in overcrowded conditions and they are extorted with high lease rates that do not receive any control by local or national governments. This situation has led to multiple electrical fires due to fraudulent connections, which have killed many people in the last five years.

### ***Entry to the country***

77. There are concerns about the allegations that migrants have made in the main border crossings in the north of the country, which were documented in a report by the National Institute of Human Rights<sup>58</sup>. This report gives an account of the infringement of rights of migrants as there are situations of degrading treatment at border crossings, arbitrary bans of entry to the country, citing reasons of economic insolvency<sup>59</sup>, and unjustified refusals to requests for asylum and refuge, which could help increase irregular entries and migrant trafficking.

### ***Trafficking***

78. Regarding legislation on trafficking and smuggling, in 2011, the Law No. 20.507 was approved, amending the penal code and typifies offenses of smuggling of migrants and trafficking in persons. While this law has meant an important advance, the state budget that will be allocated to the implementation of the law is still unknown; as well as how and when the development of statistics disaggregated by gender will be delivered, in a single registered system that distinguishes internal and cross-border trafficking for purposes of sexual exploitation and ultimately for labor exploitation purposes, effectively recognizing the magnitude of the phenomenon in the country. Similarly, there are no studies on the phenomena related to human trafficking: labor exploitation, sexual exploitation of girls and boys and exploitation of women in the context of prostitution.

79. Although the law stipulates that victims of these crimes must be protected, sheltered and even allowed the choice of receiving residence permits, these provisions are not met or are found to have limitations in their implementation. Firstly, an important part of the protection and assistance to victims is conditional that they have the willingness to report and cooperate in a prosecution.

80. Moreover, trafficking victims have difficulties when processing temporary residence visas because the cost of these can reach up to US \$400, amounts that they are unable to afford. The fact of not having residence permits hampers their access to basic health services as well as labor sources.

81. Also concerning, is the low number of state shelters for victims of trafficking, since there is only one and it is intended for preferential treatment of female victims of sexual exploitation, lacking national coverage, including the extremes zones of the north and south. Similarly, there is minimal coverage of psychological rehabilitation and social and employment reintegration. Given the lack of infrastructure, some civil society organizations provide services to victims, but lack the state resources to perform the job.

82. In relation to the training of public officials, there is no ongoing training for judicial personnel, operators of the justice and civil system, and police and border functionaries in order to ensure the effective implementation of the law and the protection and information their rights for the victims during court proceedings.

83. During the process, there is no guarantee of adequate protection for the victims or witnesses, exposing their identity to the traffickers. Moreover, there are no special funds designated for the repair of the victim.

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<sup>58</sup>National Institute of Human Rights, "Observation Mission Report Status of Migrant Population and Colchane Iquique, 29 to May 31, 2013" Available at:

[http://bibliotecadigital.indh.cl/bitstream/handle/123456789/560/Informe % 20Mision? sequence = 4](http://bibliotecadigital.indh.cl/bitstream/handle/123456789/560/Informe%20Mision?sequence=4)

<sup>59</sup> View press release: <http://www.13.cl/t13/reporteros/extranjeria-visitara-paso-fronterizo-de-colchane-tras-denuncia-de-reporteros>



84. With regard to public policy, the Intersectoral Committee on Trafficking in Persons is running, which is finalizing the design of the national action plan. This initiative highlights the active participation of civil society organizations and the fruitful collaboration experience that has been built with state institutions.

### ***Campaigns to prevent and battle racial discrimination***

85. Facing xenophobia and racial discrimination, there are no ongoing campaigns to educate on equality and non-discrimination that are meant to prevent this type of behavior.

### **86. Recommendations:**

a) **Adopt legal framework for the protection and guarantee of the rights of migrants adapted to the international human rights obligations subscribed and ratified by Chile. Pass a regulatory body to collect and harmonize the provisions on the subject and to integrate a gender perspective.**

b) **Ensure nationality to children born in Chile.**

c) **To ratify international treaties on statelessness.**

d) **Investigate allegations of abuse at border crossings, arbitrary prohibitions to enter the country, and unjustified refusals to requests for asylum and refuge, and adopt appropriate sanctions.**

e) **Implement ongoing training of border personnel on human rights and non-discrimination**

f) **Conduct a national assessment of the situation of migrants in Chile disaggregated by sex, nationality, ethnicity and age.**

g) **Implement measures to facilitate access to the public health of the migrant population, especially pregnant women, children and ill people.**

h) **To ensure access of migrant women to sexual and reproductive health services, especially when they are pregnant, regardless of regular or irregular immigration status.**

i) **Ensuring access to primary, basic and higher education for all sons and daughters of migrants, regardless of the immigration status of their fathers or mothers.**

j) **Strengthen the protection of labor rights for migrant workers, particularly for domestic workers. Ratification by the State of Chile of Convention 189 and ILO Recommendation 201 on Decent Work for Women Workers and Domestic Workers.**

k) **Generate plans and programs that enable migrants to access decent housing.**

l) **Include in the implementation of Law No. 20,507 (treatment and trafficking) and the National Plan of Action, in a balanced way, the tools to prevent and prosecute the crime and to protect and compensate the victims, by: creating a single registration system with statistics to account for the prevalence of human trafficking in the country; qualitative studies related to the phenomena associated to human trafficking: labor exploitation, sexual exploitation of girls and boys and the exploitation of women operating under the frame of prostitution; ensuring the protection, psychological assistance, legal and social reintegration of victims even if they are not willing to cooperate in legal proceedings; continuing education of public officials, including the judiciary powers; improve the infrastructure of shelters and extend them to the most affected regions.**

m) **To provide state funding for organizations that provide assistance to victims of trafficking, as well as funding for research and repair for victims.**

- n) Allocate funds to implement the National Action Plan.
- o) Creation of a specialized state figure for the Trafficking in persons, whose objective is to coordinate the various public and private bodies, protect the rights of victims of trafficking and manage state funds aimed for eradicating the problem.
- p) Perform ongoing campaigns with national coverage on respect for diversity, non-discrimination and equality.