



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

**Concluding observations on the sixth periodic  
report of Chile**

Addendum

**Information received from Chile on follow-up on  
the concluding observations\***

[Date received: 5 January 2016]

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\* The present document is being issued without formal editing.

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1. The Government of Chile has the honour to submit, to the Special Rapporteur for follow-up on concluding observations of the Human Rights Committee, information on the recommendations contained in paragraphs 7, 15 and 19 of the Committee's concluding observations on the sixth periodic report of Chile on the International Covenant on Civil and Political Rights, as requested in the recommendation contained in paragraph 26 of the concluding observations. This document was drafted by the Human Rights Directorate of the Ministry of Foreign Affairs, on the basis of inputs and background information provided by the Legal Division and International Unit of the Ministry of the Interior and Public Security, the Ministry of Justice, the National Service for Women, the Office of the Attorney General, the Carabineros (police) and the investigative police.

## Paragraph 7

### Counter-terrorism

The State party should amend the Counter-Terrorism Act and adopt a clear and precise definition of terrorism offences in order to ensure that the counter-terrorism efforts of law enforcement personnel do not target specific individuals on account of their ethnic origin or any other social or cultural factors. It should, furthermore, ensure that the procedural guarantees contained in article 14 of the Covenant are observed. The Committee urges the State party to refrain from applying the Counter-Terrorism Act against the Mapuches.

2. Under the legislation in force in Chile, the Office of the Attorney General, as the prosecuting body, may legally declare a given event a terrorist or terrorism offence if it considers, during the course of an investigation, that the events in question meet the criteria of this criminal offence. In doing so, it must act strictly in accordance with the principles of legality and objectivity.<sup>1</sup>

3. Furthermore, the courts are competent to classify as a terrorism offence acts brought to their attention during the trial. In this connection, any measure taken during the proceedings that might deprive the accused or a third party of his or her rights under the Constitution, or that might restrict or disrupt the exercise of those rights, shall require prior judicial authorization, as established in article 9 of the Code of Criminal Procedure.

4. Notwithstanding the foregoing, the selectivity with which Act No. 18.314 has been enforced has undermined its legitimacy. The disproportionate increase in standard sentences for certain offences committed in the context of a social conflict has become clearly inconsistent with the principle of proportionality. In addition, under the legislation in question, acts that involve damage only to material goods can be classified as terrorist acts; this runs counter to international and criminal doctrine, according to which one of the

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<sup>1</sup> Article 77 of the Code of Criminal Procedure provides that "(...) Investigators will initiate and support public criminal proceedings in the manner prescribed by law. With that in mind, they will take all measures to ensure the best possible outcome of investigations and they will guide police action, in strict observance of the principle of objectivity enshrined in the Constitutional Act on the Office of the Attorney-General." Article 3 of the Constitutional Act on the Office of the Attorney General provides that "[i]n exercising their functions, investigators of the Office of the Attorney General will act in accordance with a single objective criterion, namely, the correct application of the law. Accordingly, they shall investigate with equal thoroughness not only the facts and circumstances that establish or increase the responsibility of the accused, but also those that exempt, acquit or extenuate the accused of such responsibility." Likewise, article 5 (1) indicates that "[t]he State shall be accountable for actions taken by the Office of the Attorney General that are deemed unjustifiable by their erroneous or arbitrary nature".

basic elements of a terrorist offence is contempt for human life or the endangerment of constitutional order. Its definition makes it classifiable as an offence linked to a motive or purpose. This requires establishing more than just the criminal intent necessary to commit an illegal act, and is obviously difficult to prove, given the subjective aspects of the criminal offences established under the Act.

5. Because of the foregoing, the current agenda of President Michelle Bachelet includes a commitment not to enforce Act No. 18.314 (which establishes the definition of a terrorist act and the penalties related thereto) in situations that may be described as social conflict or to members of indigenous communities making social demands.

6. It should be noted that between 2000 and March 2014, a total of 20 investigations resulted in 111 indictments for offences established under Act No. 18.314, with a number of persons being targeted in more than one investigation. A total of eight persons were convicted of terrorist offences; one of these persons was convicted twice. Seven persons received convictions that the Inter-American Court of Human Rights later ordered Chile to nullify (in the case of the Mapuche leaders).<sup>2</sup>

7. This reflects a low rate of effectiveness, as only 9.9 per cent of those accused under the Counter-Terrorism Act were subsequently convicted; moreover, since the adoption of a legal amendment in 2010, indictment for such offences has been subject to more rigorous standards. Since 11 March 2014, there have not been any convictions of this type and no criminal proceedings have been initiated against persons of the Mapuche ethnicity.

8. The Counter-Terrorism Act has been the subject of numerous amendments. The most recent one, adopted in 2010, eliminated the presumption of terrorist motives, that is, certain “objective” elements on which basis it could be presumed that the perpetrator had the specific intent to generate, in the general population or in part thereof, fear of becoming a victim of a terrorist offence. That amendment, introduced through Act No. 20.467, modified other provisions of the Counter-Terrorism Act, for example, by establishing explicitly the right of the defence counsel personally to cross-examine protected witnesses or expert witnesses. Act No. 20.519, published in the Official Gazette of 21 June 2011, proscribed the use of the Counter-Terrorism Act to investigate and prosecute persons under 18 years of age.

9. However, reforms of the Act have not been sufficient to bring domestic legislation fully into line with the standards of international human rights law. For this reason and for the purpose of carrying out a technical assessment of the law, a committee of experts was established in late May 2014. Its mandate was to produce a report containing specific recommendations with a view to providing the State with an instrument of criminal prosecution for terrorism consistent with international standards.<sup>3</sup>

10. During the course of its work, the committee requested the inputs of relevant authorities and organizations, including the National Attorney General and the Regional Attorney General of Araucanía. The committee of experts also took into account the work of the United Nations system and the inter-American system. In developing a new criminal classification of terrorism, it considered the following points:

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<sup>2</sup> *Norín Catrimán et al. v. Chile*, of 29 May 2014, in which the Inter-American Court of Human Rights found the State of Chile internationally responsible for violating the principle of legality and the right to the presumption of innocence in respect of the eight victims in the case, as a result of having maintained in force and applied article 1 of the Counter-Terrorism Act, which the Court ruled contained a presumption of terrorist motives or intent on the part of the perpetrators, arising out of various hypotheses provided for under the law.

<sup>3</sup> The committee, which was chaired by attorney Juan Pablo Hermosilla, comprised attorneys María Inés Hortvitz, Javier Couso, Juan Pablo Mañalich, Héctor Hernández, Enrique Aldunate, Juan Pablo Cox and Ignacio Núñez.

(a) Terrorism involves serious attacks or acts that endanger the life and physical integrity of persons;

(b) It is important to avoid classifications that could be used to criminalize acts related to social demands;

(c) It is important to observe the principles of legality and standardization in criminal matters.

11. The work of the committee concluded on 4 November 2014 with the preparation of a bill establishing terrorist acts and the penalties related thereto, and amending the Criminal Code and the Code of Criminal Procedure (Bulletin No. 9692-07). This draft consolidated law was subsequently submitted with a parliamentary motion in October 2014 (Bulletin No. 9669-07). The bill is currently in the first reading in the Senate, together with the second report of the Committee on the Constitution, Legislation, Justice and Regulations.

12. The bill is aimed at updating and refining the provisions that characterize terrorist acts, including a clear definition that allows for the appropriate punishment for such offences. Article 1 defines as an illegal terrorist association any organization or group that, in committing crimes (detailed in the same article) that it has itself planned, seeks to undermine or destroy the institutional democratic order, to seriously disrupt public order, to impose demands on the political authorities, to obtain under duress decisions from such authorities or to instil widespread fear in the general population of loss or deprivation of their fundamental rights.<sup>4</sup>

13. The same article provides that the association will be considered as effectively organized on the basis of the number of its members; its resources and means; the division of tasks and functions; and its planning capacity and long-term impact. Article 2 of the bill sets out a penalty of medium to maximum long-term rigorous imprisonment for any member who has founded or contributed to the founding of a terrorist criminal organization or who provides or has provided financing thereof.

14. The bill seeks to consolidate all the special measures that are common in the investigation of complex crimes (whether or not said complexity originates from their nature of organized crime) and to subject them to a single set of provisions with a view to reducing the existing legislative fragmentation in this area. At the same time, these measures, which typically impact on fundamental rights, are governed by the common principle of requiring prior judicial authorization and the need to respond to the international criticism levelled against the intrusive measures permitted under Act No. 18.314.

15. The procedural provisions proposed in the bill are to be incorporated into the Code of Criminal Procedure with a view to aligning all special investigative techniques and special trial-related rules, which have developed inorganically and are contained in disparate legal instruments (for instance, Act No. 20.000 on drug trafficking and related offences; Act No. 19.913 on money-laundering; and Act No. 18.314 on terrorist acts, among others). The committee of experts took as its basis the provisions contained in the drug trafficking law and applied them to a number of offences described as “complex”,

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<sup>4</sup> Article 1: “An organization or group shall be considered as an illegal terrorist association if, in committing crimes that it has itself planned, provided that the crimes in question fall under articles 141, 142, 150 (A), 315, 316, 391, 395, 396, 397 or 398 of the Criminal Code, or articles 5, 5 (b) or 6 of Act No. 12.927, or the offence of placement of explosive and incendiary devices established in Act No. 17.798, it seeks to undermine or destroy the institutional democratic order, to seriously disrupt public order, to impose demands on the political authorities, to obtain under duress decisions from such authorities or to instil widespread fear in the general population of loss or deprivation of their fundamental rights.”

either because they were listed in a catalogue of offences predefined by the legislature or because they had certain characteristics that warranted the use of such special techniques and rules. Likewise, the provisions rely on the general principle of prior judicial authorization, thereby amending several pieces of legislation in force.

16. The bill is intended to incorporate into the Code of Criminal Procedure investigative measures related to complex or organized crime, which are designed to enable the early detection of any type of terrorist attack, the dismantling and neutralizing of terrorist organizations and the monitoring of activities suspected of being linked to financing of terrorism; in this way, the legislation will be brought in line with international standards. The bill regulates and expands the scope of action by the Office of the Attorney General in the investigation of these offences, ensuring judicial oversight of those measures that could infringe on the rights and freedoms of persons. This would allow that Office to quickly access documentation in the possession of other judicial officials, and would give it the authority to take action in the event of danger to agents or witnesses.

17. The bill also includes rules on international cooperation and assistance, with a view to ensuring the success of investigations into the offences targeted by the bill, in accordance with the international conventions and treaties signed by Chile.

18. The bill establishes the exceptional nature of the measure of protected witnesses. Such a measure will be used only at the investigation stage, for certain offences, on specific and well-justified grounds; it will be in place for a limited period of time; and it will be subject to judicial review. To ensure the exceptional nature of this measure, its renewal will be subject to a court decision, in which it must be deemed necessary to the success of the investigation. Any party may seek the intervention of the judge responsible for procedural safeguards to review the appropriateness of and need for this measure. The measure shall cease once the investigation closed.

19. The defence shall have access to all the evidence submitted by the Office of the Attorney General in the indictment, namely, the identity of the protected witnesses and experts and the background information, measures taken and proceedings initiated during the period of reservation or confidentiality.

20. With the changes proposed in this bill, evidence to which the protection measure applied during the investigation shall be made public at various stages of the trial.

## **Paragraph 15**

### **Abortion**

#### *Paragraph 15, first part*

The State party should establish exceptions to the general prohibition of abortion to take account of therapeutic abortion and cases where a pregnancy is the result of rape or incest.

21. On 31 January 2015, a bill decriminalizing voluntary termination of pregnancy in three specific cases was submitted to Congress by a Presidential Message (Bulletin No. 9895-11). This legal initiative places women's rights at the heart of its proposal, and recognizes that the State, in extreme cases, cannot impose a decision on women or penalize them, but rather should provide alternatives that respect their wishes.

22. One such case is when a woman's life is at risk or will be in the future, and the termination of pregnancy eliminates that risk.

23. The second of these cases is when the embryo or fetus suffers from a congenital or genetic structural alteration that is incompatible with extrauterine life.

24. The third is when a pregnancy is the result of rape, provided that the woman is not more than 12 weeks pregnant. In the case of a 14-year-old girl, a pregnancy may be terminated provided that she is not more than fourteen weeks pregnant.

25. As provided in the bill, any woman wishing to voluntarily terminate her pregnancy must make known her wishes expressly, in advance and in writing. In the case of persons with physical or mental disabilities, whether these are visual, auditory, psychological or intellectual, who have not been judicially interdicted and who are unable to make themselves understood in writing, alternatives means of communication will be provided to obtain consent, in accordance with Act No. 20.422 and the Convention on the Rights of Persons with Disabilities.

26. In the case of a girl under 14 years of age, in addition to her express wish, the consent of her legal guardian, or that of the legal guardian of her choice, if she has more than one, must be obtained. Failing that, the girl may seek, with the assistance of a health team member, the intervention of the competent family court to confirm that there are grounds for the procedure. The bill states that the Court shall authorize the termination of pregnancy, verbally and without requiring a trial, within 48 hours of the request, on the basis of the background information provided by the health team, an interview with the girl and, if deemed necessary, with the health team member having assisted her. When the physician considers that there is reason to believe that requesting consent from the legal guardian would expose the child to a risk of domestic violence, coercion, threats or abuse, or possibility of abandonment or neglect, the requirement for consent will be dispensed with and an alternative authorization will be requested from the local judge competent in family matters. That judge must then rule according to the established procedure, that is, verbally and without requiring a trial.<sup>5</sup>

27. Girls between 14 and 18 years of age may themselves express the wish to terminate a pregnancy. In such cases, the girl's legal guardian or the guardian of her choice, if she has more than one, shall be informed of her decision. Failing that, or if there is reason to believe that informing the legal guardian of the girl's decision might expose her to one of the risks mentioned in the previous paragraph (violence, coercion, threats, abuse, abandon or neglect), the girl shall designate another adult to be informed of her decision.<sup>6</sup>

28. The bill in question contains a number of provisions relating to the procedure for terminating a pregnancy in the cases covered under the bill, and to conscientious objection by doctors. The bill also sets out the obligation of health-care providers to give objective information in writing to the woman regarding the medical procedure and alternatives to termination of pregnancy, including the social and economic support programmes available.

29. In addition to these aspects, which are governed by the Health Code, the bill provides for amendments to be made to the Criminal Code in order to ensure consistency between the two bodies of law, and to the Code of Criminal Procedure to guarantee that the duty of confidentiality prevails over the duty of reporting in cases of legal termination of pregnancy by a pregnant woman or by a third party with her consent.

30. The bill is currently in the first reading in the Chamber of Deputies, with priority consideration. On 14 September 2015, the Health Commission of the Chamber of Deputies approved, as a whole, the articles of the bill. On 30 September 2015, the Committee on the Constitution of the Chamber of Deputies began its in-depth consideration of the bill. Once the first reading is concluded, the Treasury Committee will review the bill's financial

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<sup>5</sup> Article 1 of the bill (Bulletin No. 9.895-11).

<sup>6</sup> Ibid.

aspects. It is hoped that the bill will be submitted for consideration by the Chamber of Deputies (in plenary) for an in-depth debate by the end of the year.

*Paragraph 15, second part*

The State party should ensure that all women and adolescents have access to reproductive health services in all parts of the country. The State party should, furthermore, increase the number of sexual and reproductive health education and awareness-raising programmes, particularly for adolescents, and make sure that they are implemented.

31. Sexual and reproductive health counselling facilities have facilitated access to sexual and reproductive health services and related information. In 2014, a total of 445,118 such counselling sessions took place — an increase as compared with 439,885 sessions in 2012.

32. Also in 2014, the human papilloma virus vaccine was administered free of charge to over 96,000 girls in schools throughout the country. It is hoped that as from 2016, all the girls enrolled in the eighth grade (around 14 years of age) will be protected against cervical cancer.

33. With regard to education and awareness-raising programmes on sexual and reproductive health, particularly in the adolescent population, the National Service for Women has adopted a series of measures, which are detailed below.

**Support programme for teen mothers**

34. This programme is designed to help teenage mothers and pregnant girls achieve social integration by developing a life plan that includes personal, maternal and family goals.

35. Its specific objectives are:

- (a) To connect teenage mothers and fathers and pregnant teens to public and private local networks to help them access social benefits and services in a timely manner;
- (b) To help teenage mothers to go back to school and pregnant girls to stay in school;
- (c) To contribute preventively by providing teenagers with information on family planning and sexually transmitted diseases;
- (d) To foster and support shared responsibility in pregnancy and child-rearing;
- (e) To promote close relations between teenage mothers and pregnant girls with their children, reinforcing responsible maternal behaviour and mothering skills.

36. The activities planned are of a psychosocial nature and are carried out by an interdisciplinary team (comprising a social worker, psychologist, health professional and community representative). The target population is pregnant teenagers (up to 19 years old) and teenage mothers and fathers with children up to 24 months old who live or study at the programme site. The programme is carried out using a participatory group methodology, with the management of local networks, whose focal points organize mental health education workshops, recreational and family workshops, individual care and home visits.

**Healthy Sexuality and Reproductive Life Programme**

37. This Programme was developed in 2014 to promote sexual and reproductive rights from a gender perspective and was carried out in 2015. The Programme seeks to promote the sexual and reproductive rights of teenage girls and boys between the ages of 14 and 19,

from 32 Chilean towns belonging to income quintiles I, II and III, through sexual education workshops to be carried out using a participatory methodology and with standard minimum content. It is hoped that in 2015 the programme will be implemented in 32 towns and, once established, expanded to others throughout the country. In 2016, the goal is to implement the programme in 60 towns, in 2017, 90 towns, and in 2018, 120 towns.

### **Intersectoral Round Table on Teenage Pregnancy**

38. The Intersectoral Round Table on Teenage Pregnancy, currently led by the Ministry of Health, was established in order to help pregnant girls stay in school and to help teenage girls and boys to go back to school.

39. The Round Table comprises the various State institutions that provide programmes, benefits and services related to teen pregnancy. These are the Ministry of Education (Holistic Education and School Reintegration Units), the National Nursery Schools Board (Health, Protection and Decent Treatment Unit and “Para Que Estudie Contigo” childcare facilities), the National School Support and Scholarships Board (scholarships and programmes to help students stay in school), the National Service for Women (support programmes for teenage mothers), the National Youth Institute (competitive funds, “Casa Integral de la Juventud” youth facilities, public breakfasts, counselling services), the Ministry of Health (comprehensive health-care programmes for adolescents and youth and counselling services), Ministry of Social Development (“Chile Grows with You” social protection programme) and the National Service for Women (design and management of networks, juvenile justice), the last of which joined the Round Table in 2013.

40. There is a pilot project to prevent repeat teenage pregnancies (conducted jointly by the National Service for Women and the Ministry of Health).

41. The project includes home visits to provide support and guidance, and inputs for the development of a protocol for action.

## **Paragraph 19**

### **Prohibition of torture and cruel, inhuman or degrading treatment**

The State party should redouble its efforts to prevent and eliminate torture and ill-treatment by, inter alia, strengthening human rights training for members of the security forces and revising operating procedures for law enforcement personnel in the light of the relevant international standards. The State party should, furthermore, ensure that all allegations of torture or ill-treatment are investigated promptly, thoroughly and independently, that perpetrators are brought to justice and that victims receive appropriate reparation, including health and rehabilitation services.

42. The prevention of torture and other inhuman, cruel and degrading treatment has been included in Carabineros training programmes since 2013.

43. In addition, with a view to better preventing and eliminating torture and ill-treatment, the investigative police and the Carabineros have implemented a series of human rights training measures for its officers.

44. In 2015, three features on human rights were published in the October, November and December 2015 issues of the Carabineros magazine and thus widely distributed within the institution. The features bolstered the position of Carabineros in respect of the promotion and observation of human rights; emphasized their professional obligations with



regard to deprivation of liberty, prohibition of torture, and the respectful treatment of LGBTI offenders; and set out the international principles on the use of force.<sup>7</sup>

45. Specific training modules are being developed to support face-to-face teaching and distance learning on the protection of vulnerable groups and prohibition of torture. The modules will highlight those areas as institutional priorities for all educational activities in 2016.

46. The investigative police currently use 63 operating procedures, or protocols, in its investigations. The protocols are designed to standardize investigative processes by setting out the basic steps to follow in a typical criminal investigation. They also establish, clearly and specifically, the duties and responsibilities of the investigating officer.<sup>8</sup>

47. There is a procedure in place for reviewing the use of the protocols; such reviews are carried out by the Department for Oversight of Police Procedures (No. VIII) of the Inspectorate General. The Department analyses police reports at random to determine the rate of compliance with the protocols. That information is then sent to the head of the Inspectorate General, which acts as a compliance and monitoring body.

48. In the performance of its duties, the Department must ensure compliance with the Charter on the Rights of Detainees and the Citizen's Bill of Rights, which were both prepared by the Office of the Attorney General and which are to be displayed in police stations for the benefit of detainees and anyone making a complaint.

49. In 2012, the Carabineros revised the Special Forces protocols to align them with national and international human rights standards, on the basis of joint discussions, as reported by the Carabineros, with civil society and the international community. This work culminated in the publication in 2014 of the protocols, which are currently available to the public.

50. The protocols, of which there are a total of 30, describe different modes of intervention that the police may use to maintain public order during demonstrations. Specifically, they deal with the protection of the right to demonstrate, the restoration of public order, eviction procedures and the handling of offenders, as well as the work carried out together with the National Human Rights Institute and with individuals and organizations from civil society and media representatives. They draw on established principles of international human rights law relating to police action in the context of public demonstrations and respect for the dignity of individuals; the use of force subject to the precepts of legality, necessity and proportionality; the fair and humane treatment of persons deprived of their liberty in accordance with their age and sex; and the professional responsibility of the operational supervisors.

51. The protocols establish the basic preconditions for the use of force and firearms, and establish officers' duty to limit the use of coercive means to the minimum necessary. In addition, all police procedures are required to apply the principles of legality, necessity and proportionality, respect for human dignity and the right to demonstrate freely and peacefully. This is reflected in a number of objective criteria that seek to protect all persons wishing to demonstrate by establishing the different ways that force may be used in cases where it is necessary and where the public order has broken down.

52. Special protocols have been established for juvenile offenders. These protocols, which provide for different treatment of boys, girls and adolescents, and of minors and adults, establish the obligation to take into account both the need to restore public order and the principle of the best interests of the child. The Ministry of the Interior and Public

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<sup>7</sup> See annex I.

<sup>8</sup> See annex III.

Security, which is responsible for law enforcement personnel, has sought to exercise the powers granted to it by law (specifically, Act No. 20.502) to ensure that the police carry out their duties within the framework of the law.

53. One of the special protocols, No. 4.2, contains a number of specific instructions relating to police procedures that may affect children and adolescents. It reflects the case law of recent years regarding the violation of the rights of children and adolescents and establishes different protocols for persons under 14 years of age, persons between 14 and 18 years of age, and children belonging to indigenous ethnic groups.

54. Protocol No. 42 establishes the following:<sup>9</sup>

- Boys, girls and adolescents have the right to associate and the freedom to hold peaceful assemblies;
- Force may be used in a targeted and gradual manner to direct children and to direct or detain specific adolescent offenders or to disperse assemblies that may have a severe impact on conditions for coexistence, public order or national security;
- The use of force should be limited to the minimum necessary, on the basis of two principles: the legitimate aim of restoring order and the best interests of the child;
- Once a detainee has been restrained, it should be ascertained whether he or she is a boy, girl or adolescent, so that the relevant protection measures may be taken;
- It is necessary to ensure the separation of boys, girls and adolescents from adults, and that of detainees from persons undergoing an identity check. Prison cells should not be used, to the extent that space and security permit.

55. In the case of children belonging to indigenous ethnic groups, the following should be taken into account:

- In indigenous communities, children and adults are present together in all activities;
- If another language is used, providing information on the rights and obligations established by law in the child's language shall be a priority;
- In complying with court orders that involve the use of force, the presence of a cultural facilitator shall be a priority;
- The rights of indigenous children and adolescents shall be affected as little as possible;
- In receiving statements by indigenous children and adolescents, indigenous cultural codes shall be taken into account.

56. With regard to the deprivation of liberty, Protocol No. 4.5, on the registration of persons deprived of their liberty, provides expressly that vulnerable situations involving the application of the protocol requires the State to take on the role of guarantor. This obliges police officers to adopt specific procedures in order to safeguard the right to life and the physical and mental integrity of persons deprived of their liberty. The protocol expressly prohibits torture and inhuman, cruel and degrading treatment, establishing that these acts are legal and ethical violations that must be reported immediately to the administrative and criminal justice authorities, and that administrative investigations must be thorough, prompt and impartial.<sup>10</sup>

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<sup>9</sup> See annex III.

<sup>10</sup> The obligation to detect and investigate torture and other inhuman, cruel and degrading treatment was strengthened by General Order No. 2297 of 14 August 2014, updating the "[i]ntervention protocols for the maintenance of public order".

57. With regard to the measures taken to investigate allegations of violence and abuse by the police during public demonstrations in 2011 and 2012, our legal system provides for a series of mechanisms to ensure that any person who is the victim of a crime can report it to the police, the Office of the Attorney General or the courts, thus initiating an investigation, verification of the facts and determination of criminal responsibility, as required.

58. The Carabineros and the investigative police follow administrative procedures for investigating and disciplining those officers who use excessive force. As for the individual responsibility of law enforcement personnel in allegations of abuse and violence during social protests (in the cases that have been reported), the authorities have initiated investigations and administrative inquiries with a view to determining the existence of any administrative or disciplinary responsibility, and have penalized those found guilty, as appropriate; where necessary, they have initiated the standard procedures before the courts to conduct investigations into the allegations and to establish legal responsibility.

59. In October 2013, a significant amendment was made to Decree No. 118 of 7 April 1982 of the Ministry of National Defence, which established regulations series No.15 on administrative inquiries of Carabineros. This amendment resulted in the transformation of the Carabineros administrative investigation offices into legal authorities. This in turn improved internal investigations and increased the quality of disciplinary proceedings and the effectiveness of internal oversight. Thus, since March 2014, the Carabineros legal administrative investigation offices report to the Carabineros court officers.

60. The Carabineros keep a record of the internal investigations into allegations of abuse by their personnel, that is, events that have been investigated within the institution, in order to apply disciplinary sanctions in cases where the responsibility of the police officer has been established.

61. With regard to claims brought regarding the conduct of investigative police officers, if the case warrants it, the corresponding administrative investigation is conducted by the competent institutional authority, with a view to determining responsibility and establishing the commission of a crime. The results are then referred to the Office of the Attorney General, in accordance with the established legal mandate for that institution's staff.

62. Investigation orders issued by the Office of the Attorney General are sent by the Carabineros investigations office to the Internal Affairs Department (No. V) of the Inspectorate General so that the latter may conduct the necessary internal investigation, and submit a report. Ultimately, the Office of the Attorney General is responsible for determining whether or not to file charges against the accused staff member.

63. The Supreme Court, in its case law, has made progress in that it considers these human rights violations as matters within the competence of the ordinary courts, rather than the military courts, given that such cases constitute illegal acts that are unrelated to the legal interests inherent to the policing duties of the Carabineros. In addition, the courts of appeal have stated in their case law that Carabineros must observe due caution where children are involved and that any action taken in such contexts must be carried out with the necessary restraint and with strict respect for personal rights and guarantees.

64. With regard to measures taken in respect of allegations of violence against members of indigenous communities, especially the Mapuche, criminal proceedings have been initiated to investigate any responsibility borne by members of the investigative police for abuse or violence. The investigative police have special police investigator brigades in Concepción and Temuco, areas where police operations mainly take place in Mapuche communities.

65. In 2013, the Carabineros established a police department comprising police trained in Mapuche social and cultural identity; this in turn led to the setup of “patrols for indigenous communities” (PACI). Since September 2013, the Carabineros Department of Community Integration has been formally tasked with coordinating the operations of PACI. The special protection of Mapuche individuals is provided for in the guidelines on the protection of members of vulnerable groups.

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