

HUMAN RIGHTS COUNCIL

Outcome of Universal Periodic Review on Chile

(24 September 2009)

CARLOS PORTALES, Permanent Representative of Chile to the United Nations Office at Geneva, said that the presentation of Chile's national report during the Universal Periodic Review had been a real opportunity to inform on what had been achieved in their country and to renew their commitment to take up remaining challenges. The democratic system of Chile was based on the respect of all human rights: civil, political, social, economic and cultural. The Universal Periodic Review had been a frank and constructive exchange. With regard to advances made since the discussion of their report, the Government of Chile had progressed further against impunity and last June they had deposited in New York the ratification mechanism for the Rome Statute, making their accession to the International Criminal Court official. Ratification of the International Convention for the Protection of all Persons against Enforced Disappearances would be soon deposited. This week they had also signed two important instruments: an agreement for the establishment of a regional office of the Office of the High Commissioner for Human Rights in Chile, and the Optional Protocol of the International Covenant on Economic, Social and Cultural Rights.

Mr. Portales further noted that that there had been an agreement for the reopening of the Chilean Truth and Reconciliation Commission for a period of six months in order to register new complaints. Last August, a seminar had been held in Chile with the aim of seeking the most practical way to create a national mechanism to fight torture and inhuman treatment. They would also soon codify the offence of torture. To comply with the Vienna Declaration, the Government was working on a national human rights plan with a view of protecting and promoting all human rights. Nine days ago, the International Labour Organization Convention 169 had also come into force.

IDRISS JAZAIRY (Algeria) said Algeria highly appreciated the acceptance by Chile of the vast majority, 71 out of 78, of the recommendations received during the presentation of its national report, as this was a genuine testimony of the country's firm commitment to the protection and promotion of human rights. Chile was commended for its commitment to eliminate discrimination against women, and to eliminate existing obstacles that prevented them from accessing the labour market. The acceptance of the recommendation to include in its legislation the principle of equal pay for equal work and to ensure that this was scrupulously observed by employers was welcomed, and the readiness of the Government to further guarantee effective access to education for all children was encouraging, in particular with regards to those from marginalised communities and children whose families lived in rural areas or below the poverty line.

OMAR RABI (Morocco) said that Morocco congratulated the Government of Chile for its dedication to human rights and its collaboration with the Universal Periodic Review. It further congratulated Chile for accepting the recommendations that had been made to it by Morocco and welcomed its prompt response in this regard. With regard to the issue of migration, Morocco said that Chile's response confirmed Chile's commitment to the promotion and protection of the human rights of migrants. Morocco had also taken note with satisfaction of Chile's efforts in fighting trafficking and promoting non-discrimination, and it encouraged Chile's work in this regard.

ANGELINO GARZON (Colombia) thanked Chile for the diligence they had given to the various recommendations and congratulated it for the voluntary commitments it had made and noted its determination to draw up a national human rights plan. They also noted the invitation extended to the Human Rights Council Special Procedures. This all showed the firm commitment Chile had with regard to the promotion and protection of human rights.

MARIANA OLIVERA WEST (Mexico) said Mexico thanked Chile for its obvious commitment to human rights and its cooperation with the various treaty mechanisms, and for the recent adoption of the Rome Statute and the approval of the bill on forced disappearances by the Congress. The recent acceptance of the Optional Protocol and a national mechanism for the follow-up to the Optional Protocol on the Convention against Torture was positive, as was the adoption of the National Human Rights Plan. Chile was encouraged to protect the human rights of indigenous persons. Efforts were underway to protect the human rights of the entire population, and this was encouraging.

NESTOR CRUZ TORUNO, (Nicaragua) said that Nicaragua congratulated Chile, a neighbouring country, on its recent Universal Periodic Review. Nicaragua welcomed the recent initiative aimed at establishing a National Institute for Human Rights. Nicaragua encouraged Chile to comply with the various legislative initiatives that had been submitted to its parliament for consideration.

KLARA TUNYOGI AKOTS (Hungary) welcomed the decision of the Government of Chile to accept or answer almost all of the recommendations and commended Chile for the creation of a national institute for human rights. They were also glad to note that Chile had launched a national human rights plan, as well as the ratification of the Rome Statute and the Convention on Enforced Disappearances. Hungary would welcome an update on the drafting of the amendment of the criminal law with regard to combating all forms of trafficking in human beings and on measures the Government intended to take in order to improve the situation of refugees and to guarantee the full realization of their rights.

JOHN FISHER, of Canadian HIV/AIDS Legal Network, said Chile had agreed to strengthen measures to counter discriminatory attitudes in society, implement public education, and equality initiatives to prevent discrimination on the basis of sexual orientation and gender identity, and prohibit by law discrimination on the grounds of sexual orientation. These were very positive initiatives which

would strengthen Chile's leadership in this area. It was regretted that Chile rejected two recommendations dealing with access to safe therapeutic abortion, and noted that these recommendations addressed efforts to ensure that Chile's laws were in conformity with its international human rights obligations. The Government's positive response to most recommendations was appreciated, and it was encouraged to fully involve Chilean civil society in follow-up discussion of all recommendations raised during the Working Group.

MARIANNE LILLIEBJERG, of Amnesty International, said that Amnesty International welcomed the positive measures taken by Chile recently, including the ratification of the Rome Statute of the International Criminal Court and the approval by Congress of a law to create a national human rights institution. In order to further strengthen this institution, Amnesty International called on Chile to ensure that the national human rights institution enjoyed independence in its powers and functions, and recommended that Chile drew on good practices in the establishment. Amnesty International also reiterated its call that Chile act to nullify the 1978 Amnesty Law, and its concern that the Anti-Terrorism Law might have been applied in a discriminatory manner against indigenous peoples. It further supported calls on the Government to publicize its plans to achieve full implementation of International Labour Organization Convention 169, and underscored the importance of effective consultation to the process of constitutional recognition of the rights of indigenous peoples currently underway in Chile.

DANIELLE MITTERRAND, of France Libertés: Fondation Danielle Mitterrand, said that the current session had seen recommendations with regard to the Mapuche indigenous people living in Chile. The criminalization of the demonstrations undertaken by these peoples was a crime and was unjustified, as was the expulsion of journalists reporting on this issue. Today, the Chilean State had set up a rather ambiguous strategy and the lands of the communities normally protected by indigenous law were now threatened by destructive projects by multinational corporations. At the same time, the Chilean State had forced very cruel repression on the indigenous people; the anti-terrorist law was applied solely to members of the indigenous community. In order to improve the situation, the Human Rights Council needed to intervene to make sure that the Chilean State no longer criminalized the activities of indigenous people.

REYNALDO MARIQUEO, of Society for Threatened Peoples, said Chile defined itself as a unified country, signifying that it did not recognise peoples such as the Mapuche with their own singularities, and persisted in promoting cultural uniformity based on a Euro-centric vision. This was one more confirmation of hegemony and colonialism, and the Government was endeavouring to dispossess the Mapuche of their cultural identity, by denying them the principle source of their identity, their ancestral lands. Far from addressing the unjust treatment of the Mapuche, the Government was perpetuating this, thwarting their legitimate aspirations through the assimilation process, rarely consulting them on matters relevant and pertinent to them. Chile had voted in favour of the United Nations Declaration on the Rights of Indigenous Peoples, but criminalised leaders who promoted freedom, autonomy, and self-determination for the Mapuche people.

CAMILA LISA ASANO, of Conectas Direitos Humanos, said that Conectas Direitos Humanos welcomed the course the Council had taken and thanked States for the information they had given and the recommendations they had made to the Government of Chile. Many internal problems in Chile still needed to be addressed and the Chilean Government excused itself by noting the lack of will of other state powers. Conectas Direitos Humanos asked the Secretary of the Presidency to create a follow-up mechanism for the recommendations of the Universal Periodic Review.

ANDREA MARIFIL, of International Association Against Torture, noted, in connection with recommendations requesting investigations into alleged cases of torture and bringing to justice those responsible of these acts, that it was a norm that Chilean police issued all kinds of threats and inflicted inhuman and degrading treatment on detained persons. The fact that the Chilean Government continued to apply the anti-terrorist law and continued to use military tribunals in connection with cases of indigenous people violated the law.

TOMAS ALARCON, of Juridical Commission for Auto-Development of First Andean Peoples (CAPAJ), said the Government of Chile was requested to adopt new measures to fight against trafficking in human beings. The people of Tacna and Arica had been separated by borders. Many Peruvians in Chile found difficulties in gaining employment, and thousands were illegal in Chile, leading to situations of violence for those who were looking for employment and were without protection. It was urgent to have frank and sincere support for these people, which had not yet been provided or offered by the State.

GODSHAN PAZHOCH, of Organization for Defending Victims of Violence, said that the Organization for Defending Victims of Violence believed that the membership of Chile in several international human rights conventions and covenants spoke of Chile's determination and will for the promotion of human rights in the country. While these efforts were welcomed, the Organization for Defending Victims of Violence also believed that the processing of some human rights shortfalls, mentioned in the Council's final report's conclusions and recommendations, including the rights of indigenous peoples and the lack of a national institution for human rights, would strengthen the human rights situation in Chile. To this aim, the investigation of claims of police brutality and domestic violence and gender-based violence and efforts to take measures to quickly stop these behaviours must be placed in the agenda of the Chilean Government.

RONALD BARNES, of the Indian Council of South America, congratulated Chile for its constructive participation and completion of its first Universal Periodic Review. Chile had to be commended for its support for the Declaration on the Rights of Indigenous People. In this regard, it was brought to their attention by Mapuche representatives that there were historical treaties that were signed with Spain and which Chile had also signed. These treaties were the root of disagreement and conflict that was leading to detention and imprisonment, even when raising these claims in a non-violent manner. The Indian Council of South America called upon Chile to fully review its treatment of indigenous peoples, in particular its treaty commitments with the Mapuche people.

MARIA DANIELA RIVERO, of International Commission of Jurists, said in the Working Group several recommendations were made to Chile on the need to modify military justice legislation, which was incompatible with international standards, and to modify the structure of military justice with the aim of ensuring their impartiality and independence and the right to a fair trial. Military courts should be independent. The model of military criminal justice in Chile assumed that judges were submitted to due obedience to their superiors. The provision of justice in the armed forces was worrisome. Several international human rights instruments as well as international jurisprudence in human rights stipulated that military jurisdiction had to be limited to offences that were strictly military, and thus the Council should include such a recommendation to Chile.

DEREK BRETT, of Conscience and Peace Tax International, said with regard to paragraph 53 of the outcome of the Working Group, that it was of course commendable that persons whose relatives had suffered human rights violations were exempted from the obligation to perform military service. However, this was an extension of the compassionate exemption and not a question of conscientious objection. Chile was perhaps fortunate not to have been asked directly about conscientious objection to military service. The refusal of illegal orders was also in theory an obligation and not a matter of conscientious objection. Illegality was however very hard to prove on the ground at the time, so any change giving more protection to service personnel who attempted to refuse illegal orders was to be commended.

WANDA NOWICKA, of Federation for Women and Family Planning, said that the failure to implement recommendations contained in paragraphs 24 and 37 and the failure to ensure that women and girls had access to safe therapeutic abortion constituted a continued violation of Chile's international human rights obligations and endangered the lives and health of women and girls. With regard to the right to life, freedom and personal safety, the Chilean Government must provide protection for transsexuals and women engaged in sex work to prevent them from continuing to be victims of murder. A gender identity law including change of name and sex without sex reassignment surgery or hormonal treatment as compulsory requirements must be promulgated, to ensure respect for the right of transsexual individuals to bodily integrity and their reproductive choices.

CARLOS PORTALES, Permanent Representative of Chile to the United Nations Office at Geneva, in concluding remarks, thanked all for their comments, which would be passed on to the Government to be analysed so Chile could move forward in the implementation of its international obligations. With regards to the reproductive health matter, in the 1960s Chile made huge advances on child and maternal health, providing free care across the territory and reducing child and maternal mortality significantly. Chile was one of the countries that had reached the Millennium Development Goal on maternal mortality. Ninety-nine per cent of births were in hospitals, and more and more indigenous peoples were accepting that, with traditional methods dovetailing with hospital birth. Chile was at the vanguard regarding effective promotion of rights for children, and provided contraceptives, including emergency contraception, to women who wished them, thus preventing dangerous and

risky pregnancies. Women could also be sterilised without needing the husband's agreement. Forced sterilisation was illegal. Therapeutic abortion was under discussion. Medical care in Chile had nothing to do with the origin of the disease. The Health Minister had told the Ministry that although abortion was illegal under the Constitution, there should be no confessions extracted from women when they needed medical care.

On indigenous peoples, the main concern was to increase participation and decision-making and the involvement of civil society, and over the years a range of goals had been achieved in this regard. There was an ongoing policy to reconstitute and restore indigenous land. There were inter-cultural health programmes for indigenous peoples, and inter-cultural kindergartens. Work was also being done to provide better infrastructure to indigenous peoples. However, there was continuous conflict in particular with regards to land. Regulations had been approved on consultations with indigenous communities. This reaffirmed the political will of the Government to have a clear dialogue with these bodies in order to fulfil the Covenant and ensure that their rights were fulfilled. He wished to thank all for their contributions, which allowed the country to improve its legal framework, and perfect its institutions and policies for the ongoing improvement of human rights and fundamental freedoms.

The Council then adopted the outcome of the Universal Periodic Review for Chile.

For use of the information media; not an official record