

Universal Periodic Review
(18th session, January – February 2014)

Contribution of UNESCO to Compilation of UN information
(to Part I. A. and to Part III F, J, K, and P)

Chile

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations: Human rights treaties which fall within the competence of UNESCO and international instruments adopted by UNESCO

1. Table:

<i>Title</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
Convention against Discrimination in Education (1960)	Ratified 26/10/1971	<i>Reservations to this Convention shall not be permitted</i>		Right to education
Convention on Technical and Vocational Education. (1989)	Not state party to this Convention			Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	Ratified 20/02/1980			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage (2003)	Ratified 10/12/2008			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)	Ratified 13/03/2007			Right to take part in cultural life

II. Input to Part III. Implementation of international human rights obligations, taking into account applicable international humanitarian law to items F, J, K, and P

Right to education

Normative Framework:

2. Constitutional framework: The right to education is enshrined in the 1980 Constitution of Chile, as last revised in 2011¹. According to its Article 19², as last revised in 2007³, the Constitution guarantees to all persons: (10) the right to education. The objective of education is the complete development of the individual in the various stages of his life. Parents have the preferential right and duty to educate their children. The State shall provide special protection for the exercise of this right. The State shall promote preschool education and grant free access to and the financing of the second transition level of kindergarten, without making it a requirement to enter basic education.

3. Basic education is free and compulsory; to that effect, the State must finance a free-of-charge system designed to ensure access thereto by the entire population. It is, likewise, the duty of the State to promote the development of education at all levels, and encourage scientific and technological research, artistic creation, and the protection and increase of the cultural patrimony of the Nation. It is the duty of the community to contribute to the development and improvement of education; (11) Freedom of teaching includes the right to open, organize and maintain educational establishments. Freedom of education has no other limitations than those imposed by morals, good customs, public order and national security. Paragraph 2 of Article 19 guarantees equality before the law and equality between men and women.

4. In 2003, Chile adopted Law No. 19.876⁴, which modified Article 19.10 of the Constitution on the right to education, incorporating compulsory and free basic education (*Reforma Constitucional que establece la obligatoriedad y la gratuidad de la educación media*) According to this new paragraph, the State has the responsibility to guarantee access to this educational level and to ensure education for all Chileans for at least 12 years of schooling.

5. In 2007, Chile adopted Law No. 20.162⁵ which established compulsory second transition level of kindergarten (*Reforma Constitucional que establece la obligatoriedad de la educación parvularia en su Segundo nivel de transición.*) This part was therefore included in Article 19 (10) of the current Constitution.

¹ <http://www.bcn.cl/lc/cpolitica/index.html>

http://www.leychile.cl/Consulta/Exportar?radioExportar=Normas&exportar_formato=pdf&nombearchivo=DTO-100_22-SEP-2005&exportar_con_notas_bcn=True&exportar_con_notas_originales=True&exportar_con_notas_al_pie=True&hddResultadoExportar=242302.2011-04-27.0.0%23

² Art. 19 (10) El derecho a la educación.

³ <http://www.leychile.cl/Navegar?idNorma=258379&tipoVersion=0>

⁴ National report submitted in 2007 to UNESCO within the framework of the seventh consultation of Member States on the measures taken for the implementation of the 1960 UNESCO's Convention against Discrimination in Education (covering period 2000-2005)

⁵ <http://www.leychile.cl/Navegar?idNorma=258379&tipoVersion=0>

6. Legislative framework⁶: The Fundamental Constitutional Act of Education (*Ley Orgánica Constitucional de Enseñanza n°18.962*) adopted in 1990 was abrogated by the General Law of Education (*Ley General de Educación (LGE)*) of 17 August 2009⁷. The new law constitutes the legal framework for education and gives details on the enforcement of constitutional principles concerning education.

7. According to Article 4, the State has the duty to provide for free, public and secular education of quality. According to Article 25, six years of compulsory basic education are granted as well as six years of compulsory secondary education. Article 23 deals with Special Education and Article 24 is about Adult Education.

8. Article 3 of the LGE establishes that the education system of Chile is based on constitutional rights which are inspired by the principles of equity, diversity, integration and interculturality. Therefore, those principles ensure that all the students have equal opportunities to receive education of quality. Article 2 also refers to the respect of human rights. Law No. 20.248 of 1 February 2008, on preferential school funding (*Ley de subvención escolar preferencial (SEP)*)⁸ provides for additional recourses with regard to funding for students with particular social and economic needs.

9. Indigenous Law No. 19 253 of 1993⁹ provides for specific State obligations regarding education and interculturality (Title IV). In high-density areas of indigenous peoples, the State must develop a bilingual intercultural education system in order to prepare indigenous students to manage adequately either in their original society or globally. The State must also allocate special resources to the Ministry of Education for indigenous grant programmes.¹⁰

10. Law No. 20129, adopted in 2006¹¹, established the National System on Quality Assurance for Higher Education.¹² A Bill on the National System on Quality Assurance for nursery

⁶ Link to laws: <http://www.leychile.cl/Consulta/listaresultadosimple?cadena=educacion>

⁷http://www.leychile.cl/Consulta/Exportar?radioExportar=Normas&exportar_formato=pdf&nombearchivo=LEY-20370_12-SEP-2009&exportar_con_notas_bcn=True&exportar_con_notas_originales=True&exportar_con_notas_al_pie=True&hddResultadoExportar=1006043.2009-09-12.0.0%23

⁸http://www.leychile.cl/Consulta/Exportar?radioExportar=Normas&exportar_formato=pdf&nombearchivo=LEY-20248_01-FEB-2008&exportar_con_notas_bcn=True&exportar_con_notas_originales=True&exportar_con_notas_al_pie=True&hddResultadoExportar=269001.2011-03-01.0.0%23

⁹ http://repository.unm.edu/bitstream/handle/1928/11231/Ley_indigena_LEY-19253.pdf?sequence=1

¹⁰ National report submitted in 2007 to UNESCO within the framework of the seventh consultation of Member States on the measures taken for the implementation of the 1960 UNESCO's Convention against Discrimination in Education (covering period 2000-2005)

¹¹http://www.leychile.cl/Consulta/Exportar?radioExportar=Normas&exportar_formato=pdf&nombearchivo=LEY-20129_17-NOV-2006&exportar_con_notas_bcn=True&exportar_con_notas_originales=True&exportar_con_notas_al_pie=True&hddResultadoExportar=255323.2006-11-17.0.0%23

¹² World Data on Education, seventh edition, 2010/11,

http://www.ibe.unesco.org/fileadmin/user_upload/Publications/WDE/2010/pdf-versions/Chile.pdf

education, primary education and secondary education (SNAC) was presented to Congress in May 2007. In 2010, a Bill on school violence led to a parliamentary motion¹³.

11. Compulsory education and school attendance: In Chile, primary education is compulsory since the Law on Compulsory Primary Education (*Ley de Instrucción Primaria Obligatoria*) which established compulsory education until 13 years. The LGE (*Ley General de Educación*) establishes compulsory education for secondary education too (Article 2). Kindergarten education does not have any compulsory duration.

12. Non-discrimination and gender equality: Article 5 of the General Law of Education specifies that the State has the duty to promote non-discrimination and Article 10 establishes that teachers and people working in the education area have to be respectful towards students without showing any form of discrimination.

13. With regard to gender equality, Article 11 provides that pregnancy shall not be a hindrance to accessing school. Article 6 grants that the State shall provide education of quality. This shall be administered by the Ministry of Education, the National Council of Education and two institutions (the Agency of education quality and the Superintendencia de Educación).

14. Law No. 20422, adopted on February 2010¹⁴, established norms on equality of opportunities and social inclusion of persons with disabilities. Article 34 specifies that the State shall guarantee access to public and private education to students with disabilities. Article 36 adds that institutions of regular education shall have adequate infrastructure and materials to welcome students with special needs and disabilities.¹⁵

15. Teachers: The Law on Quality and Equity (*Ley de la Calidad y Equidad de la Enseñanza*)¹⁶ was adopted in February 2011 and establishes that teacher training is one of the key for education of quality.

16. Since 2008, the Ministry of Education has been working on the **New Teaching Profession proposal** (*Nueva Carrera Docente*), which strives to improve the composition of teacher's salaries.

17. The **public policies for the teaching profession** that were implemented in the 2006-2010 period focused on teacher training (initial, continuing, follow-up). The following **programs** were executed:

¹³ Proyecto de ley, iniciado en Moción de los Honorables Senadores señores Chadwick, Allamand, Cantero, Lagos y Walker don Ignacio, sobre violencia escolar (Boletín N° 7.123-04).

¹⁴ http://www.leychile.cl/Consulta/Exportar?radioExportar=Normas&exportar_formato=pdf&nombearchivo=LEY-20422_10-FEB-2010&exportar_con_notas_bcn=True&exportar_con_notas_originales=True&exportar_con_notas_al_pie=True&hddResultadoExportar=1010903.2011-05-27.0.0%23

¹⁵ World Data on Education, seventh edition, 2010/11, http://www.ibe.unesco.org/fileadmin/user_upload/Publications/WDE/2010/pdf-versions/Chile.pdf

¹⁶ <http://www.docentemas.cl/docs/2011/Ley20501.pdf>

- Post-degree Program for basic education teachers (*Programa de Postítulos para docentes de Educación Básica*)
- Improvement Program for technical-professional middle school teachers (*Programa de Perfeccionamiento para docentes de Educación Media Técnico-Profesional*)
- Executive Leadership Program (*Programa de Liderazgo Directivo*)
- Beginning Teachers Integration Program (*Inserción de Profesores Principiantes*)
- Internships Abroad Program (*Pasantías en el Extranjero*).

Policy measures:

18. Major policy measures: “*Educación 2020*”¹⁷ is a citizens’ movement that aims at promoting quality and equity in Education in Chile. It contributed to the establishment of the new Law on Quality and Equity and has a 10-year programme (*Hoja de Ruta 2009-2020*) to improve the educational system in Chile.

19. Early childhood: Chile has some of the deepest and most persistent education inequalities in Latin America. Recent reforms are attempting to strengthen equity by expanding and improving early childhood care. After her election in 2006, President Michelle Bachelet initiated a major overhaul of early childhood care, including raising public spending. The most ambitious measure involves **building 3,000 new childcare facilities** and **establishing a national child development initiative, Chile Crece Contigo**, for all children under 5, as part of the health care system. *Chile Crece Contigo*, a result of collaboration by government, child development experts and other interested parties, aims to meet the needs of vulnerable families and children during the critical phases of early childhood development. Families have access to a wide range of social and health services through primary care centres. Their progress is monitored via information technology. Implementation is managed by nine national ministries and coordinated through regional, provincial and local governments. A concerted effort has been made to reach children from the poorest 40% of households. In that income bracket, young children with mothers at work, in school or seeking employment are eligible for free child care in the *sala cuna* (under 2) or the *jardín infantil* (ages 2 and 3). Central to the strategy is commitment to quality. Efforts have been made from the outset to measure and assess the development of vocabulary, language and wider skills through *Un Buen Comienzo*, a programme that runs in sixty schools in thirteen communes of Santiago. Using rigorous evaluation, *Un Buen Comienzo* seeks to reduce the vocabulary gap between children in low-income families and other children, improve pre-school attendance and reduce later reading difficulties. Teacher development, parental literacy and engagement, and child health are emphasized.¹⁸

20. Inclusive Education: Teenage mothers’ access to school: In Chile, 40,000 cases of teenage mothers aged from 15 to 19 are registered annually; only a third of them attend school. The fact that they are pregnant has often been used to justify refusal of access to school or their expulsion. In order to eliminate this discriminatory practice, **Law No. 19.688 of 2000** was adopted to modify Article 2 of the Constitutional Law on Education (*Ley Orgánica*

¹⁷ http://www.educacion2020.cl/index.php?option=com_docman&task=cat_view&gid=67&Itemid=55 For more information, see also: The official website of the Ministry of Education in Chile: <http://www.mineduc.cl/>

¹⁸ EFA Global Monitoring Report 2010, p.53, <http://unesdoc.unesco.org/images/0018/001866/186606E.pdf>

Constitucional de Enseñanza). A new paragraph was added which stipulates: “Pregnancy and maternity shall not constitute an obstacle to access to or continuation in educational institutions at any level. Moreover, these institutions must provide the appropriate educational facilities.” **Law No. 19.979 of 2004** subsequently improved this norm, establishing an economic sanction for educational institutions engaging in such discriminatory practices, with the possibility of a doubled penalty in the event of a repeat offence.¹⁹ In addition, in the **General Law on Education of 2009**, a specific article deals with teenage mothers (Article 11).

21. In 2010, UNESCO graduated 46 women from the ethny “*atacameña*” in Chile. Those women had enrolled in the **Digital Literacy Programme**, organized with the Municipality of San Pedro de Atacama. The training aims at introducing the knowledge of hardware and software technologies, advantages of using this technology and its use in reality.²⁰

22. **National Minorities:** Under the light of the 2009 General Law of Education and the ratification of ILO’s Convention 169, a **sector for learning indigenous tongues has been added to the national school curriculum**. Study plans and programs for the 1st year of elementary school have been approved for the following indigenous tongues: *Aymara, Mapuzugun, Quechua and Rapa Nui*.

23. The General Law of Education establishes that those educational institutions that have a high percentage of indigenous students must uphold the objective of allowing those students to conserve their indigenous language, as well as their people’s history and culture. Furthermore, there is a **specialized unit for Intercultural Bilingual Education** (*unidad especializada en Educación Intercultural Bilingüe*) within the central administration of the Ministry of Education.

24. Quality of Education: In Chile, the **Programa de las 900 Escuelas** provided the poorest-performing schools with additional resources to improve learning, including weekly workshops to strengthen teaching skills, out-of-school workshops for children, and textbooks and other materials. The programme improved grade 4 learning levels and narrowed learning gaps.²¹

25. In order to secure a quality education, Chile’s education system counts on a national curriculum that must be executed by all educational institutions, as well as a surveillance system to keep the national curriculum in check (**Sistema de medición del currículum educativo - SIMCE**)²². Furthermore, the Ministry of Education has elaborated and provided the teaching staff with the following tools: curricular bases with objectives and mandatory minimum content; study programs; study plans; and student progress maps.

¹⁹ National report submitted in 2007 to UNESCO within the framework of the seventh consultation of Member States on the measures taken for the implementation of the 1960 UNESCO’s Convention against Discrimination in Education (covering period 2000-2005)

²⁰ See the video “*Alfabetización digital para mujeres atacameñas*” (UNESCO Santiago): <http://www.youtube.com/watch?v=vrvkEAF9-4U>

²¹ EFA Global Monitoring Report 2011, p.10, <http://unesdoc.unesco.org/images/0019/001907/190743e.pdf>

²² En referencia a lo establecido en la página web del Sistema de Medición de Calidad de la Educación (SIMCE) del MINEDUC: www.simce.cl

26. **Cooperation:** Chile is party to the 1960 UNESCO Convention against Discrimination in Education. Chile reported within the framework of the Seventh and Eight Consultations of Member States on the measures taken for the implementation of the 1960 UNESCO Convention against Discrimination in Education (covering the periods 2000-2005 and 2006-2011). However, it did not report within the framework of the Sixth Consultation of Member States (covering the period 1994-1999).

27. Chile did not report within the framework of the Fourth Consultation of Member States on the measures taken for the implementation of the 1974 UNESCO Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms (covering the period 2005-2008). It has not yet reported within the framework of the Fifth Consultation of Member States the measures taken for the implementation of the 1974 UNESCO Recommendation (2013).

28. Chile reported within the framework of the Second Consultation (2011) on the measures taken for the implementation of the 1976 Recommendation on the Development of Adult Education. However, it did not report for the First Consultation (1993).

29. Chile is not party to the 1989 UNESCO Convention on Technical and Vocational Education.

Freedom of opinion and expression

30. **Constitutional and Legislative Framework:** The Constitution of Chile guarantees the protection of "freedom to express opinions and to inform" in Article 19(12).

31. In 2010, a community radio law recognized the existence of community radios and established the rules for licensing them. Despite the importance of this welcomed legislative improvement, central issues remain unresolved, among them: 1) community TV is not legally recognized; 2) no funding mechanisms were established to support community media, particularly those managed by indigenous peoples.

32. A freedom of information law was adopted in 2008.

33. In recent years, legislative reform was introduced in Chile in order to decriminalize defamation. In 2001, the law on freedom of opinion, freedom of information and the activity of journalism was approved, revoking several articles, in different laws, which criminalized defamation. In 2005, the other law was passed in order to change the way in which the Penal Code and the Military Justice Code regulated *desacato* (defamation against public officials), eliminating most of the articles criminalizing it.

34. **Media Self-Regulation:** Media self-regulatory mechanisms exist in Chile such as the Ethics Council of the Chilean Communication Media.

35. **Safety of Journalists:** UNESCO recorded no killings of journalists and media workers in Chile between 2008-2012. However, there were reports of arrests of journalists, particularly when

they covered public demonstrations/protests, including during the massive students' protests which took place in 2011 and 2012.

Right to development and environmental issues

36. Chile's geographic conditions expose the whole country to a wide range of disaster threats²³. This distinctive geography combines with the country's demographics and a number of different social, political, and economic features to create a disaster risk profile that exposes its population, infrastructure, and systems to major potential harm and damages, in terms of human life as well as economic, environmental, and social threats. Chile's National Emergency Office (ONEMI), the Chilean Ministry of Education and other partners co-operates with UNESCO DIPECHO initiative on Strengthening the Regional Tsunami Early Warning System in Chile, Colombia, Ecuador, and Peru which is aimed at developing values related to reducing disaster risk through capacity building and education. UNESCO contributed to the preparation of the publication entitled "Chile 2012 disaster risk analysis", published in co-operation with ONEMI, Chile Red Cross, UNDP and other partners, aiming to provide a view of the current panorama of risk conditions in Chile that takes into account threat factors, vulnerability, and capacities present in the country; it can be taken as a baseline for the implementation of disaster risk reduction projects.

37. Chile also co-operates with UNESCO in the framework of the International Platform for Reducing Earthquake Disaster (IPRED) which represents a platform for collaborative research, training and education in the field of seismology and earthquake engineering (Fourth Session of the IPRED and UNESCO-IPRED International Workshop on "Protecting Structures, Saving Lives" was held in Universidad Católica de Chile, Santiago de Chile, in July 2011).

Cultural rights

38. Normative Framework: constitutional and legislative frameworks: Article 19 of the 1980 Political Constitution of Chile Republic provides each individual with the "freedom of conscience, manifestation of all creeds and the free exercise of all cults which are not opposed to morals, good customs or public order". It also provides that "the churches and religious communities and institutions representing any cult shall enjoy the rights granted and acknowledged by the laws currently in force". Moreover Article 10 states that it is "the duty of the State to promote the development of education at all levels, encourage scientific and technological research, artistic creation, and the protection and increase of the cultural patrimony of the Nation."

39. Institutional framework: The Government of Chile has recently created the Ministry of Culture. The new institution will nest, integrate and organize responsibilities, establishing a Ministry of Culture with its respective Undersecretary and two directors elected by the Public Management Services: one for the Institute for the Promotion of Arts and Cultural Industries, and

²³ http://portal.unesco.org/science/en/ev.php-URL_ID=4576&URL_DO=DO_TOPIC&URL_SECTION=201.html.

another for the Cultural Heritage Management, an office that will integrate the current Library and Museum Offices and the National Monuments Council²⁴.

40. Work with civil society: Article 1 of the Constitution, enacted in 1980, but amended several times, includes two provisions aimed at strengthening Chilean civil society: “The State recognizes and protects the intermediary groups through which society organizes and structures itself and ensures that they have sufficient autonomy to fulfill their specific purposes” and [The State] has the duty “to promote the harmonious integration of all sectors of the Nation and to uphold the right of persons to equal opportunity to participate in national life.” The experience of civil society organizations working in the cultural field has revealed that certain vulnerable groups do not have a permanent and legitimate forum where they can articulate their issues and interests. An ongoing challenge for Chilean democracy—and something that most CSOs are demanding—is to achieve a more inclusive and participatory democratic system that incorporates more social oversight and truly represents the country’s diversity and multiculturalism²⁵.

III. RECOMMENDATIONS

Right to education

41. Chile should be encouraged to submit state reports for the periodic consultations of UNESCO’s education related standard-setting instruments.

42. Chile could be encouraged to intensify its efforts to improve the educational system by promoting a human rights culture through its integration into school curriculums, particularly in rural areas.

43. Chile could be encouraged to strengthen measures to counter discriminatory attitudes in society, including through public education and equality initiatives and legislative measures to prevent discrimination on the basis of sexual orientation and gender identity.

44. Chile could be encouraged to continue to focus on overall improvement in the quality of education provided, in particular in rural areas, and ensure expansion of the bilingual intercultural programmes for minorities.

Freedom of opinion and expression

45. Chile is encouraged to guarantee media pluralism through community media and by promoting diversity of ownership in accordance with international standards.

46. Chile is encouraged to continue with their effort to decriminalize defamation, in accordance with international standards.

²⁴ http://portal.unesco.org/geography/es/ev.php-URL_ID=7453&URL_DO=DO_TOPIC&URL_SECTION=201.html

²⁵ http://www.wmd.org/sites/default/files/Chile_EN_2011.pdf

47. Chile must ensure that journalists and media workers are able to practice their profession in a free and safe environment as part of their fundamental human rights and pay particular attention to reports of attacks on journalists and media workers.

Right to development and environmental issues

48. With regard to contribution of science and technology to development, Chile is encouraged to report to UNESCO within the framework of the on-going consultations with Member States on the monitoring of the implementation and a possible revision of the 1974 Recommendation on the Status of Scientific Researchers, in particular on the measures undertaken in the country to implement such principles of the Recommendation as the obligation of state authorities to ensure that scientific researchers have the responsibility and the right to work in a spirit of intellectual freedom; to participate in the determination of the aims, content and methods of research, which should be compatible with respect for universal human rights and fundamental freedoms, as well as ecological and social responsibility; to creativity, occupational mobility, international cooperation for furtherance of international peace, cooperation and understanding, etc.