

## **Submission to the UN Committee on the Rights of the Child for the adoption of recommendations in its periodic review of Chile in its 90th Session**

*This submission is made jointly by the Red de Sobrevivientes de Abuso en Entornos Institucionales de Chile ([www.redsobrevivientes.org](http://www.redsobrevivientes.org)), Derecho Al Tiempo ([abusosexualimprescriptible.cl](http://abusosexualimprescriptible.cl)), Fundación No+ASI Chile ([www.nomasabusoinfantil.cl](http://www.nomasabusoinfantil.cl)) and Child Rights International Network (CRIN) ([www.crin.org](http://www.crin.org))*

— April 2022 —

1. This submission addresses violence against children in institutional settings in Chile, with a focus on child sexual abuse and exploitation in institutions managed by the State Party's National Service for Minors (SENAME)<sup>1</sup> and the Catholic Church within the country.

### **The scale of child abuse in institutional settings and the case for a truth commission**

2. In recent years, Chile has seen a steady rise in the number of complaints of sexual abuse of children within the Catholic Church. In March 2019, Chile's National Prosecutor's Office reported that there were 158 open investigations into sexual abuse or its cover-up by the clergy or employees of the Catholic Church, involving 219 accused and 241 alleged victims, 123 of whom were under the age of 18 at the time of the alleged abuse.<sup>2</sup> Since that date, the National Prosecutor's Office has not released updated figures. In August 2020, Chile's Network of Survivors of Abuse in Institutional Settings in Chile (henceforth Network of Survivors), which manages the country's only database of clergy abuse cases, announced that there had been 360 publicly made reports of alleged abuse committed within the Catholic Church.<sup>3</sup> Those accused include 186 priests, 27 bishops and four cardinals.<sup>4</sup>

3. In December 2018, a report by Chile's Criminal Investigations Police (PDI) found reports of child abuse in all residential and custodial centres managed by the National Service for Minors (SENAME) which it had inspected, including reports of sexual abuse in 50 percent of the institutions.<sup>5</sup> Similar concerns were raised in March 2022 by the parliamentary Special Investigative Commission on the situation of sexual abuse and exploitation of children in custody of the State, which found reports of commercial sexual exploitation of children in at least six SENAME institutions it investigated.<sup>6</sup> Among its conclusions, it found that sexual abuse and exploitation of children in SENAME was "neither isolated nor new, but rather reiterated and long-standing in the system".<sup>7</sup> These data build on the research cited in the Committee's 2018 inquiry of Chile under article 13 of the Optional Protocol to the Convention on the Rights of the Child (CRC) on a communications procedure (OPIC), including reports of sexual abuse from 20 SENAME

<sup>1</sup> SENAME was renamed in 2020 as the National Service for the Specialised Protection of Children and Adolescents, which is also known as 'Better Childhood': <https://www.mejorninez.cl/>

<sup>2</sup> Agencia EFE, 'Aumentan a 219 los investigados por casos de abuso sexual en la Iglesia chilena', 22 March 2019. Available at: <https://bit.ly/3c6vUrm> [shortened link]

<sup>3</sup> Survivors' Network in Chile, 'Map of sexual abuse and abuse of conscience incidents by priests and other clergy in Chile', August 2020. Available at: <https://bit.ly/3ohQMOE> [shortened link]

<sup>4</sup> *Ibid.*

<sup>5</sup> Investigative Police of Chile, 'Análisis del funcionamiento residencial en centros dependientes del Servicio Nacional de Menores', December 2018, p.187. Available at: <https://ciperchile.cl/wp-content/uploads/informe-emilfork4.pdf>

<sup>6</sup> Final report available at: <https://www.camara.cl/legislacion/comisiones/informes.aspx?prmID=3261> p.137

<sup>7</sup> *Idem.* p.136

agencies located in nine different regions.<sup>8</sup> Referring to multiple forms of child abuse and the systemic scale of the problem, the Committee noted that it “affected thousands of children who entered [SENAME-run] homes, across the whole country and throughout a long period of time, continuing until today,”<sup>9</sup> and that “structural causes” have given rise to this situation and allowed it to continue.<sup>10</sup>

4. The number of complaints of child abuse, including sexual abuse, in Chile’s Association of Guides and Scouts (AGSCh - Guías y Scouts de Chile) is not publicly available, but a 2021 media investigation revealed that an increasing number of abuse survivors had come forward.<sup>11</sup> The Association of Guides and Scouts responded to the report with a press release,<sup>12</sup> noting the steps it has taken in response to the increase in complaints.<sup>13</sup>

5. The available statistics of child abuse across different settings are widely considered a significant underestimate, with studies concluding that between 70 to 90 percent of cases of abuse go unreported.<sup>14</sup> With regard to reporting rates of clergy abuse, the monitoring organisation BishopAccountability.org asserts that the cases that come to light are widely considered to be the tip of the iceberg, and figures should always be interpreted as a low incidence of reporting, rather than a low incidence of abuse.<sup>15</sup> The organisation further explains that the factors which have led to significant disclosure in other parts of the world - the lifting of statutes of limitations, widespread litigation by survivors, investigations of church offices by prosecutors, national inquiries by independent commissions - have so far not occurred across Latin American countries.<sup>16</sup>

6. In response to the lack of data, Chile’s Network of Survivors called on the country’s then-President in August 2018, Sebastián Piñera, to establish an independent truth commission into child sexual abuse within the Catholic Church in Chile.<sup>17</sup> Despite the government spokesperson pledging to study the proposal,<sup>18</sup> the Network of Survivors asserts that no tangible government action ensued. Over the years, the Network of Survivors has received an increasing number of complaints from survivors of abuse in institutional settings beyond the Catholic Church, including SENAME and Chile’s Association of Guides and Scouts (Asociación Guías y Scouts de Chile), and consequently amended its call for a “Truth, Justice and Reparations Commission” to investigate child sexual abuse in all institutions, both publicly and privately run. It renewed its call most recently in the form of a citizen petition in January 2022.<sup>19</sup> This call was heeded to by Chile’s new President, Gabriel Boric, whose election manifesto includes creating a

---

<sup>8</sup> Committee on the Rights of the Child, ‘Informe de la investigación relacionada en Chile en virtud del artículo 13 del Protocolo facultativo de la Convención sobre los Derechos del Niño relativo a un procedimiento de comunicaciones’, CRC/C/CHL/INQ/1, June 2018, p15, paras. 96-103. Available at: <https://bit.ly/3wWYB4w> [shortened link]

<sup>9</sup> *Idem.*, p.16, para. 114.

<sup>10</sup> *Idem.*, p.18, para. 121.

<sup>11</sup> MegaNoticias, ‘La huella de abusos sexuales en el mundo scout’, 13 January 2021. Available at: [https://www.youtube.com/watch?v=f0AKTb8T\\_wY&t](https://www.youtube.com/watch?v=f0AKTb8T_wY&t)

<sup>12</sup> AGSCh, ‘Comunicado AGSCh en relación a reportaje de Mega’, 14 January 2021. Available at: <https://guiasyescoutsdechile.org/download/comunicado-agsch-en-relacion-a-reportaje-de-mega/>

<sup>13</sup> Resumen, ‘Reconocen aumento de denuncias por abuso sexual en el Movimiento Guía y Scout en Chile’, 15 January 2021. Available at: <https://bit.ly/3qT08EW> [shortened link]

<sup>14</sup> See, for instance, Children & Young People Now, ‘Nearly 90 per cent of child sexual abuse goes unreported’, 24 November 2015. Available at: <https://bit.ly/3uLR6e6> [shortened link]; and El Tiempo, ‘El 70 por ciento de los casos de maltrato infantil no se denuncia’, 24 April 2019. Available at: <https://bit.ly/3qNSWcV> [shortened link].

<sup>15</sup> BishopAccountability.org, ‘Publicly Accused Priests, Brothers, Sisters, and Deacons in Chile’. Available at: <http://www.bishop-accountability.org/Chile/>

<sup>16</sup> *Ibid.*

<sup>17</sup> El Mostrador, ‘Red de Sobrevivientes de Abusos Eclesiásticos planteó a La Moneda crear comisión de la verdad’, 3 August 2018. Available at: <https://bit.ly/3iJZ9Br> [shortened link]

<sup>18</sup> *Ibid.*

<sup>19</sup> ‘Creación de Comisión de Verdad, Justicia y Reparación sobre casos de abuso infantil en entornos institucionales en Chile’, Iniciativa Popular de Norma nº 50.254, Plataforma Digital de Participación Popular, 23 January 2022. Available at: [https://plataforma.chileconvencion.cl/m/iniciativa\\_popular/detalle?id=50254](https://plataforma.chileconvencion.cl/m/iniciativa_popular/detalle?id=50254)

“Truth, Justice and Reparations Commission” to investigate human rights abuses against children in institutional settings.<sup>20</sup>

7. Truth commissions play a crucial role in establishing facts around child abuse scandals, especially when there is a systemic lack of data, there are multiple versions of events or allegations have been covered up, dismissed or minimised by both the accused institutions and government. Many States around the world have responded to the systemic abuse of children in institutions by conducting large-scale, independent inquiries led by teams of independent experts to investigate the scale of abuse and identify institutional failures.<sup>21</sup> National inquiries - or truth commissions, as they are better known in Latin America - are quasi-judicial bodies that create an official historical account of events; draw on the testimony of victims; set out steps in the form of recommendations for government and institutions to improve child protection law, policy and practice; and in some cases can also lead to the creation of redress schemes that may include an official apology, the construction of monuments to commemorate historical trauma and suffering, financial reparations, the provision of support services such as counselling, and hotlines for more abuse victims to come forward.<sup>22</sup> An inquiry’s recommendations also seek to prevent the problem from recurring, including by advising on law reform to make reporting of abuse mandatory, pre-employment screening, staff training, mechanisms for children to report abuse, public awareness campaigns, prevention education for school children, oversight agencies and ratification of relevant human rights treaties and conventions.<sup>23</sup>

#### 8. Recommendations:

- *The State Party should establish an independent and impartial truth commission to examine all cases of abuse of children in institutional settings in Chile. It should be adequately funded, endowed with the necessary legal powers to summon public and private actors and entities<sup>24</sup> and to access all necessary information even if deemed confidential, and the commissioners assigned should be independent of all the institutions to be investigated to avoid any conflict of interest and ensure impartiality.*

### **Protection from violence, abuse and neglect**

9. Ninety-six percent of SENAME’s residential and custodial centres are operated by accredited partner agencies, including private and religious entities,<sup>25</sup> many of which have faced child sexual abuse complaints, as addressed above. Forty-one percent of these facilities are operated directly by or affiliated with the Catholic Church.<sup>26</sup> In one case, the residential centre Nido Amigó, which was managed by the Catholic organisation Fundación Padre Luis Amigó, was found to be sexually exploiting children living in its care in exchange for donations.<sup>27</sup>

---

<sup>20</sup> ‘Protección integral de derechos de la niñez y adolescencia’, Propuestas programáticas: Infancia, Boric Presidente. Available at: <https://boricpresidente.cl/propuestas/infancia/>

<sup>21</sup> See, for example, ‘The Age of Inquiry: A global mapping of institutional abuse inquiries’, Melbourne: La Trobe University, 2020. Available at: <https://www.lib.latrobe.edu.au/research/ageofinquiry/index.html>

<sup>22</sup> CRIN, ‘Public inquiries into institutional abuse’, in *The Third Wave: Justice for survivors of child sexual abuse within the Catholic Church in Latin America*, November 2019, pp. 43-64. Available at: <https://bit.ly/3tUdLFP> [shortened link]

<sup>23</sup> *Idem.*, pp. 48-50.

<sup>24</sup> Chile’s National Prosecutor’s Office, for example, refused to participate in the the parliamentary Special Investigative Commission on the situation of sexual abuse and exploitation of children in custody of the State. See, Final report, pp.126-127, available at: <https://www.camara.cl/legislacion/comisiones/informes.aspx?prmID=3261>

<sup>25</sup> SENAME, ‘Registro de Organismos Colaboradores’, 30 September 2021. Available at: <https://www.sename.cl/web/index.php/registro-organismos-colaboradores/>

<sup>26</sup> *Ibid.*

<sup>27</sup> Ombudsperson for Children (*Defensoría de los Derechos de la Niñez*), ‘Informe anual 2020: Derechos humanos de niños, niñas y adolescentes en Chile’, November 2020, p.443. Available at: <https://bit.ly/3cfU5EV> [shortened link]

10. The Office of Chile's Ombudsperson for Children's Rights (Defensoría de la Niñez) has repeatedly denounced the systemic lack of child safeguarding training given to staff across SENAME's accredited partner agencies, including as recently as 2020.<sup>28</sup> This follows the Committee's own finding in its 2018 inquiry of Chile under article 13 of the OPIC, that SENAME institutions presented a chronic failure to employ staff specialised in child care and protection.<sup>29</sup> In the same inquiry, the Committee also found that, due to overcrowding in SENAME institutions and accredited partner agencies, more than 400 children had been placed in "assistant organisations" that are not legally regulated or supervised by SENAME.<sup>30</sup> On these two findings, the Committee concluded the State Party was in violation of CRC article 3.3 on children's best interests.<sup>31</sup> Additionally, the Committee found that a lack of protocols and staff training on non-violent disciplinary measures was resulting in violence against children in care, children who were already deemed vulnerable, for which the Committee found the State Party in violation of CRC article 19.<sup>32</sup> Because of a similar lack of protocols and training on prevention of sexual abuse in the vast majority of SENAME agencies, the Committee found the State Party in violation of CRC article 34.<sup>33</sup>

11. In 2020 SENAME's name was changed to the National Service for the Specialised Protection of Children and Adolescents, with the overseeing ministry switching from the Ministry of Justice to the Ministry of Social Development and Family. Even under a new name, however, the government continues to outsource SENAME's services by using accredited partner agencies, which human rights experts say is a neglect of the State's children's rights obligations.<sup>34</sup>

12. The safety of SENAME centres was explicitly called into question most recently in March 2022 by the parliamentary Special Investigative Commission on the situation of sexual abuse and exploitation of children in custody of the State, which described staff training and prevention protocols are "insufficient" and "lacking", that organised networks saw children in SENAME as "easy prey",<sup>35</sup> while staff in some cases were found to be linked to the organised networks and complicit in the abuse.<sup>36</sup> For instance, out of nine complaints alleging abuse that were forwarded to the Public Prosecutor's Office, the convicted perpetrator in four of the cases was a direct employee of SENAME or of one of its accredited partner agencies.<sup>37</sup>

13. With regard to mandatory reporting in Chile, members of specific professions, including police, prosecutors, public employees, medical professionals, directors, inspectors and teachers of educational establishments have a legal obligation to report suspected child abuse.<sup>38</sup> Failure to meet this obligation is a criminal offence, punishable with imprisonment or a fine.<sup>39</sup> In the State Party's report to the Committee, it notes that mandatory reporting extends to SENAME and its accredited partner agencies,<sup>40</sup> but it is not

---

<sup>28</sup> *Idem.*, p.446.

<sup>29</sup> Committee on the Rights of the Child, 'Informe de la investigación relacionada en Chile en virtud del artículo 13 del Protocolo facultativo de la Convención sobre los Derechos del Niño relativo a un procedimiento de comunicaciones', CRC/C/CHL/INQ/1, June 2018, p.7-8, para. 40. Available at: <https://bit.ly/3wWYB4w> [shortened link]

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*

<sup>32</sup> *Idem.*, p.12, paras. 75-78.

<sup>33</sup> *Idem.*, p.15, para. 103.c-d.

<sup>34</sup> Radio Universidad de Chile, 'Una farsa: Trabajadores subcontratados del Sename acusan que nuevo servicio es más de lo mismo,' 4 June 2020. Available at: <https://bit.ly/39gC725> [shortened link]

<sup>35</sup> Final report available at: <https://www.camara.cl/legislacion/comisiones/informes.aspx?prmlID=3261> p.136

<sup>36</sup> *Idem.*, pp. 140-141.

<sup>37</sup> *Idem.*, p.59.

<sup>38</sup> Children's Law, No.16618, Article 66, available at <https://bit.ly/3K8HrEV>; Criminal Procedure Code, Article 175, available at: [https://leyes-cl.com/codigo\\_procesal\\_penal/175.htm](https://leyes-cl.com/codigo_procesal_penal/175.htm)

<sup>39</sup> *Ibid.*

<sup>40</sup> Combined fifth and sixth periodic reports submitted by Chile under article 44 of the UN Convention on the Rights of the Child, CRC/C/CHL/6-7, p.18, para.108, 4 March 2021. Available at: <https://bit.ly/3NxHFHs> [shortened link]

clear in its report whether or how effectively mandatory reporting is implemented across SENAME's partner agencies, which operate as independent entities.

14. It is not clear if mandatory reporting obligations in Chile extend to sporting or leisure associations, such as the Association of Guides and Scouts. Illustrating this ambiguity is an October 2020 press release by Chile's Association of Guides and Scouts, in which it mentions that, as an internal policy, it "urges" its members to report any situation amounting to child sexual abuse to the competent authorities.<sup>41</sup> The term 'urge' suggests an understanding that there is no obligation for members to do so.

15. The State Party's report to the Committee does not provide information on strategies for the prevention of and intervention in sexual abuse of children by religious personnel of the Catholic Church; in fact, it makes no reference to any religious institution. With regard to mandatory reporting in Catholic Church-run institutions, CRIN recommended in 2019 that Chile extend mandatory reporting to ensure that any professional working with children, including in church-run institutions, is required to report suspected abuse, including when disclosed to a religious leader during confession.<sup>42</sup> The need for this was underlined by Chilean prosecutor Emiliano Arias who said in October 2018 that the country's Catholic Church had never voluntarily handed internal documents on child abuse complaints to civil authorities; this has only ever happened through court orders or raids of church offices.<sup>43</sup>

## 16. Recommendations

- *The State Party should ensure that effective child safeguarding policies and practices are in place within facilities in which children live, study, play and worship, and that a government oversight agency monitor adherence and implementation.*
- *The State Party should improve child safeguarding training and background screening of all staff across SENAME institutions, including accredited partner agencies.*
- *The State Party should extend mandatory reporting obligations to ensure that any professional working with children, including in leisure or sports associations such as the Association of Guides and Scouts and in church-run institutions, is required to report suspected abuse, including when disclosed to a religious leader during confession.*

## **Complaints and prompt, thorough and impartial investigations**

17. There appears to be a reticence on the part of the National Prosecutor's Office to investigate complaints of sexual abuse or its cover-up by the clergy or employees of the Catholic Church and participate in inquiries on sexual abuse and exploitation in SENAME institutions. First, the National Prosecutor's Office has not released updated data on the number of open investigations into alleged clergy abuse since March 2019.<sup>44</sup> The last known figures were reported in May 2019 by the international news agency Agencia EFE, noting that the number of complaints being investigated were 166, with 131 complainants being children at the time of the alleged abuse.<sup>45</sup> Second, the National Prosecutor's Office refused to participate in and provide information to the 2021-2022 parliamentary Special Investigative

---

<sup>41</sup> Guías y Scouts de Chile, 'Declaración Pública AGSCh ante situaciones de abuso y la prevención de estos', 31 October 2020. Available at: <https://bit.ly/3NDsnkw> [shortened link]

<sup>42</sup> CRIN, 'Chile: Justice for sexual abuse of children', January 2020. Available at: <https://bit.ly/3p0v9Ug> [shortened link].

<sup>43</sup> Cooperativa, 'Fiscal Arias: La conducta de guardar silencio de Ezzati es común en la Iglesia Católica', 8 October 2018. Available at: <https://bit.ly/368Evpv> [shortened link]

<sup>44</sup> Agencia EFE, 'Aumentan a 219 los investigados por casos de abuso sexual en la Iglesia chilena', 22 March 2019. Available at: <https://bit.ly/3c6vUrm> [shortened link]

<sup>45</sup> Agencia EFE, 'La Fiscalía chilena anula el acuerdo con la Iglesia para los casos de abusos sexuales', 7 May 2019. Available at: <https://bit.ly/3iNfk18> [shortened link]

Commission on the situation of sexual abuse and exploitation of children in custody of the State, citing that it did not hold the relevant information on when and where alleged cases child abuse occurred, and that its regional offices are not required to record this data.<sup>46</sup> The Committee's 2018 inquiry of Chile under article 13 of the OPIC found that SENAME's database lacked "complete [and] reliable" information on the situation of each child under its care.<sup>47</sup>

18. The 2018 report by Chile's Criminal Investigations Police (PDI) found child abuse has occurred in all residential and custodial centres managed by SENAME which it had inspected, including reports of sexual abuse in 50 percent of institutions.<sup>48</sup> The case-specific information gathered was passed to the Public Prosecutor's Office,<sup>49</sup> yet it is not clear if any cases have been investigated further. Meanwhile in March 2022, the Special Investigative Commission on the situation of abuse and exploitation of children in custody of the State additionally found that, out of 73 cases alleging abuse that were opened between 2019 to December 2021 by SENAME's legal assistance programme, 'My Lawyer',<sup>50</sup> only nine had been forwarded to the National Prosecutor's Office.<sup>51</sup>

19. In 2018, the Catholic Church in Chile created an office to receive complaints of alleged clergy abuse.<sup>52</sup> These church-run bodies have opened in many other countries, but have been criticised for their lack of transparency and independence, often refusing to pass on investigation details to civil authorities.<sup>53</sup> In April 2019, the Public Prosecutor's Office signed an agreement with the Catholic Bishops' Conference of Chile to cooperate in obtaining information for criminal investigations against accused clergy members.<sup>54</sup> In response to the Catholic Church's poor record of transparency and cooperation, survivors' groups demanded that the agreement be annulled, which it was a week later.<sup>55</sup>

20. In May 2019, the prosecutor handling clergy abuse complaints in Chile, Emiliano Arias, was suspended following a complaint against him alleging corruption (though unrelated to the clergy abuse cases<sup>56</sup>). The suspension occurred on the same day that he approved an investigation of the Archbishop of Santiago, cardinal Ricardo Ezzati, over the alleged cover-up of child sexual abuse cases.<sup>57</sup> Despite later being reinstated,<sup>58</sup> Arias was removed from the clergy abuse cases, and survivors' groups have publicly complained that progress in these cases has since stalled after they were transferred to the

---

<sup>46</sup> Final report, pp.126-127, available at: <https://www.camara.cl/legislacion/comisiones/informes.aspx?prmID=3261>

<sup>47</sup> Committee on the Rights of the Child, 'Informe de la investigación relacionada en Chile en virtud del artículo 13 del Protocolo facultativo de la Convención sobre los Derechos del Niño relativo a un procedimiento de comunicaciones', CRC/C/CHL/INQ/1, June 2018, p.8, para. 47. Available at: <https://bit.ly/3wWYB4w> [shortened link]

<sup>48</sup> Investigative Police of Chile, 'Análisis del funcionamiento residencial en centros dependientes del Servicio Nacional de Menores', December 2018, p.187. Available at: <https://ciperchile.cl/wp-content/uploads/informe-emilfork4.pdf>

<sup>49</sup> *Idem.*, p.228.

<sup>50</sup> Available at: <http://www.cajmetro.cl/programa-mi-abogado/>

<sup>51</sup> Available at: <https://www.camara.cl/legislacion/comisiones/informes.aspx?prmID=3261> p.59.

<sup>52</sup> FRANCE24, 'Chile: enviados del papa para investigar abusos finalizaron su misión', 20 June 2018. Available at: <https://www.france24.com/es/20180620-chile-enviados-papa-abusos-mision>

<sup>53</sup> Los Andes, 'Abusos reavivan la polémica por acceso a la información', 14 July 2019. Available at:

<https://www.losandes.com.ar/article/view/?slug=abusos-reavivan-la-polemica-por-acceso-a-la-informacion>

<sup>54</sup> National Prosecutor's Office, 'Fiscalía y Conferencia Episcopal firman acuerdo para facilitar desarrollo de investigaciones penales', 30 April 2019. Available at: <https://bit.ly/2MnRCMu> [shortened link]

<sup>55</sup> Agencia EFE, 'La Fiscalía chilena anula el acuerdo con la Iglesia para los casos de abusos sexuales', 7 May 2019. Available at: <https://bit.ly/39fPqQs> [shortened link]

<sup>56</sup> Reuters, 'Fiscal en casos de abusos Iglesia chilena es suspendido', 6 May 2019. Available at:

<https://www.reuters.com/article/justicia-chile-fiscal-idLTAKCN1SC1WZ?edition-redirect=uk>

<sup>57</sup> CIPER Chile, 'Estos son los casos de encubrimiento que dejaron al cardenal Ezzati al borde de la formalización', 17 December 2019. Available at: <https://bit.ly/3a5pLJp> [shortened link]

<sup>58</sup> La Tercera, 'De regreso al Ministerio Público: así fue la primera mañana del fiscal Arias de vuelta a la Fiscalía de Rancagua', 3 February 2020. Available at: <https://bit.ly/2NBbpZJ> [shortened link]

prosecutor Xavier Armendáriz.<sup>59</sup> Following multiple requests for an update on cases, which were ignored by Armendáriz's office, the Public Prosecutor's Office finally told the Network of Survivors in September 2020 that the Covid-19 pandemic has further delayed the investigation of abuse cases. But the group reject this explanation, believing instead that the Office is chronically underfunded and therefore unable to carry out its work.<sup>60</sup>

## 21. Recommendations:

- *The State Party should ensure the transparent and effective investigation of all complaints of child sexual abuse, the criminal prosecution of alleged perpetrators, the adequate criminal punishment of those found guilty, and the compensation and rehabilitation of survivors of childhood abuse, including those who have become adults.*
- *The State Party should allocate adequate resources for the prompt investigation and prosecution of cases of sexual violence against children, including by providing sufficient resources to the National Prosecutor's Office to enable it to carry out its work.*
- *The State Party should identify in a transparent manner the reasons for delays in its investigation and prosecution of complaints alleging child sexual abuse in the Catholic Church.*
- *The State Party should establish a national database on all forms of violence that disaggregates data by as many key variables as possible, including the victim's age, sex, gender identity, disability, socio-cultural or ethnic background, migratory status, geographical location and urban/rural location.*

## **Impunity**

22. In July 2018, the Public Prosecutor's Office reported that 22 prosecutions for clergy abuse had resulted in convictions.<sup>61</sup> No updates have since been published by the Office and the State Party's report to the Committee does not provide this data. According to the clergy abuse monitoring organisation, BishopAccountability.org, most reports alleging clergy abuse in Chile involve actions allegedly committed in the last 20 years and which were reported to law enforcement within just a few years of occurrence.<sup>62</sup> The organisation points out that this relatively prompt reporting is atypical, and that, based on data on clergy abuse in other countries, the relatively recent cases comprise only a small fraction of the total number of cases, most of which date back decades and remain unreported.<sup>63</sup>

23. Limitation periods are a major barrier to reporting abuse. Victims on average first disclose their abuse 24 years after it took place, with reasons including a victim's sense of shame, not recognising what happened to them as abuse or fear of not being believed.<sup>64</sup> In July 2019, Chile abolished the statute of limitations for an extensive list of sexual offences committed against children.<sup>65</sup> However, the reform only applies to offences committed after the law came into force. For offences committed against children

---

<sup>59</sup> La Discusión, 'Red laical admite preocupación por estancamiento de causas de abusos sexuales en la Iglesia', 25 July 2020. Available at: <https://bit.ly/2NzNPwp> [shortened link]

<sup>60</sup> El Mostrador, 'Impunidad y pandemia: víctima de abusos sexuales acusa a la Fiscalía de "complicidad pasiva" en los crímenes de la iglesia Católica', 22 September 2020. Available at: <https://bit.ly/3qSgqLU> [shortened link]

<sup>61</sup> National Prosecutor 's Office, 'Informe sobre casos de delitos sexuales relacionados con la Iglesia Católica', 23 July 2018. Available at: <http://www.fiscaliadechile.cl/Fiscalia/noticiaPdf?noticiaId=14941>

<sup>62</sup> BishopAccountability.org, 'Publicly Accused Priests, Brothers, Sisters, and Deacons in Chile'. Available at: <http://www.bishop-accountability.org/Chile/>

<sup>63</sup> *Ibid.*

<sup>64</sup> The Guardian, "You grow up hating yourself": why child abuse survivors keep – and break – their silence', 30 June 2019. Available at: <https://bit.ly/3iPIOW4> [shortened link].

<sup>65</sup> Senate of Chile, 'Destacan promulgación de Ley sobre imprescriptibilidad del abuso sexual contra menores: ¿cómo operará la nueva legislación?', 11 July 2019. Available at: <https://bit.ly/2MnKSOG> [shortened link]

before this date, complaints must still be made within 10 years of a victim's eighteenth birthday.<sup>66</sup> This restriction will effectively prevent many abuse survivors from bringing their perpetrators to court and securing redress.

#### 24. Recommendations

- *The State Party must address systemic barriers to accessing justice for survivors of child sexual abuse, namely by abolishing remaining criminal limitation periods for sexual offences committed against children, including for offences committed before July 2019.*
- *The State Party should amend civil limitation periods to enable survivors of childhood sexual abuse to access remedies for sexual abuse.*

### **Redress and reparations for past abuse**

25. There have been notable cases in which financial compensation was awarded to survivors of clergy abuse who filed complaints with the National Prosecutor's Office. For example, in March 2019 an appeals court ordered the Archdiocese of Santiago to pay three survivors 100 million Chilean pesos (USD\$146,400) each.<sup>67</sup> However, the Network of Survivors denounces a systemic inability to obtain redress experienced by most people alleging they were sexually abused as children by clergy and employees of the Catholic Church. This applies to complaints made by survivors to both the Public Prosecutor's Office and the Catholic Church.

26. In cases that were reported to the Catholic Church, which then conducted an internal investigation, claimants often say that they were given "take it or leave it" offers of compensation that did not amount to fair compensation.<sup>68</sup> Included among those issued by the Congregation of the Sacred Hearts of Jesus and Mary, for instance, are offers of financial compensation from which was deducted the cost of rehabilitation that the survivor has received so far.<sup>69</sup> Moreover, some written offers also state the dates on which the Church will cease to cover the costs of rehabilitation.<sup>70</sup> The Network of Survivors has also complained that the Church is unwilling to give compensation to survivors whose abusers die or to the families of abuse victims who die. In one case, a survivor, whose abuser died, was notified by the Church that their complaint would no longer be investigated.<sup>71</sup> Acceptance of compensation can also be dependent on non-disclosure agreements and agreements not to pursue legal action against the Church.<sup>72</sup>

27. In its 2022 final report, the Special Investigative Commission on the situation of sexual abuse and exploitation of children in custody of the State noted that no government institution provided it with information on the current status of reparations or redress for victims of abuse suffered while living in SENAME institutions.<sup>73</sup> As a result, the Commission concluded that the State lacks capacity with regard to the restitution of rights, and that there is insufficient coverage of redress for victims.<sup>74</sup>

28. The State Party's report to the Committee notes that in 2018 Chile's National Compact for Children

---

<sup>66</sup> Ley No. 21.160 que declara imprescriptibles los delitos sexuales cometidos contra menores de edad.

<sup>67</sup> BBC, 'Abusos sexuales en la Iglesia católica en Chile: una corte ordena indemnizar por "daños morales" a tres víctimas del exsacerdote Fernando Karadima', 27 March 2019. Available at: <https://bbc.in/3ptxuHq> [shortened link]

<sup>68</sup> Meganoticias, 'Denunciantes de abusos sexuales acusan reparaciones insuficientes de Sagrados Corazones', 10 January 2021. Available at: <https://www.youtube.com/watch?v=n6O0TnGW0IY&feature=youtu.be>

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*

<sup>71</sup> *Ibid.*

<sup>72</sup> The Survivors' Network has access to such offers of compensation, which are held on record.

<sup>73</sup> Available at: <https://www.camara.cl/legislacion/comisiones/informes.aspx?prmID=3261> p.124.

<sup>74</sup> *Ibid.*



(Acuerdo Nacional por la Infancia)<sup>75</sup> was “founded on a recognition by the State and society that Chile has failed to protect its children and adolescents and that they are owed an apology.”<sup>76</sup> It describes the Compact as a “springboard” for the “protection and restitution of rights”.<sup>77</sup> Nevertheless, the State Party has not provided details in response to the Committee’s request for it to provide information on measures taken to “[p]rovide adequate redress to current and former child victims of institutional abuse”.<sup>78</sup> This calls into question whether it has taken any measures to improve abuse survivors’ access to redress.

29. In many countries where national inquiries into childhood abuse in institutional settings have been conducted, large-scale compensation programmes for survivors are now replacing traditional avenues of reparations, such as civil or criminal litigation, which can be costly, lengthy and traumatic. The first government redress scheme for institutional abuse of children began in 1993 in Canada, and since then, at least 36 government redress schemes have been concluded, are underway, or have been proposed across fourteen jurisdictions.<sup>79</sup> Redress schemes offer a simplified and expedited way to obtain compensation by requiring lower standards of evidence from survivors, typically a “reasonable likelihood”.<sup>80</sup>

30. It is important that redress schemes account for the full range of negative consequences to survivors’ lives, such as: damage caused by all forms of violence; cognitive impairment; psychiatric disorders and mental health issues; problems with family attachment; substance abuse; lack of education; chronic inability to retain employment or inability to progress in a career; racial discrimination; arbitrary deprivation of liberty and disruption of family life; and loss of cultural and native title rights.<sup>81</sup>

31. Non-monetary redress often includes an official apology by the State to the victims and guarantees of non-repetition of violations, as well as recognition of harms of institutional care through memorials and exhibitions. In addition, redress schemes often provide other measures to survivors, such as rehabilitation, medical benefits, housing and educational support, counselling and psychiatric services, improved records access, assistance with family tracing and reunions. For Indigenous and non-Indigenous communities it could also include education about the history and effects of forcible removal from families.<sup>82</sup>

### 32. Recommendations:

- *The State Party should provide holistic reparations to survivors of institutional abuse, which meet their needs in the areas of physical health, mental health and psychological support, education, and their financial, living and employment situation.*
- *The State Party should implement redress schemes for survivors of institutional abuse to include monetary and non-monetary reparations, and which prioritise survivors’ right to be heard.*

---

<sup>75</sup> Available at: [https://www.minjusticia.gob.cl/media/2018/07/Acuerdo\\_Nacional\\_por\\_la\\_Infancia.pdf](https://www.minjusticia.gob.cl/media/2018/07/Acuerdo_Nacional_por_la_Infancia.pdf)

<sup>76</sup> Combined fifth and sixth periodic reports submitted by Chile under article 44 of the UN Convention on the Rights of the Child, CRC/C/CHL/6-7, p.19, para. 115, 4 March 2021. Available at: <https://bit.ly/3NxHFEHs> [shortened link]

<sup>77</sup> *Ibid.*

<sup>78</sup> Committee on the Rights of the Child, List of issues prior to submission of the combined sixth and seventh periodic reports of Chile, CRC/C/CHL/QPR/6-7, 31 March 2020, p.4, para. 17f. Available at: <https://bit.ly/3DodNsm> [shortened link]

<sup>79</sup> Kathleen Daly, ‘Inequalities of Redress: Australia’s National Redress Scheme for Institutional Abuse of Children,’ 2018, *Journal of Australian Studies*, 42:2, p.204. Available at: <https://doi.org/10.1080/14443058.2018.1459783>

<sup>80</sup> CRIN, Submission to the Day of General Discussion on children’s rights and alternative care, June 2021, pp. 4-5.. Available at: <https://bit.ly/3tZAZUE> [shortened link]

<sup>81</sup> *Ibid.*

<sup>82</sup> *Ibid.*