

Bogotá D.C., May 4th, 2015

Secretariat of the Committee on Economic, Social and Cultural Rights

United Nations Office of the High Commissioner for Human Rights

Palais Wilson

52, rue des Pâquis

CH-1201 Geneva, Switzerland

Re: Supplementary information on Chile, scheduled for review by the Committee on Economic, Social and Cultural Rights on its 55th Session.

Distinguished Members of the Committee on Economic, Social and Cultural Rights (ESCR Committee):

1. The Center for Reproductive Rights (the Center) is an independent non-governmental organization that works to promote women's equality by guaranteeing reproductive rights as human rights. The Center seeks to contribute ESCR Committee's work by providing independent information concerning Chile's obligations to guarantee the rights protected under the International Covenant on Economic, Social and Cultural (ICESCR). In light of Chile's upcoming review under the ESCR Committee, this letter will highlight how the total criminalization of abortion in Chile and the restrictions on access to emergency contraception constitute a violation to the right to health protected under the ICESCR.
2. This letter is divided in three parts. First, it presents the context of Chile's total criminalization of abortion and restricted access to emergency contraception with particular focus on the extreme consequences of the denial of these rights in cases of sexual violence. Second, it describes Chile's international human rights obligations with regard to protecting girls and women's reproductive rights as recognized by United Nations Treaty Monitoring Bodies (UNTMB). Third, it argues how the total criminalization of abortion without exception constitutes a violation of the right to non-regression, non-discrimination, *substantive* equality, and health under ICESCR.

I. The context of reproductive rights in Chile.

1. Sexual violence against women in Chile.

3. Sexual violence has serious short and long term consequences on the physical, mental, sexual and reproductive health of the victims.¹ According to the World Health Organization (WHO), “[i]ntimate partner violence and sexual violence can lead to unintended pregnancies, induced abortions, gynaecological problems, and sexually transmitted infections, including HIV”². Sexual

violence “can lead to depression, [post-traumatic] stress disorder, sleep difficulties, eating disorders, emotional distress and suicide attempts.”³

4. Although there is limited information concerning sexual violence against women in Chile,⁴ in 2011, the United Nations Office on Drugs and Crime (UNODC), reported 3,590 cases of sexual violence-related offences in the country.⁵ One of the highest rates registered between 2006 and 2012.⁶ In 2013, the National Prosecutor of Chile, Sabas Chahuán, reported 24,000 cases of sexual—related violence.⁷ Of these cases, 74% of them were children under the age of 18.⁸ Moreover, in 2014, the University of Chile conducted a quantitative research to study the prevalence of harassment and sexual violence among college students in Chile. From 484 women that participated in the study, 26% of women reported being victims of harassment and 31% reported being victims of sexual violence since age 14.⁹ From those who reported being victims, only 2% reported these incidents to the authorities.¹⁰

- a. Restrictive access to emergency contraception in Chile.

5. The harm suffered by victims of sexual violence in Chile is exponentially exacerbated by Chilean’s restrictive reproductive laws and policies. Emergency contraception is the most effective contraceptive method in preventing pregnancy in cases of rape or sexual abuse.¹¹ However, in 2008, in spite of the high rates of sexual abuse in Chile, the Constitutional Court prohibited the sale, distribution, and use of emergency contraception in all public health institutions.¹² In response to this situation, in 2010, the Chilean Congress approved Law 20.418 on “Information, Guidance and Assistance on Fertility Regulation”, allowing the use, sale and distribution of emergency contraception.¹³ The contradiction between the Constitutional Court decision and the most recent law created numerous barriers to access emergency contraception in Chile.¹⁴ These include the question of legitimacy of prescriptions for emergency contraception by medical providers, the lack of awareness of the legality of emergency contraception, and the lack of availability of emergency contraception in rural areas and towns.¹⁵
6. Prevention and policy responses to sexual violence against women need to be based on an understanding of the problem, its causes and the circumstances in which it occurs. Sexual violence should be adequately addressed in legislation by allowing access reproductive services to protect women’s rights. These services must include effective access to emergency contraception and abortion.¹⁶

- b. Chile’s total criminalization of abortion.

7. Chile’s Penal Code criminalizes abortion in all circumstances,¹⁷ but was understood to include a life exception.¹⁸ This interpretation of the Penal Code was supported by Chile’s 1931 Health Code that explicitly permitted therapeutic abortions.¹⁹ However, during General Augusto Pinochet’s military regime in 1989, the Health Code was amended by Article 119 of Law 18.826, which states that “[n]o act whose purpose is to provoke an abortion may be carried out.”²⁰ This provision removed the

exception for the life of a pregnant woman and re-established the criminalization of abortion in all circumstances.

8. In accordance with the Chilean Ministry of Health, there were 33,184 abortions in 2005, 31,933 abortions in 2010 and 17,434 abortions in 2013.²¹ Prior estimates have suggested that 160,000 to 200,000 clandestine abortions were performed annually in Chile, one of the highest rates in Latin America.²² Criminalizing abortion does not reduce the demand for the procedure, but instead provides legal obstacles which reduce the safety of obtaining an abortion.²³ According to the Chilean's National Institute of Statistics, maternal mortality rate was 22.1% by 2012, one of the highest rates per 100,000 newborns registered since 2008.²⁴
9. Chile is currently taking positive steps toward improving access to abortion through Bill N° 9895-11 introduced to the legislature by the executive branch of the government in January 2015 and currently being discussed.²⁵ The Bill was introduced by President Michelle Bachelet in a public ceremony, along with the Chilean Ministers of Health, Justice and Women.²⁶ This law would allow for abortions up to 12 weeks into pregnancy in instances of fetal abnormality incompatible with life outside the womb, where the women's life is at risk, and in cases of sexual violence.
10. Decriminalizing abortion in certain circumstances would represent a significant step in the right direction toward allowing women the right to choose whether or when to bear a child. However, Chilean public opinion suggests that decision maker's supports abortion in cases where women's life is at risk, in cases of fetal abnormality incompatible with life outside the womb, but not in cases of sexual violence.²⁷ That is the case of Belén, a pregnant 11-year old girl who was raped in Chile by her mother's partner and was refused a therapeutic abortion. The case of Belen portrayed the polarization of public opinion towards abortion in Chile. In 2013, former President Sebastian Piñera opposed any loosening of the abortion prohibition.²⁸ Senator, Juan Antonio Coloma, "defended the current laws, saying that abortion should be prohibited no matter what."²⁹ In 2012, the Chilean Senate rejected three bills that would have eased the absolute ban on abortions.³⁰
11. In February 2015, the Chilean Christian Democratic Party publicly announced that senators of the opposition would introduce a Bill to allow abortion only in cases of sexual violence.³¹ However, this Bill would leave the right to consent the abortion to the parents in cases were adolescent women have been victims of rape.³² The standards set by this new Bill would be in clear contravention with international human rights norms.³³
 - c) Chile's obligations with regard to protecting girls and women's reproductive rights as recognized by UNTMB.
12. UNTMB have urged Chile to reform its laws that criminalizes abortion under all circumstances. On 2006, the CEDAW Committee recommended Chile to review its "laws relating to abortion with a view to removing punitive provisions imposed on women who undergo abortion and provide them with

access to quality services for the management of complications arising from unsafe abortion and to reduce maternal mortality rates”.³⁴ On 2007, the Committee on the Rights of the Child (CRC Committee) urged Chile “to review its criminalization of the termination of pregnancies in all circumstances, including in cases of rape, incest and situations where the life of the mother is at risk.”³⁵ In 2007, the Human Rights Committee (HRC) recommended Chile to “amend its abortion laws to help women avoid unwanted pregnancies and not have to resort to illegal abortions that could put their lives at risk”.³⁶

13. The Committee against Torture (CAT Committee) has stated in various Concluding Observations that punitive criminal abortion laws should be reviewed because “they lead to violations of a woman’s right to be free from inhuman and cruel treatment.”³⁷ In its 2004 Chile Concluding Observations, the CAT stated its concern that women were being coerced into confessing that they had an abortion as a condition for obtaining lifesaving medical care.³⁸ Legislative history from the Senate states that the 2009 Ministry of Health guidance prohibiting healthcare personnel from extracting confessions from women who they suspect induced abortion was in response to CAT’s Concluding Observations.³⁹

II) Chile’s Total Criminalization on Abortion Constitutes a Violation of the Right to Non-Regression (Art. 5(2)), the Right to Non-Discrimination (Article 2 (2)), the Right to Substantive Equality (Article 3) and the Right to Health (Art. 12 (1)) under ICESCR.

a. Right to Non-Regression (Art. 5(2)).

14. Restricting women’s access to reproductive rights to which women previously had access amounts to retrogressive measures in violation of the right to health.⁴⁰ Therefore, States may not go backwards by reducing their social, economic and cultural rights, except in cases where they are forced to do so by a demonstrable lack of resources.⁴¹
15. Article 5(2) of ICESCR states that “[n]o restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.”⁴² As the ESCR Committee notes in General Comment N° 3, progressive realization is seen as “a necessary flexible device, reflecting the realities of the real world and the difficulties involved for any country in ensuring full realization of economic, social and cultural rights”⁴³. However, current retrogressive measures re-instating the complete ban on women’s access to abortion diminish women’s access to their reproductive health and rights and violate Chile’s obligations under ICESCR.⁴⁴

a. Right to Non-Discrimination (Article 2(2)) and Substantive Equality (Article 3).

16. Reproductive health services, including access to abortion, are services that primarily women need, due to their different reproductive capacities. Therefore, ensuring access to abortion is essential to ensuring that women can equally exercise their human rights.⁴⁵ The ICESCR establishes the principle of non-discrimination as one of its core obligations.⁴⁶ As part of the immediate obligations Chile has as a State Party to the ICESCR which are not subject to progressive realization, includes the obligation to guarantee that relevant rights will be exercised without discrimination.⁴⁷ This obligation requires that States Parties prevent direct and indirect discrimination in all spheres of life, particularly around the right to health.⁴⁸
17. The ESCR Committee General Comment N° 14 regarding the right to the highest attainable standard of health stresses that “many measures, such as most strategies and programmes designed to eliminate health-related discrimination, can be pursued with minimum resource implication through the adoption, modification or abrogation of legislation or the dissemination of information.”⁴⁹ In addition, the Committee has made clear that non-discriminatory legislation is “highly desirable and in some case may even be indispensable”⁵⁰ to attain women’s right to health.
18. The essence of article 3 of the ICESCR is that the rights set forth in the treaty be enjoyed by men and women on an equal basis, “a concept that carries substantive meaning”.⁵¹ The right to *substantive equality* “provides a framework by which to effectively recognize and address inequalities faced by women.”⁵² At its core, “substantive equality requires states to identify the root causes of discrimination, such as power structures and social and economic systems reinforced by gender stereotypes and socialized gender roles, which lead to inequalities.”⁵³
19. Legal restrictions on abortion violate a broad range of women’s human rights by denying women the ability to make autonomous decisions about their reproductive capacities.⁵⁴ “When women are unable to decide whether and when to bear children, this impacts all facets of their lives, including their ability to finish school, enter the labor force, and participate equally in public and political life, and reinforces gender stereotypes characterizing women’s primary role as child bearer.”⁵⁵ Therefore, in order to protect women’s right to health on a basis of substantive equality, it becomes necessary that Chile adopts legislative measures that respects women’s reproductive health and rights. Failure to guarantee women’s reproductive rights to abortion results in violation of Article 2(2) and Article 3 under ICESCR.

b. Right to Health (Art. 12 (1)).

20. Article 12(1) of ICESCR states that States Parties to the Covenant must guarantee the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”⁵⁶ However, complete criminalization leaves women with two bleak choices: to obtain unsafe abortions⁵⁷ or to incur health risks by carrying their unwanted pregnancies to term.⁵⁸ Criminalizing abortion without exemption is a *per se* violation of the right to health. Beyond extinguishing a woman’s right to choose whether or when

to have children, criminalizing the termination of pregnancy significantly increases the risk of maternal morbidity and mortality.⁵⁹

21. The ESCR Committee General Comment N° 14 has specified that the right to health includes freedoms such as “the right to control one’s health and body, including sexual and reproductive freedom . . . ”⁶⁰ On 2004, the ESCR Committee Concluding Observations on Chile expressed its continuing concern about the women’s health consequences as a result of Chile’s complete criminalization of abortion without exception.⁶¹ Therefore, not allowing Chilean women the right to decide whether to bear a child under any circumstance does not allow them to decide if and when to reproduce. Since women have no choice but to pursue clandestine, unsafe abortions, women do not “have access to safe, effective . . . and acceptable methods of family planning of their choice”⁶² as is required under ICESCR.⁶³
22. In accordance with the CEDAW Committee, access to reproductive health care is a basic right⁶⁴, emphasizing that traditional attitudes by which women are regarded as subordinate to men and stereotyped are a violation of Article 2 under the Convention to Eliminate All Forms of Discrimination against Women (CEDAW).⁶⁵ CEDAW Committee’s General Recommendation N° 19 explicitly states that “States parties should . . . ensure that women are not forced to seek unsafe medical procedures such as illegal abortion because of lack of appropriate services in regard to fertility control.”⁶⁶ In addition, CEDAW Committee’s General Recommendation N° 24 also notes that “[o]ther barriers to women’s access to appropriate health care include laws that criminalize medical procedures only needed by women punish women who undergo those procedures.”⁶⁷ It therefore requires States parties to ensure the rights of women by ensuring access to sexual and reproductive health services.⁶⁸ Chilean’s restrictive legislation that criminalizes abortion under all circumstances results in violation of Article 12(1) under ICESCR.

III) Conclusion.

23. Legal restrictions on abortion violate a broad range of women’s human rights, including the rights to equality and nondiscrimination, life, health, freedom from cruel, inhumane and degrading treatment, and privacy by denying women the ability to make autonomous decisions about their reproductive capacities. In accordance with international human rights standards, Chile must reform its discriminatory laws that restrict women’s reproductive rights, including its extreme prohibitions on accessing abortion.
24. We applaud the ESCR Committee for its commitment to women’s rights and the strong observations and recommendations the committee has issued in the past, which stress the need to enact, implement, and monitor effective policies geared towards increasing access to the full complement of human rights for women. We also applaud the great advancements the Chilean Government has taken in the last years to protect women’s reproductive rights. Particularly, we congratulate the Chilean Government for introducing Bill N° 9895-11 to the legislature to improve access to abortion services. However,

while the introduction of this Bill represents a significant step in the route towards achieving reproductive rights for all women, the change of law is still a plan and not a reality. We hope that the Committee will consider addressing the following questions to the Chilean Government that remain of concern:

With regard to sexual violence:

- a) What measures are being taken by the State to collect data on the impact of gender-based violence on sexual and reproductive health?
- b) Children and adolescents who have been victims of gender-based violence are more vulnerable to teenage pregnancy. What policies and/or programs are being taken by the State to prevent sexual violence against adolescent girls?

With regard to emergency contraception:

- c) What measures are being taken by the State to address the lack of information about the legality of emergency contraception in the country?
- d) What measures is the State undertaking or planning to undertake to provide contraceptive methods, information and services to vulnerable populations, including poor, rural, and adolescent women?

With regard to abortion:

- e) What alternative measures to Bill N° 9895-11 are being taken by the State to review the existing laws, health policies, and guidelines to ensure that they are consistent with international human rights standards?
- f) What is the government doing to ensure access to timely, quality and affordable post-abortion care and reproductive health counseling?

25. We believe that now more than ever, an explicit recommendation towards the decriminalization of abortion is determinant for the recognition of the right to health without discrimination for women. We respectfully request the ESCR Committee to consider addressing the following recommendation to the Chilean government during the 55th Session:

- a) To revise its laws imposing a total abortion ban to allow for exceptions when: (a) pregnancy endangers a woman's life or health; (b) pregnancy is the result of rape or artificial insemination without the woman's consent; and (c) congenital fetal anomaly incompatible with life outside the womb.

Respectfully,

Mónica Arango

Mónica Arango Olaya
Regional Director for Latin America and the Caribbean
Center for Reproductive Rights
marango@reprorights.org
Carrera 6 No. 26-85, Piso 9
Edificio Sociedad Colombiana de Arquitectos
Bogotá, Colombia
T. + 571-334-8532

Sebastián Rodríguez A.

Juan Sebastián Rodríguez Alarcón
Legal Fellow for Latin America and the Caribbean
Center for Reproductive Rights
srodriguez@reprorights.org
199 Water Street, 22nd Floor
New York, NY, 10038
T. +1 917-637-3600 Ext. 3663

¹ WHO | Violence against women, WHO, <http://www.who.int/mediacentre/factsheets/fs239/en/> (last visited Apr 29, 2015).

² *Id.*

³ *Id.*

⁴ WORLD HEALTH ORGANIZATION, WORLD REPORT ON VIOLENCE AND HEALTH, CHAPTER 6: SEXUAL VIOLENCE (2014), http://www.who.int/violence_injury_prevention/violence/global_campaign/en/chap6.pdf. Data on sexual violence typically come from police, clinical settings, nongovernmental organizations and research. However the disparities between these sources and the real size of the problem may be disproportional. The WHO notes that many women who have been victims of sexual abuse do not report it to the authorities and women who seek medical services for emergency problems related to sexual abuse is minimal.

⁵ United Nations Office on Drugs and Crime, RAPE AT THE NATIONAL LEVEL, NUMBER OF POLICE RECORDED OFFENCES IN CHILE: UNITED NATIONS OFFICE ON DRUGS AND CRIME, DATA (2015), <http://www.unodc.org/unodc/en/data-and-analysis/statistics/crime.html>.

⁶ United Nations Office on Drugs and Crime, RAPE AT THE NATIONAL LEVEL, NUMBER OF POLICE RECORDED OFFENCES IN CHILE: UNITED NATIONS OFFICE ON DRUGS AND CRIME, DATA (2015), <http://www.unodc.org/unodc/en/data-and-analysis/statistics/crime.html>.

⁷ Javiera Matus, *ONU: Chile es tercero en el mundo en tasa de denuncias por abuso a menores*, LA TERCERA, 2014, <http://www.latercera.com/noticia/nacional/2014/05/680-579591-9-onu-chile-es-tercero-en-el-mundo-en-tasa-de-denuncias-por-abuso-a-menores.shtml>.

⁸ Javiera Matus, *ONU: Chile es tercero en el mundo en tasa de denuncias por abuso a menores*, LA TERCERA, 2014, <http://www.latercera.com/noticia/nacional/2014/05/680-579591-9-onu-chile-es-tercero-en-el-mundo-en-tasa-de-denuncias-por-abuso-a-menores.shtml>.

⁹ Jocelyn A. Lehrer, *Violencia Sexual y en el Cortejo en Estudiantes Universitarios Chilenos*, EDITOR. UNIV. (2014), <http://www.revistahumanum.org/blog/la-violencia-sexual-y-en-el-cortejo-en-personas-jovenes/>.

¹⁰ *Id.*

¹¹ WHO | Emergency contraception, WHO, <http://www.who.int/mediacentre/factsheets/fs244/en/> (last visited Feb 17, 2015).

¹² Tribunal Constitucional de Chile, 37 diputados en ejercicio contra el Ministerio de Salud (Apr. 18, 2008), <http://www.tribunalconstitucional.cl/index>

¹³ CHILE, LAW 20.428 (2010).

¹⁴ UNFPA, ACCESO Y DISTRIBUCIÓN DE LA ANTICONCEPCIÓN DE EMERGENCIA EN CHILE (2012), http://www.icmer.org/documentos/anticoncepcion_de_emergencia/acceso_distr_de_ae_chile_2012.pdf.

¹⁵ *Id.*; CLAE & FLACSO CHILE, ENTREGA DE LA PÍLDORA ANTICONCEPTIVA DE EMERGENCIA EN EL SISTEMA DE SALUD MUNICIPAL DE CHILE: ESTADO DE LA SITUACIÓN (2010), http://www.icmer.org/documentos/anticoncepcion_de_emergencia/Flacso%20Pildora%20final.pdf.

¹⁶ UNFPA & AIDOS, ADDRESSING VIOLENCE AGAINST WOMEN: PILOTING AND PROGRAMMING (2003), http://www.unfpa.org/sites/default/files/resource-pdf/gbv_report_italy.pdf. ¶¶ 15.

¹⁷ CHILE, CÓDIGO PENAL (1874). Arts. 342-45. The last-in-time principle mandates that laws that have come into effect later override prior, conflicting provisions with the more recent regulations.

¹⁸ CHILE, CÓDIGO SANITARIO, DECRETO CON FUERZA DE LEY N° 725 (1967) MODIFIED BY LEY 18826 (1989). Art. 119; World Abortion Map, Chile, (2015), <http://www.worldabortionlaws.com/map/> (CRR Translation).

¹⁹ CHILE, CÓDIGO SANITARIO (1931). Art. 226.

²⁰ CHILE, *supra* note 33.

²¹ Ministerio de Salud, Gobierno de Chile, SEMINARIO SERNAM: GÉNERO Y POLÍTICAS PÚBLICAS (AVANCES Y DESAFÍOS EN SALUD) (2012), <http://www.sernam.cl/descargas/014/doc/SALUD.pdf>; Carolina Mascareño, *Aborto: Las Cifras y Escenarios que Cruzan la Realidad de Chile*, TELE 13, 2014, <http://www.t13.cl/noticia/actualidad/aborto-las-cifras-y-escenarios-que-cruzan-la-realidad-de-chile>.

²² The Alan Guttmacher Institute, *Aborto clandestino: Una realidad latinoamericana*, 1994; Lavin P y col. *Informe preliminar sobre la caracterización de los casos y costos del tratamiento del aborto hospitalizado en Santiago de Chile. Ponencia presentada en el Encuentro de Investigadores sobre Aborto Inducido en América Latina y El Caribe*. Universidad Externado de Colombia. Bogotá, 1994; *cited in* Veronica Schiappacasse et al., *Chile: Situación de la Salud y los Derechos Sexuales y Reproductivos*, Instituto Chileno de Medicina Reproductiva & Corporación de Salud y Políticas Sociales, 50 (2003), available at http://www.icmer.org/documentos/salud_y_derechos_sex_y_rep/chile_situac_salud_y_der_sex_y_rep.pdf

²³ WORLD HEALTH ORGANIZATION, SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS, 68 & 95 (2ND ED.) (2012). ¶¶ 88.

²⁴ INSTITUTO NACIONAL DE ESTADÍSTICA, COMPENDIO ESTADÍSTICO (2014), http://www.ine.cl/canales/menu/publicaciones/calendario_de_publicaciones/pdf/compendio_2014.pdf. ¶¶ 116

²⁵ CHILE, PROYECTOS DE LEY, BOLETÍN N° 9895-11, 3 MARZO 2015, PUBLICACIÓN OFICIAL, <http://www.camara.cl/pdf.aspx?prmID=11004 &prmTIPO=TEXTOSesion>; *see also* Chile's President Bachelet proposes end to total abortion ban, BBC NEWS, <http://www.bbc.com/news/world-latin-america-31076838> (last visited Apr 17, 2015).

²⁶ CÁMARA DE DIPUTADOS DE CHILE, REGULA LA DESPENALIZACIÓN DE LA INTERRUPCIÓN VOLUNTARIA DEL EMBARAZO EN TRES CAUSALES (2015), <http://www.camara.cl/sala/verComunicacion.aspx?comuid=13908&formato=pdf>; La República, *Michelle Bachelet presenta proyecto de ley de aborto terapéutico*, 2015, <http://www.larepublica.pe/01-02-2015/bachelet-presenta-proyecto-de-ley-de-aborto-terapeutico>; BBC News, *Chile: Bachelet presenta proyecto de ley para despenalizar aborto*, 2015, http://www.bbc.co.uk/mundo/ultimas_noticias/2015/01/150131_ultnot_chile_aborto_bachellet_fp.

²⁷ *Cfr.* Raped 11-year-old stirs abortion debate in Chile - CNN.com, CNN, <http://www.cnn.com/2013/07/11/world/americas/chile-abortion-debate/index.html> (last visited Apr 28, 2015).

²⁸ *Id.*

²⁹ CNN Chile, *La antesala del debate en el Congreso del proyecto que despenaliza el aborto*, 2015, <http://cnchile.com/noticia/2015/03/16/la-antesala-del-debate-en-el-congreso-del-proyecto-que-despenaliza-el-aborto>.

³⁰ 11-Year-Old's Pregnancy Sparks Abortion Debate in Chile, THE HUFFINGTON POST, http://social.huffingtonpost.com/2013/07/05/chile-abortion-debate_n_3551960.html (last visited Apr 28, 2015).

³¹ CNN Chile, *supra* note 44.

³² *Id.*

³³ INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, DEC. 16, 1966, S. TREATY DOC. NO. 95-19, 6 I.L.M. 360 (1967), 993 U.N.T.S. 3, (1966). (Art. 5(2)), (Article 2 (2)), (Article 3), (Art. 12 (1)); COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW COMMITTEE), GENERAL RECOMMENDATION NO. 24: ARTICLE 12 OF THE CONVENTION (WOMEN AND HEALTH) U.N. DOC. HRI/GEN/1/REV.9 (VOL. II) (2008).

- ³⁴ CEDAW COMMITTEE, CONCLUDING OBSERVATIONS: CHILE, U.N. DOC. CEDAW/C/CHI/CO/4 (2006). ¶ 20.
- ³⁵ COMMITTEE ON THE RIGHTS OF THE CHILD (CRC), CONCLUDING OBSERVATIONS: CHILE, U.N. DOC. CRC/C/CHL/CO/3 (2007). ¶ 56.
- ³⁶ HUMAN RIGHTS COMMITTEE, CONCLUDING OBSERVATIONS: CHILE, U.N. DOC. CCPR/C/CHL/CO/5 (2007). ¶ 8.
- ³⁷ UNITED NATIONS, INTERIM REPORT OF THE SPECIAL RAPPORTEUR ON THE RIGHT OF EVERYONE TO THE ENJOYMENT OF THE HIGHEST ATTAINABLE STANDARD OF PHYSICAL AND MENTAL HEALTH, U.N. DOC. A/66/254 (2011). ¶ 22, 22 n. 11 (citing CAT/C/PER/CO/4, ¶ 23; CAT/C/NIC/CO/1, ¶ 16; CAT/C/CR/32/5, ¶ 7).
- ³⁸ COMMITTEE AGAINST TORTURE (CAT), CONCLUDING OBSERVATIONS: CHILE, U.N. DOC. CAT/C/CR/32/5 (2004) ¶ 6(j).
- ³⁹ Diario de Sesiones del Senado, PUBLICACIÓN OFICIAL (CHILE) (2012), http://www.senado.cl/appsenado/index.php?mo=sesionessala&ac=getDocumento&teseid=34415&idparl=230&tema=Proyecto&nrobol=737307_P&legiid=&tagid=11.
- ⁴⁰ ESCR COMMITTEE, GENERAL COMMENT N° 14 E/C.12/2000/4 (2011). ¶¶ 43, 48.
- ⁴¹ *Cfr.* AMNESTY INTERNATIONAL, BRINGING ESC RIGHTS HOME: APPLYING IRELAND'S ECONOMIC, SOCIAL AND CULTURAL RIGHTS OBLIGATIONS TO BUDGETARY POLICY (2014). ¶¶ 25.
- ⁴² ICESCR, *supra* note 48. Art. 5(2).
- ⁴³ ESCR COMMITTEE, GENERAL COMMENT NO. 3: THE NATURE OF STATES PARTIES' OBLIGATIONS (1991). ¶ 9.
- ⁴⁴ ICESCR, *supra* note 18. Art. 5(2); ESCR COMMITTEE, *supra* note 16. ¶¶ 43, 48.
- ⁴⁵ COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW COMMITTEE), *supra* note 48. ¶¶ 11-12.
- ⁴⁶ ICESCR, *supra* note 48. Art. 2(2).
- ⁴⁷ *Id.* Article 2(2).
- ⁴⁸ AMNESTY INTERNATIONAL, *supra* note 56. ¶¶ 58-59.
- ⁴⁹ ESCR COMMITTEE, *supra* note 55. ¶ 18.
- ⁵⁰ ESCR COMMITTEE, *supra* note 58. ¶ 3.
- ⁵¹ ESCR COMMITTEE, REPORT ON THE THIRTY-FOUR AND THIRTY-FIFTH SESSIONS, SUPPLEMENT N°2, U.N. DOC. E/2006/22 E/C.12/2005/5 (2006). ¶¶ 6.
- ⁵² CENTER FOR REPRODUCTIVE RIGHTS, SUBSTANTIVE EQUALITY AND REPRODUCTIVE RIGHTS: A BRIEFING PAPER ON ALIGNING DEVELOPMENT GOALS WITH HUMAN RIGHTS OBLIGATIONS (2014), http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/Equality_Guide_Reduced_size.pdf. ¶¶ 4.
- ⁵³ *Id.*
- ⁵⁴ ESCR COMMITTEE, GENERAL COMMENT NO. 20: NON-DISCRIMINATION IN ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ART. 2, PARA. 2, OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS), U.N. DOC. E/C.12/GC/20 (2009). ¶. 31; COMMITTEE ON THE RIGHTS OF THE CHILD, GENERAL COMMENT NO. 15: THE RIGHT OF THE CHILD TO THE ENJOYMENT OF THE HIGHEST ATTAINABLE STANDARD OF HEALTH (ART. 24), U.N. DOC. CRC/C/GC/15 (2013). ¶. 31; HUMAN RIGHTS COMMITTEE, GENERAL COMMENT NO. 28: EQUALITY OF RIGHTS BETWEEN MEN AND WOMEN (2000). ¶. 20; WORLD HEALTH ORGANIZATION, SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS, 68 & 95 (2ND ED.) (2012).
- ⁵⁵ CENTER FOR REPRODUCTIVE RIGHTS, HONDURAS: SEXUAL VIOLENCE AND TOTAL BANS ON EMERGENCY CONTRACEPTION AND ABORTION (2015).
- ⁵⁶ ICESCR, *supra* note 48. Art. 12(1).
- ⁵⁷ *See.* WORLD HEALTH ORGANIZATION, *supra* note 38.
- ⁵⁸ Willard Cates, Jr, David A. Grimes & Kenneth F. Schulz, *The Public Health Impact of Legal Abortion: 30 Years Later*, 35 PERSP SEX. REPROD HEALTH (2003), <http://www.guttmacher.org/pubs/journals/3502503.html>. (Stating that obtaining an abortion is safer than carrying a pregnancy to term).
- ⁵⁹ ESCR COMMITTEE, *supra* note 55. ¶¶ 14 n. 12, 11.
- ⁶⁰ *Id.* ¶ 8.

⁶¹ ESCR COMMITTEE, CONCLUDING OBSERVATIONS OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS: CHILE, E/C.12/1/ADD.105, (2004). ¶ 26. The Concluding Observations also noted that 34,479 women that were hospitalized in 2001 from abortion complications, which only represents the reported figures.

⁶² ESCR COMMITTEE, *supra* note 55. ¶ 12.

⁶³ *Id.* ¶ 14 n. 12, 11.

⁶⁴ COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW COMMITTEE), *supra* note 48. ¶ 1.

⁶⁵ COMMITTEE ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN, GENERAL RECOMMENDATION N° 19: VIOLENCE AGAINST WOMEN (1992). ¶ 11.

⁶⁶ *Id.* ¶ 24(m).

⁶⁷ COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW COMMITTEE), *supra* note 48. ¶ 14.

⁶⁸ *Id.*