

Chile

Incidence and Nature of Child Labor

The National Statistics Institute of Chile estimated that 3.3 percent of children ages 5 to 14 years were working in the country in 2003.⁹⁵¹ The survey found that the percentage of working boys is higher than that of girls, and that the rate of child work is higher in rural than in urban areas. The most common activity for children who work is selling goods on the street and performing odd jobs, but children also work in agriculture and fishing, and assist others in construction, industrial, and mining activities.⁹⁵² Most of these activities are carried out by children employed in the informal economy.⁹⁵³ Children are involved in prostitution in Chile. UNICEF reported that in 1999 there were approximately 10,000 child prostitutes between the ages of 6 and 18. In 2003, the Government of Chile estimated that there were approximately 3,700 children involved in some form of commercial sexual exploitation.⁹⁵⁴ Children are also trafficked internally for the purpose of commercial sexual exploitation.⁹⁵⁵

Education in Chile is free and compulsory for 12 years. Length of compulsory education was extended to 12 years in 2003, at which time the government instituted various efforts to enable disadvantaged children to attend school.⁹⁵⁶ In 2000, the gross primary enrollment rate was 102.7 percent and the net primary enrollment rate was 88.8 percent.⁹⁵⁷ Gross and net enrollment ratios are based on the number of students formally registered in primary school and therefore do not necessarily reflect actual school attendance. In 2000, a government household survey estimated that 1 percent of Chilean children ages 7 to 13 years did not attend school.⁹⁵⁸ The country's rural population completes less schooling than the country's urban

⁹⁵¹ These estimates include children who worked for one hour or more during the reference week used by the survey, who were paid in cash or in kind, as well as children who work for family enterprises without pay. See National Statistics Institute, *Resultados de la encuesta*, Ministry of Labor and Social Welfare, [online] n.d. [cited October 8, 2004]. For the full report, see Ministry of Labor and Social Welfare, National Statistics Institute, and National Minors Service, *Trabajo infantil y adolescente en cifras: Síntesis de la primera encuesta nacional y registro de sus peores formas*, ILO-IPEC, Santiago, 2004, 19; available from <http://www.oitchile.cl/pdf/tra022.pdf>.

⁹⁵² The absolute number of working children is higher in urban areas. There are also a small number of children who were working as domestics in the homes of third parties. See National Statistics Institute, *Resultados de la encuesta*.

⁹⁵³ U.S. Embassy- Santiago official, email communication to USDOL official, May 20, 2003.

⁹⁵⁴ See U.S. Department of State, *Country Reports on Human Rights Practices- 2003: Chile*, Washington, D.C., February 25, 2004, Section 6f; available from <http://www.state.gov/g/drl/rls/hrrpt/2003/27890pf.htm>. See also Government of Chile, *Information Sought*, submitted in response to U.S. Department of Labor Federal Register Notice (July 14, 2004) "Request for Information on Efforts by Certain Countries to Eliminate the Worst Forms of Child Labor", Santiago, October 2004, 7.

⁹⁵⁵ U.S. Department of State, *Trafficking in Persons Report*, Washington, DC, June 2004; available from <http://www.state.gov/g/tip/rls/tiprpt/2004/33198.htm>.

⁹⁵⁶ See Ministry of Education, *12 años Escolaridad Obligatoria*, [online] n.d. [cited October 8, 2004]; available from <http://www.mineduc.cl/>.

⁹⁵⁷ World Bank, *World Development Indicators 2004* [CD-ROM], Washington, D.C., 2004. For an explanation of gross primary enrollment and/or attendance rates that are greater than 100 percent, please see the definitions of gross primary enrollment rate and gross primary attendance rate in the glossary of this report.

⁹⁵⁸ Ministry of Planning and Cooperation, *Situación de la Educación en Chile 2000: Informe Ejecutivo*, July 2001, 10; available from <http://www.mideplan.cl/sitio/Sitio/estudios/documentos/informeeducacion2000.pdf> [no longer online].

population.⁹⁵⁹ Attending school does not preclude children in Chile from working, however. The 2003 child labor survey by the National Statistics Institute found that 78.9 percent of children who perform “unacceptable work” also attend school.⁹⁶⁰

Child Labor Laws and Enforcement

The Chilean Labor Code sets the minimum age for employment at 15 years.⁹⁶¹ In order to work, children ages 15 to 16 years must have completed obligatory schooling and must obtain permission from their parents or legal guardians. Such children may only perform light work that will not affect their health or development.⁹⁶² Children ages 16 to 18 years may work if they receive authorization from their parents or guardians and may not work in occupations that may be dangerous or require excessive force. Children under age 18 are also not permitted to work more than 8 hours per day; at night between the hours of 10 p.m. and 7 a.m. (outside a family business); or in nightclubs or similar establishments where alcohol is consumed.⁹⁶³ All persons under the age of 21 are prohibited from working underground.⁹⁶⁴

The ILO’s Committee of Experts has raised questions about aspects of Chilean law that may allow children to work below the age of 15. Section 1 of the Labor Code states that the law’s provisions apply to “employers and workers” and thus may exclude children who are working without a contract. The Committee has also noted that Act No. 3654 of 1930 requires persons who employ children as domestic workers to enroll them in school and facilitate their regular attendance, and has asked the Government of Chile to clarify the minimum age at which children may work as domestic servants.⁹⁶⁵

Chile’s Constitution and the Labor Code prohibit forced labor.⁹⁶⁶ The prostitution of children and corruption of minors are prohibited under the Penal Code, with penalties of substantial prison sentences and fines.⁹⁶⁷ Adult prostitution, however, is legal in Chile. The age of consent for sexual relations is 14

⁹⁵⁹ Ministry of Planning and Cooperation, *Análisis de la VIII Encuesta Caracterización Socioeconómica Nacional (CASEN 2000)*, Documento No. 7: *Situación del Sector Rural en Chile 2000*, MIDEPLAN, Santiago, January 2002, 45; available from <http://www.mideplan.cl/estudios/sectorrural2000.pdf> [no longer online]. Indigenous children also face obstacles to school access. See UN Committee on the Rights of the Child, *Report on the Twenty-Ninth Session*, CRC/C/114, United Nations, Geneva, May 14, 2002, 101.

⁹⁶⁰ The survey defines unacceptable work as work performed by children less than 12 years of age, work performed by children above 12 who do not attend school, work beyond legal working hours, and work at night. See Ministry of Labor and Social Welfare, National Statistics Institute, and National Minors Service, *Trabajo infantil y adolescente en cifras*, 11-12.

⁹⁶¹ Government of Chile, *Código del Trabajo, as amended in 2000*, (1994), Article 13; available from <http://apuntes.rincondelvago.com/codigo-del-trabajo-de-chile.html>.

⁹⁶² Children under the age of 15 may work in theatrical and artistic productions with the proper legal authorization. See *Ibid.*, Articles 13, 15, and 16.

⁹⁶³ Boys between the ages of 16 and 18 are excepted from this regulation in certain industries. See *Ibid.*, Articles 13, 15 and 18.

⁹⁶⁴ *Ibid.*, Article 14.

⁹⁶⁵ CEACR, *Direct request, Minimum Age Convention, 1973 (No. 138) Chile (ratification: 1999)*, ILO, Geneva, 2003; available from <http://webfusion.ilo.org>.

⁹⁶⁶ *Constitución Política de 1980 incluidas las Reformas hasta el 2003*, No. 16; available from <http://www.georgetown.edu/pdba/Constitutions/Chile/chile01.html>. See also *Código del Trabajo*, Articles 2 and 9.

⁹⁶⁷ Chilean Penal Code, Articles 367 to 372, as found in Interpol, *Legislation of Interpol Member States on Sexual Offenses against Children: Chile*, [database online] [cited October 21, 2004]; available from <http://www.interpol.int/Public/Children/SexualAbuse/NationalLaws/csaChile.asp>.

years.⁹⁶⁸ Under the Chilean Penal Code, it is against the law to solicit sex from a person under the age of 18 years in exchange for money or other considerations. Penalties for commercial sex with minors carry prison sentences and fines. There is no penalty for consensual sex with minors over 14, or for soliciting commercial sex from adults.⁹⁶⁹ The Penal Code contains a prohibition against the sale, distribution, and exhibition of pornography and calls for fines and prison sentences for those convicted of involvement in such acts.⁹⁷⁰ In 2004, Law No. 19.927 was promulgated, which aims to combat child pornography, including that on the Internet.⁹⁷¹ The trafficking of children for prostitution is also prohibited under the Penal Code, and likewise carries penalties of prison sentences and fines.⁹⁷²

The Ministry of Labor's Inspection Agency enforces child labor laws, while the National Service for Minors (SENAME) within the Ministry of Justice investigates exploitative child labor related to pornography, the sale of drugs, and other related criminal activities.⁹⁷³ Overall compliance is good in the formal economy, the U.S. Department of State reported.⁹⁷⁴ In 2002, the Ministry of Labor found less than 1 percent of employers to be out of compliance with child labor laws.⁹⁷⁵ Child labor is a problem in the informal economy, according to the U.S. Department of State.⁹⁷⁶ Although the UN Committee on the Rights of the Child reported in 2002 that cases of commercial sexual exploitation of children often are not investigated and prosecuted, a 2004 U.S. Department of State report stated that authorities actively investigate cases of child prostitution.⁹⁷⁷

⁹⁶⁸ U.S. Department of State: Bureau of Economic and Business Affairs, email correspondence to USDOL official, May 22, 2003. See also U.S. Embassy Chile official, electronic communication, to USDOL official, February 12, 2004.

⁹⁶⁹ In January 2004, the Government of Chile ratified Law 19.927 which modifies the Penal Codes on child pornography crimes. The law increases sanctions for a range of sexual crimes committed against minors and strengthens the mechanisms that police and courts have to be more rigorous in their pursuit or perpetrators. U.S. Embassy Santiago Official, Electronic communication to, U.S. Department of Labor Official, May 31, 2005.

⁹⁷⁰ Chilean Penal Code Article 374, as found in Interpol, *Legislation of Interpol Member States*.

⁹⁷¹ Government of Chile, *Information Sought*, 3.

⁹⁷² Chilean Penal Code, Article 367 BIS, as found in Interpol, *Legislation of Interpol Member States*.

⁹⁷³ U.S. Embassy- Santiago, *unclassified telegram no. 2756*, October 2001.

⁹⁷⁴ U.S. Department of State, *Country Reports- 2003: Chile*, Section 6d.

⁹⁷⁵ These infractions were discovered during approximately 189,000 inspections conducted by the Labor Ministry in 2002. See Chilean Ministry of Labor, *Report on Labor Rights in Chile and its Laws Governing Exploitative Child Labor*, Santiago, March 2003, 9-10.

⁹⁷⁶ U.S. Department of State, *Country Reports- 2003: Chile*, Section 6d.

⁹⁷⁷ UN Committee on the Rights of the Child, *Consideration of Reports Submitted by States Parties Under Article 44 of the Convention on the Rights of the Child: Concluding Observations of the Committee on the Rights of the Child: Chile*, CRC/C/15/Add.173, United Nations, Geneva, April 3, 2002, 13; available from <http://www.unhchr.ch/tbs/doc.nsf/Documentsfrset?OpenFrameSet>. See also U.S. Department of State, *Trafficking in Persons Report*.

Current Government Policies and Programs to Eliminate the Worst Forms of Child Labor

As part of its 2001 to 2010 National Policy on Childhood, the Government of Chile has adopted a national child labor action plan that focuses on awareness-raising, data collection, promotion of legislative reform in compliance with ILO conventions, development of targeted intervention programs, and ongoing monitoring and evaluation.⁹⁷⁸ In addition, the Government of Chile, along with ILO-IPEC and the other MERCOSUR governments, is implementing a 2002-2004 regional plan to combat child labor.⁹⁷⁹ Efforts include a study of social policies in regard to child labor.⁹⁸⁰

Selected Child Labor Measures Adopted by Governments		
Ratified Convention 138	2/1/1999	✓
Ratified Convention 182	4/17/2000	✓
ILO-IPEC Associated Member		✓
National Plan for Children		✓
National Child Labor Action Plan		✓
Sector Action Plan (Commercial Sexual Exploitation)		✓

The Government of Chile is also working with ILO-IPEC on projects to address the worst forms of child labor. With technical assistance from ILO-IPEC, the National Institute of Statistics released the results of a child labor survey in 2004.⁹⁸¹ From 2002 to 2004, the government carried out awareness-raising campaigns as part of a Canadian-funded ILO-IPEC project to combat the commercial sexual exploitation of children in Chile.⁹⁸² In September, USDOL funded a USD 5.5 million ILO-IPEC regional project to continue to combat the commercial sexual exploitation of children in Chile.⁹⁸³

Government agencies including SENAME, the Ministry of Labor, and the police have developed a list of the worst forms of child labor, and SENAME maintains a register of such cases. Chilean police forces and more recently, SENAME and the Ministry of Labor, contribute information to the register.⁹⁸⁴ SENAME, Chilean police, and social workers make efforts to identify and place child prostitutes in juvenile homes and to provide counseling and support services to them and their families. The government has established a center for abused children and also funds NGOs that provide assistance to victims of

⁹⁷⁸ ILO-IPEC, *Ficha Pais: Chile*, Lima, 2003; available from <http://www.oit.org.pe/spanish/260ameri/oitreg/activid/proyectos/ipecc/doc/fichas/fichachile.doc>. See also Ambassador of Chile to the United States Andrés Bianchi, *Written communication*, submitted in response to U.S. Department of Labor Federal Register Notice (August 5, 2002) "Request for Information on Efforts by Certain Countries to Eliminate the Worst Forms of Child Labor", Washington, DC, September 6, 2002.

⁹⁷⁹ ILO-IPEC, *Ficha Pais: Chile*.

⁹⁸⁰ Government of Chile, *Information Sought*, 7.

⁹⁸¹ See the first section of this country report for information on the results of this survey. See National Statistics Institute, *Resultados de la encuesta*.

⁹⁸² ILO-IPEC, *Ficha Pais: Chile*.

⁹⁸³ The project will also combat sexual exploitation of children and child domestic labor in Colombia, Paraguay, and Peru. See ILO-IPEC, *Prevention and elimination of child domestic labour (CDL) and of commercial sexual exploitation of children (CSEC) in Chile, Colombia, Paraguay and Peru*, Geneva, September 8, 2004, 6.

⁹⁸⁴ Chilean Ministry of Labor, *Report on Labor Rights in Chile*, 16, 20-24. The register is active in five regions of the country. See Government of Chile, *Information Sought*, 8.

commercial sexual exploitation.⁹⁸⁵ Efforts to combat the commercial sexual exploitation of children are coordinated under the country's action plan to combat the problem.⁹⁸⁶

The government operates various programs to encourage school attendance. It has established the "Chile in Solidarity" program, in which several government agencies participate to coordinate the provision of benefits for very poor families. The program includes assistance for families with children at risk of dropping out of school and working.⁹⁸⁷ A majority of the country's schools have implemented the Full School Day Reform, which was adopted in 1996 and extended the school day, provided a new curriculum framework, implemented incentives for teacher professionalism, and initiated a network to model and disseminate innovative teaching, learning, and managerial practices at the secondary level.⁹⁸⁸

The Ministry of Education continues to operate the Program of 900 Schools (P-900), which provides funding for teaching assistants and other forms of support for schools with high numbers of low income children.⁹⁸⁹ The ministry is also establishing centers for teachers in rural areas to exchange best practices, and providing technical assistance to schools in the metropolitan area of Santiago.⁹⁹⁰ In order to encourage students to stay in school for a full 12 years as now required under Chilean law, the government recently instituted the "Pro-retention Specialized Subsidy" for schools that serve low income populations. At the same time, the government has instituted a program of scholarships under the "Degree Program for Everyone," in order to encourage students with very limited resources to finish secondary school.⁹⁹¹ Finally, with a loan from the IDB, the government is implementing various projects involving indigenous communities in Chile, including an effort to support bilingual intercultural education for indigenous children.⁹⁹²

⁹⁸⁵ U.S. Department of State, *Country Reports- 2003: Chile*, Section 5 and 6f. See also U.S. Department of State, *Trafficking in Persons Report*. The International Organization for Migration provides support for these efforts. See Government of Chile, *Information Sought*, 8.

⁹⁸⁶ Government of Chile, *Informe Complementario Refundido*, Santiago, November 5, 2004.

⁹⁸⁷ Government of Chile, *no title*, 2003, Roberto Araos, electronic communication in response to request for information to USDOL official, May 27, 2003. See also UNICEF, *At a Glance: Chile*, [online] [cited October 21, 2004]; available from <http://www.unicef.org/infobycountry/chile.html>. See also UNICEF, *En Seminario Sobre Deserción: Factores Asociados al Abandono Escolar*, [previously online] June 14, 2002; available from http://www.unicef.cl/noticias/seminario_desercion.htm [hardcopy on file].

⁹⁸⁸ Initially, all schools were expected to implement the reform by 2005, but the government has indicated that this target may not be reached. Efforts are being concentrated in regions with few resources. See Government of Chile, *no title*, Araos, electronic communication. See also Francoise Delannoy, "Education Reforms in Chile, 1980-1998: A Lesson in Pragmatism," *The Education Reform and Management Publication Series* 1, no. 1 (June 2000), 26-27.

⁹⁸⁹ Ministry of Education, *Descripción de la estrategia prioritaria para el período 2004-2005: Campaña de lectura, escritura, y matemática*, [online] [cited October 21, 2004]; available from <http://www.mineduc.cl/basica/p900/N2003091216395329578.html>.

⁹⁹⁰ *Ibid.*

⁹⁹¹ Government of Chile, *Information Sought*, 15.

⁹⁹² IDB, *Integral Development Program for Indigenous Communities: Executive Summary*, Washington, DC, n.d., 2; available from <http://www.iadb.org/EXR/doc98/apr/ch1311e.pdf>. See also UN Committee on the Rights of the Child, *Summary Record of the 764th Meeting*, CRC/C/SR.764, Geneva, September 25, 2003, 7. See also Ministry of Education, *Descripción de la estrategia prioritaria para el período 2004-2005*.