

5 • Protecting the child in Chile: civil society and the state

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Since the re-establishment of democracy in Chile in 1990, democratic governments have taken important steps towards the protection of the child. The statistics reveal a significant improvement in the material conditions of the poor and, in particular, of children in Chile. From a legal perspective, officials approved and implemented several international conventions related to the rights of the child and incorporated these standards into domestic law. By promoting international standards, generating an institutional framework, pursuing specific policies and establishing a strategic plan of action for improving the rights of the child, the government provided excellent opportunities for civil society actors to influence and cooperate in this area.

This chapter addresses the role played by activists and non-governmental organizations (NGOs) that recognized opportunities for influencing the government and thereby created the conditions for social and policy change. The next section charts the advances secured over the period 1990–2006 in terms of the enshrining of children's rights in national legislation and policy and their progressive realization. This is followed by an analysis of context, focusing on social and economic policy and then on the political conjuncture and its implications for the identity and positioning of social actors. Three subsequent sections narrate developments in the child rights and policy field over three successive periods of post-transition government, from the perspective of the nature and dynamics of government–NGO relations. The conclusion weighs up the influences of various contextual factors, and the closing reflection points to the central importance of the boundaries and interfaces of NGOs and government in any attempt to explain changes secured in national policy in Chile in this period.

Milestones in the realization of children's rights, 1990–2006

In analysing this case, the first contextual factor that needs to be considered is the transition to democratic rule in Chile, which provided a new political environment for the advancement of the rights of the

child. Specifically, the elected centre-left coalition, the Concertación, implemented important policies after 1990, with the three consecutive governments of the coalition (Aylwin 1990–94, Frei 1994–2000 and Lagos 2000–06) making significant decisions concerning children's rights.

One of the first decisions made by the Aylwin government was to approve several international agreements soon after the return to democracy. The administration was strongly committed to the ratification of international treaties that had been postponed by the military dictatorship. By 1992, the Chilean government had ratified several international conventions.¹ Soon after the ratification of the Convention on the Rights of the Child, the government established a task force with representatives of four state agencies (the Servicio Nacional para los Menores de Edad – SENAME, the National Service for Minors – and the Ministries of Planning, Justice and Education); plus the Grupo de Apoyo Nacional (GAN, National Support Group for the Convention of the Rights of the Child). The task force was charged with preparing the first report submitted by Chile to the UN Committee on the Rights of the Child. In 1992, the Ministry of Planning developed a National Action Plan in Favour of Children following the commitment of the president at the World Summit for Children in 1990. The plan was the first effort by the Chilean government to promote coherent and coordinated policies towards the issue of children's rights.

Several other steps favouring children were taken by the authorities, including the approval of sixteen laws and decrees concerning the child.² Most of the measures taken by the first government were oriented towards the establishment of new laws, domestic legal harmonization with international norms, and the creation of an institutional framework in order to regulate a hitherto unregulated sector of society. With the aim of disseminating information on these important changes, the government joined efforts with UNICEF in order to promote a national campaign in favour of children's rights.

The Frei administration (1994–2000) continued the strategy of the previous government by approving legal initiatives, which included a law protecting children from all forms of discrimination, an adoption law that ended discrimination against children born out of wedlock, a law against domestic violence, the regulation of national and international kidnapping, and the regulation of the duties and rights of parents concerning financial benefits obtained by the couple. In 1995, the government established the National Committee Against Child Abuse and, in 1996, launched the National Advisory Committee for the Prevention and Eradication of Child Labour. In addition to these legal

and institutional initiatives, the government recognized two flaws in its strategy to date: the absence of a national children's rights policy discussed and approved by different sectors of society, and the lack of mechanisms to follow up the programme commitments.³

The third Concertación administration (2000–06) also took important steps towards promoting children's rights by ratifying several international treaties, and by adopting in April 2001 a National Policy in Favour of Children and Young People and an integrated action plan for the next decade. This programme was developed after several meetings were held in all regions and at different governmental levels. The meetings included representatives of regional, provincial and municipal governments, as well as civil society actors.

Overall, the three democratic governments after the military regime advanced important measures to protect the rights of the child and managed to incorporate international standards within domestic law by approving several conventions. In addition, the first and third governments pursued specific action plans concerning children, which helped to mobilize important sectors of society.

The policy context: social and economic backdrop

These strides towards the realization of children's rights took place against a backdrop of constant and targeted increase of social spending by the Concertación governments. Social spending patterns had indirect effects on the improvement of the living conditions of the general population, which, of course, also had a cascade effect on children.

The improvement of social conditions in Chile can be explained by considering both the rates of economic growth and the targeted social policies carried out since the country's return to democracy. In 1987, more than half of the population under fourteen years of age (57 per cent) lived beneath the poverty line. A national survey showed a relatively similar figure (52 per cent) for the same age group in 1990. In terms of welfare, the military regime tended to reduce the role and budget of the state as a provider of minimal conditions for children. Although in comparative terms the Chilean state devoted more resources than other countries in Latin America to welfare, it tended to favour the development of private mechanisms of child protection (church-based and other charity organizations). By 1990, the main problems were poverty, domestic violence, delinquency and poor state services for children, such as protection centres and detention centres (Zanzi Gardilicic 1994).

A favourable macroeconomic environment, with a GDP growth rate