

ALTERNATIVE REPORT TO THE CERD

TOWARDS THE REVIEW OF THE REPORT OF URUGUAY AT THE 110TH SESSION

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COUNCIL OF THE CHARRÚA NATION EASTERN REPUBLIC OF URUGUAY

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PRESENTATION

1. From the Council of the Charrúa Nation - CONACHA, of Uruguay, we present this alternative report on the monitoring of ICERD compliance by the Uruguayan State, focusing it on the recommendations that concern its indigenous population, formulated by this Committee in 2016 (CERD/C/URY/CO/21-23; CERD/C/URY/24-26), with the purpose of contributing constructively to the dialogue of the Committee with the State in the opportunity to be examined

2. Its structure is based on specific topics incorporated in the final observations of this Committee (CERD/C/URY/CO/21-23), distributed in the following chapters related to:

I) Statistical data; II) Policy to combat racial discrimination; III) Indigenous Peoples; IV) Racial stereotypes; V) Progress; VI) Setbacks.

3. The Council of the Charrúa Nation (CONACHA) emerged in 2005 in order to unify the Charrúa communities that lived in the country and to be able to generate a single voice before the State and society. It is currently made up of six indigenous communities and clans¹ and operates under the ancestral values of horizontality and consensus, working to claim the rights of our Charrúa People.

4. CONACHA, for eighteen years, has been carrying out systematic work to strengthen the Charrúa identity, make visible the indigenous presence in Uruguay and recover our collective memory, in order to get the State to recognize the pre-existence and current existence of indigenous peoples and to adapt its legal-regulatory framework to guarantee indigenous rights in our national territory.

I. STATISTICAL DATA

5. According to the Household Surveys carried out by the National Institute of Statistics and Census (INE) of Uruguay, the population that self-identified with indigenous ancestry went from 0.4% in 1996 to 3.8% in 2006. On the other hand, according to data from the 2011 National Census, 5% of the Uruguayan population (159,324 people) affirms having indigenous ancestry and 2.4% self-identify with indigenous ancestry as their main ancestry.

6. We regret that more than twelve years after the 2011 Census, statistical information on the composition of the population has not yet been published through economic and social indicators, according to age, sex, urban and rural population, disaggregated by ethnicity and race.

7. We are concerned that in its Report (CERD/C/URY/24-26), Uruguay does not provide any type of information on the situation of the indigenous population, nor does it provide human

¹ CONACHA currently brings together six indigenous communities and clans in our country, which are: Charrúa Basquadé Inchalá Community, Charrúa Jaguar Berá Community, N'deré Opatimar Community, Charrúa Danan Bedetá Community, Choñik Clan, Charrúa Rua La-at Clan.

rights and socioeconomic indicators broken down by race, color, ancestry, national or ethnic origin, broken down by gender, age, regions, urban and rural areas, as requested by the recommendation made by CERD in its final observations (CERD/C/URY/CO/21-23, of January 17, 2017, paragraph 9)

8. Due to the above, Uruguay has not complied with the recommendation made in this regard by this Committee for the Elimination of Racial Discrimination in 2011 (CERD/C/URY/CO/16-20, of April 8, 2011, para. 8); the Committee on Economic, Social and Cultural Rights in 2010 (E/C.12/URY/CO/3-4, of December 1, 2010, para. 6); the Committee against Discrimination against Women in 2008 (CEDAW/C/URY/CO/, November 7, 2008, para. 45); nor has it complied with the CERD recommendation in its previous review (CERD/C/URY/CO/21-23, of January 17, 2017, para. 9)

9. Our country had population formation processes similar to the rest of the American continent. Indigenous heritage and structural inequalities resulting from centuries of colonialism also characterize the country. ECLAC uses the figure of 2.4% to identify the indigenous population of Uruguay because it reflects the criteria of ethnic awareness and self-identification.

10. In its report "The Indigenous Peoples of Latin America- Abya Yala of the year 2020 prepared by ECLAC, jointly with FILAC and the 2030 Agenda for Sustainable Development"² it is shown how in relation to income, the indigenous population of the country present in the lowest quintile, is greater than the non-indigenous. There is also inequality with respect to workers with a pension system. The percentage of indigenous people without a pension system is 31.8%, while for non-indigenous people it is 24.2%. Inequality continues to be repeated in the percentage of indigenous people between the ages of 20 and 29 who have completed secondary education.

11. These gaps evidenced by ECLAC are based on the results of the 2011 Census. In its thematic report on Unsatisfied Basic Needs (UBN) the INE maintains that 51.3% and 36.2% of the Afro-descendant and indigenous population, respectively, reside in households that have at least one UBN (35.6% yellow and 31.9% white). "If ethnic-racial minorities are compared to the white population, the situation is unfavorable for all of them"³. To this must be added that the departments with the largest indigenous population in proportion to their demography are those in the north (Tacuarembó with 8% and Salto with 6%) and are also those with the highest UBN percentages (Salto with 49.4% and Tacuarembó with 45.2%).

12. The biological anthropologist Dr. Mónica Sans (Department of Biological Anthropology, Faculty of the University of the Republic) in her work "Genetic ancestry and social stratification in Montevideo", identifies a clear distribution between the indigenous genetic contribution and the socio-economic situation referring to health care⁴. The researcher highlights the greater

² Economic Commission for Latin America and the Caribbean (ECLAC) and Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean (FILAC), (2020). The indigenous peoples of Latin America - Abya Yala and the 2030 Agenda for Sustainable Development: tensions and challenges from a territorial perspective. Santiago.

³ <https://www.cepal.org/es/publicaciones/45664-pueblos-indigenas-america-latina-abya-yala-la-agenda-2030-desarrollo-sostenible>

⁴ <https://revistas.unlp.edu.ar/raab/article/view/9926/10001>

weight of indigenous ancestry in ASSE, a fact that would be related to socioeconomic level, a difference that is observed in all regions, although it is lower in the north and it is not significant⁵

“In Montevideo, as well as in the south, the indigenous contribution of those who receive care at ASSE is greater in relation to those who receive care at IAMC. The indigenous biparental contribution was calculated at 15.4% in the former and 9.5% in the latter, and the maternal contribution at 41.2% and 18.5%, respectively. This difference is made at the expense of the European contribution (51% versus 69.1% for median biparental inheritance, and 50.3% versus 74.1% for maternal inheritance, respectively)”.

13. RECOMMENDATION: that the State collect and publish information on statistical data based on the 2023 Census, on the demographic composition of the population, as well as human rights and socioeconomic indicators broken down by race, color, ancestry, ethnic origin, later breaking them down by gender, age, regions, urban and rural areas, including the most remote ones.

II. POLICY TO COMBAT RACIAL DISCRIMINATION

14. We welcome the preparation of the National Policy Strategy for Afro-descendants 2030 (ENPA 2030) and the National Plan for Racial Equity and Afro-descendants, but we are concerned that Uruguay does not fully comply with the recommendation since these plans only apply to the Afro-descendant population and not at a comprehensive level, contemplating all population groups that suffer discrimination and racism in Uruguay (CERD/C/URY/CO/21- 23, of January 17, 2017, paragraph 13).

15. In its report to the Universal Periodic Review before the United Nations Human Rights Council, in 2009, Uruguay committed to developing a National Plan to Fight All Forms of Discrimination. Said National Plan against Racism and Discrimination⁶, although it began to be outlined, was deactivated, focusing the efforts in policies towards the Afro-descendant population, and no longer towards the group of discriminated groups.

16. RECOMMENDATION: That the State resume the preparation of the National Plan against Racism and Discrimination and that it includes the indigenous population, Afro-descendant and other minority groups that continue to face discrimination and social exclusion, ensuring these groups full and effective participation in the process of preparing and implementing said plan.

⁵ <https://revistas.unlp.edu.ar/raab/article/view/9926/10001>

⁶ https://adsdatabase.ohchr.org/IssueLibrary/URUGUAY_Plan%20Nacional%20Contra%20el%20Racismo%20y%20la%20Discriminaci%C3%B3n.pdf

III. INDIGENOUS PEOPLES

17. The Uruguayan state created in 1830 through its first constitution was forged on the campaigns of attempted extermination of the original populations. The goal was not achieved because there were three hundred survivors of the massacres, including women, elderly children, and some young warriors, who were taken prisoner or distributed on haciendas and in the homes of wealthy families in Montevideo as slave servants.

18. Subsequently, during the 18th, 19th and 20th centuries, the Indigenous Peoples suffered persecution, marginalization, exclusion, racism and discrimination by the state itself. The result of all this, together with the official discourse of "Uruguay country without Indians" reinforced the invisibility and silencing of Indigenous Peoples.

19. Today, the indigenous organizations of Uruguay are in a process of recovering our culture and strengthening our identity, collapsing together the symbolic representation of extinction.

20. Although Uruguay has voted in favor of the United Nations Declaration on the Rights of Indigenous Peoples and has signed and ratified the International Human Rights Treaties, the State has not adopted, in fact or in law, laws, administrative measures, or of any other nature that ensure compliance with and enforceability of the rights of the indigenous population.

21. This population remains invisible to the present through the persistence of stereotypes and prejudices, with a prevailing denial of its existence. Proof of this is the lack of data in this regard in its official country report (CERD/C/URY/24-26).

22. Of the 159,324 people who self-identified with indigenous ancestry in the 2011 Census, 87,162 are women. However, the State does not include a perspective of these women in its plans, programs and spaces for gender equality, for example, in the National Institute for Women.

23. In the second cycle of the UPR of 2014, four countries recommended to Uruguay the ratification of ILO Convention No. 169 (A/HRC/26/7/Add.1, of April 9, 2014) and in the third cycle, in 2019, eight countries made this same recommendation. At the same time, in 2018, the Special Rapporteur on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustained environment, in his country report, after his visit, expresses that Uruguay must comply with its commitment to ratify ILO Convention 169.

24. Regarding the recommendation of this Committee (CERD/C/URY/CO/21-23, of January 17, 2017, para. 24), to reconsider the ratification of Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries, carried out by this Committee in 2016, unfortunately we have to report that the Uruguayan State has not made any progress in this regard.

25. In its report, the State argues that it does not ratify it since the conditions of applicability of said agreement are not met (CERD/C/URY/24-26, para. 124, August 5, 2020). It warns us that

the State does not consider the academic investigations⁷ that have been carried out regarding the current existence of Indigenous Peoples in Uruguay.

26. In Art. 1 section 1.b, the agreement establishes as an application criterion the fact of descending from pre-existing peoples to the National State and colonization, something that can be corroborated with the genetic studies of the biological anthropologist Dr. Mónica Sans and Dr. Gonzalo Figueiro⁸ who have discovered that more than 36% of the population of Montevideo has indigenous ancestry, which in some northern regions such as Tacuarembó and Bella Unión the figure exceeds 60%, in addition to the fact that there are lineages with continuity in the territory that go back more than 9000 years (that is, to the time of human settlement in the region).

27. We are concerned that the State does not also take into account the criteria of ethnic awareness or self-identification which, according to said agreement, should be taken as the main criterion when determining the populations to which it is applied (Art.1, section 2).

28. RECOMMENDATION: that the State reconsider and ratify ILO Convention No. 169.

IV. RACIAL STEROTYPES

29. Given the lack of information that allows the recognition of indigenous peoples and the persistence of stereotypes and prejudices against them, we are concerned that people of indigenous origin continue to be the object of acts of racial discrimination (arts. 2, 5 and 7).

[7https://www.academia.edu/4170763/Mujeres_Charr%C3%BAas_Rearmando_el_Gran_Quillap%C3%AD_de_la_Memoria_en_Uruguay](https://www.academia.edu/4170763/Mujeres_Charr%C3%BAas_Rearmando_el_Gran_Quillap%C3%AD_de_la_Memoria_en_Uruguay)

⁸Research at the ethnographic level of the Indigenous Peoples in Uruguay has been carried out by academics and researchers, such as the works of Michelena (2010), Repetto (2015), Olivera (2016), Gómez Corte (2017), Rodríguez (2017), López Mazz (2018), which can be found at the following links:

https://www.academia.edu/4170763/Mujeres_Charr%C3%BAas_Rearmando_el_Gran_Quillap%C3%AD_de_la_Memoria_en_Uruguay

https://dspace.unila.edu.br/bitstream/handle/123456789/3644/TCC_Ana%20Francesca%20Repetto%20Iribarne.pdf?sequence=1&isAllowed=y

https://pmb.parlamento.gub.uy/pmb/opac_css/index.php?lvl=notice_display&id=88554

https://www.gub.uy/institucion-nacional-derechos-humanos-uruguay/sites/institucion-nacional-derechos-humanos-uruguay/files/documentos/publicaciones/13_LOS%20INDIGENAS%20EN%20URUGUAY%20Y%20SU%20LUCHA%20POR%20LA%20MEMORIA.pdf

https://www.researchgate.net/profile/Mariela-Rodriguez6/publication/319943870_Reemergencia_indigena_en_los_paises_del_Plata_Los_casos_de_Uruguay_y_de_Argentina/links/59c333950f7e9b21a82ab05f/Reemergencia-indigena-en-los-paises-del-Plata-The-cases-of-Uruguay-and-Argentina.pdf?origin=publication_detail

<https://www.redalyc.org/journal/537/53754772010/html/>

30. This situation has been aggravated by the validity of the LUC (Law of Urgent Consideration of 2022), which introduces the concept of criminal appearance, a description that refers to racialized groups. This legislation makes it possible, given the presumption of criminal appearance, to consider people suspicious, to take them into custody and subject them to interrogation in the situation of not having an identity document. (LUC articles 50 and 470).

31. In accordance with the recommendations contained in the Final Observations of 2016 of this Committee (CERD/C/URY/CO/21-23, of January 17, 2017, para. 23 b) and para. 36), referring to the lack of information that allows the recognition of indigenous peoples and the need to combat the persistence of stereotypes and prejudices against them, we highlight the existence since 2009 of Law No. 18,589, whose articles are:

Article 1.- Declare April 11 of each year "Day of the Charrúa Nation and Indigenous Identity".
Article 2. (Commemorative public actions). - On that date, the Executive Power and the National Administration of Public Education will order the execution or coordination of public actions that promote information and awareness of citizens about the indigenous contribution to national identity, the historical events related to the Charrúa nation and what happened in Salsipuedes in 1831.

32. Taking into account the universal and multiplier nature of educational influence, it would be beneficial to regulate this law, with its corresponding budget so that it becomes effective and not a mere declaration as it is up to now since it is not complied with by the State.

33. RECOMMENDATION: That the State regulate Law No. 18.589 on the *Day of the Charrúa Nation and Indigenous Identity*, and that it grant it a budget according to its compliance.

V. PROGRESS

34. One of the most important advances in terms of indigenous recognition is the official declaration of the *Site of Salsipuedes* (place of the Genocidal Massacre of 1831) as a Site of Memory⁹, under Law No. 19.641¹⁰ of 2018, which constitutes an important step in the struggle of indigenous peoples in Uruguay for truth, justice, and reparation. Said declaration recognizes that Salsipuedes constituted a very serious violation of the human rights of the Charrúa people by the Uruguayan state

35. We also consider progress in the bill initiative¹¹ presented by five deputies before the Labor Legislation Commission of the Parliament of the Republic, requesting the Executive Branch to send to Parliament the Bill for the ratification of ILO Convention No. 169 (Parliament Folder No. 2437 of 2022).

⁹ <https://www.gub.uy/institucion-nacional-derechos-humanos-uruguay/sites/institucion-nacional-derechos-humanos-uruguay/files/documentos/publicaciones/Res.%20N%C2%BA36%20Salsipuedes.pdf>

¹⁰ Ref. <http://www.impo.com.uy/bases/leyes/19641-2018>

¹¹ Ref. Asunto: 154528 03-05-2022 CRR 2437/2022 CONVENIO 169 OIT. PUEBLOS INDÍGENAS Y TRIBALES. (<https://parlamento.gub.uy/documentosyleyes/ficha-asunto/154528>)

36. In order to promote this initiative, the Coordination of Organizations, Clans and Indigenous Communities of Uruguay is created, in which the Council of the Charrúa Nation is working.

37. RECOMMENDATION: That the State, through the Ministry of Labor and Security, support the communication document presented by Deputy Felipe Carballo and others, to request the Executive Power to send the Bill for the ratification of ILO Convention No. 169

VI. SETBACKS

38. In June 2014, the Ministry of Foreign Affairs appointed the prominent Charrúa reference Mónica Michelena as Honorary Advisor on Indigenous Affairs, attached to the Ethnic-Racial Unit. We regret that the position was ceased and eliminated in this government administration.

39. The Honorary Commission Against Racism, Xenophobia and All Other Forms of Discrimination (CHRXD), created by Law No. 17,817 of 2004, is competent to receive complaints, prepare reports and public policy proposals that favor the promotion of the rights of the population of indigenous descent. Although this commission originally had an indigenous representative, it currently has none.

40. RECOMMENDATION: That the State reinstate the position of indigenous adviser in the Ministry of Foreign Affairs, that it create other similar positions in the Ministry of Social Development and in the Ministry of Education and Culture, and that the Honorary Commission Against Racism, Xenophobia and All Other Forms of Discrimination have an indigenous representative in its composition.