

Alternative Report for the Committee on the Elimination of Discrimination against Women¹

I. Compliance with human rights treaties by the Uruguayan Government (2009-2016)

In the period under review, 2009-2016, the Uruguayan Government has been complying with the presentation of country reports before the different system Monitoring Committees: Committee on Economic, Social and Cultural Rights (2010); Committee on the Elimination of Racial Discrimination (2011); Committee against Enforced Disappearances (2012); Human Rights Committee (2013); Committee on the Protection of the Rights of Persons with Disabilities (2012); Committee for the Protection of the Rights of All Migrant Workers and Members of their Families (2013); Committee against Torture (2014); and Committee on the Rights of the Child (2015).

Additionally, it has submitted two Country Reports in the frame of the Universal Periodic Review (UPR) two progress reports to the Human Rights Council between the reviews of the first and second cycle of the UPR in 2012 and a progress report to the Committee on the Elimination of Discrimination against Women in 2011.

However, the presentation of reports never kept pace with the monitoring of compliance with the recommendations of the treaty bodies, as there is no government organization that monitors and supervises the compliance with the pending recommendations. The civil society is the only entity that tries to carry out such task, and is hindered by the lack of human, material and economic resources. Thus, we have an “inflation of outstanding debts” with the commitments undertaken in the system.

On October 25, 2011, the then President of the Republic, Mr. José Mujica Cordano, by Presidential Decree (Matter 522/2011), created the Inter-Institutional Committee to prepare the reports for the Universal Periodic Review mechanism and the treaty bodies, and to coordinate the actions of the relevant national authorities to give effect to the recommendations of the Universal Period Review Mechanism and the treaty bodies created by binding instruments of which Uruguay is a party. This committee is meant to operate under the Ministry of Foreign Affairs, and shall also be formed by the Ministry of Education and Culture and the Ministry of Social Development. The decree ordered the Committee to draft its operational rules, but it was never set up.

Taking into account the institutional structure of the Uruguayan Government that includes autonomous local and regional governments, as of the date of this report² only the departments of Montevideo and Canelones have Gender Equality Plans. This Inter Institutional Commission should incorporate such decentralized institutional structures of the Uruguayan Government to monitor, also in these fields, the compliance with their duties.

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A Report³ prepared in 2013 by the Office of the United Nations High Commissioner for Human Rights highlights the outstanding debts of the Uruguayan Government of rights related to: (i) equality and non-discrimination; (ii) life, liberty and security of the person; (iii) the administration of justice, including the fight against impunity, and Rule of law; (iv) intimacy, marriage and family life; (v) freedom of speech and right to participate in political and public life; (vi) work and to equitable and satisfactory working conditions; (vii) social security and an adequate standard of living; (viii) health; (ix) education; (x) persons with disabilities; (xi) minorities and indigenous peoples; (xii) migrants, refugees and asylum seekers; (xiii) development and environmental issues. At present, such debts remain unpaid.

Recommendation: That the Uruguayan State should enact a law legitimizing the creation of an Interministerial Commission to monitor the recommendations of treaty bodies, as well as their implementation. Such Committee shall also be formed by representatives of Local Governments and Townships, as well as the Organized Civil Society to guarantee the compliance with the duties in relation with the CEDAW in all such governmental instances.

II. Compliance with the Convention of the Elimination of Discrimination Against Women

A. Legislative and institutional framework, and access to justice

1. Despite the Recommendations given by the Committee in 2008, Uruguay has no national definition of discrimination in accordance with Art. 1 of the Convention.

Recommendation: That the Government should enact a law to incorporate the definition of discrimination against women in the terms of Art. 1 of the Convention.

Law 19.293 passed in 2014, amended the Code of Criminal Procedure, which does not include some of the recommendations duly made by the Civil Society Organizations (CSO). This Code still has shortcomings in the protection procedures, including: the victim's consent is not required to perform technical examinations on her/his body; victims are not exempted from taking part in the reconstruction of the crime scene, while the investigated party is relieved; the sexual history of the victim is not inadmissible, as demanded by the international standards. In several articles, mention is made to witnesses and not to the victim, and some protection measures are not compulsory, and their enforcement is left to the judges criteria.

³ A/HRC/WG.6/18/URY/2. This report was prepared in the frame of the Uruguayan revision at the 18th Session of the Workgroup of the Universal Periodic Review of Human Rights Council, January-February 2014. The Office of the High Commissioner for Human Rights was in charge of the thematic categorization, based on the Observations issued by the different Treaty Bodies that have examined Uruguay in the past years, p. 7.

In the light of this prejudicial and stereotyped treatment of women who are victims of violence, this Committee has addressed several recommendations to the Uruguayan State in 2002 and 2008 (p. 19,21 and 23), and so has the Committee of Experts in Violence of the Follow-Up Mechanism of Belém do Pará Convention (CEVI/MESECVI) in 2008 and 2012 respectively.

Recommendation: That the State should adjust Law 19.293 to the standards of CEDAW and the other instruments of the International Human Rights Law (IHRL).

2. In terms of violence against women, it should be noted that the Uruguayan regulatory framework does not cover all forms of violence. There are scattered rules that tackle different forms of violence against women, including the law against sexual exploitation of girls, boys and adolescents (Law 17.815), domestic violence (Law 17.514), human trafficking (art. 78 and 79 of Law 18.250), sexual harassment in the workplace (Law 18.561). As an example, there is no regulatory framework on media violence, obstetric violence, cyber violence, street harassment, inter alia. Under the current legal framework, women who are victims of violence are forced to go through various courts (Specialized Family Courts, Family Courts, Criminal Courts). Women who live in Montevideo and have to look for public defense will have different public defenders for each case in each different court.

Recommendation: That the State should adopt a comprehensive law for the protection of the human rights of women in accordance with the standards set out by CEDAW and IHRL.

The SCOs stay alert about the amendments to the Criminal Code, as the draft intended to be passed in 2014 kept several prejudices and stereotypes of the 1934 Code, in contradiction with the Human Rights international standards, without including the gender perspective; showing a regression in this area.

In December, 2014 the approval of this draft was frustrated by the intervention of governmental institutions, the CSOs and the academe, who denounced the absence of legislation that guarantees the rights approved in the past 15 years and of the IHRL.

Recommendation: That the State should approve a Criminal Code that protects legal assets including freedom and personal integrity of women in accordance with the international standards, the General Recommendations 19 and 33 of this Committee, the Recommendations made in this area in 2002 and 2008, through a transparent and participative process.

The Judiciary approved the creation of a specialized area in gender and human rights in its 2015-2024 planning. However, the Executive Power did not approve the budget for the 2015-2019 five-year period requested for this purpose.

Recommendation: The State should provide in the upcoming State of Accounts of the year 2016 the funds required to strengthen the Judicial Power in the areas specialized in guaranteeing women human rights.

Please note that the information issued by the Judicial Power in the area of gender violence is exclusively focused on the violence brought to the Courts Specialized in Domestic Violence, only existing only in Montevideo. Such data do not take into account other forms of violence apart from domestic violence. In criminal matters, the only information available is the number of indicted persons with no classification by gender, ethnic group and age, making difficult to perceive the real dimension and further treatment and/or discrimination (through public policies) of the situation of women whether as accused or victims.

Recommendation: That the State should generate data and statistics on the number of women who have access to the different types of courts, broken down by sex-gender, ethnic group, age, economic status, etc., as recommended by this Committee in 2008 (p 51).

In 2011, a group of 28 women formerly imprisoned during the last state terrorism in Uruguay, (1973-1985), reported military men of different ranks and participation for torture and sexual violence during the time they were deprived of liberty. At present⁴ only one military man reported was indicted. This crime against humanity is under investigation by a criminal court of first instance that has excessive caseload and has to rule on all matters under its jurisdiction. The time the Government takes to decide are inappropriate. Most of these women who filed complaints remained with physical and psychological consequences after they left prison. Three of them died waiting for justice. The Government is not complying with its duty to act with due diligence to these women who were victims of violence committed by Government agents, disregarding their duties pointed out by the CEDAW and General Recommendation 19 of this Committee.

Recommendation: That the State should adopt urgent measures to investigate and punish those responsible, and to compensate the women who were victims of torture and sexual violence during the state terrorism. Likewise, it must implement ad-hoc resolution authorities to hear these cases involving serious violation to women human rights, to avoid the perpetuation of impunity.

National mechanism for the advancement of women

Although the task performed by INMUJERES has favored the setting up of Equality Committees in several entities, there are certain Ministries (Ministry of Economy and Finance and Ministry of Transportation and Public Works), Decentralized Services, Autonomous Entities and Local Governments where gender institutionalization is inexistent. These Equality Committees are not included within the organizational chart of such entities; in general, they have a temporary nature, and lack their own budget, authority or powers to

⁴As of the date of this report, April 26, 2015.

mainstream gender perspective. Its effectiveness depends exclusively on the political support and training of the leaders.

Recommendation: The Government should strengthen the autonomy of the National Women's Institute and the Equality Committees set up in the public entities by conferring them legitimacy, authority and budget. Also, it should encourage coordination between the Planning and Budget Office and the National Women's Institute to ensure the mainstreaming of gender perspective in all public policies.

Access to Justice

Despite the efforts made, the passage of women victims of domestic violence through the judicial sector is usually painful and frustrating. Surviving victims have to face an unfriendly institutionalization, restricted to unknown formalities, that turn intimidating and exclusive.

Generally, in the judicial practice prevails a narrow and mechanical use of the national law that does not include regional and international instruments ratified by the Government. In the case of domestic violence, the acting judges merely apply the prohibition for the aggressor to approach the victim. As an example, according to the statistics released by the Judicial Power for the year 2012 (representing more than 70 % of all the measures ordered), the measures intended to establish a maintenance obligation to the victim, or to temporary determine the custody or alimony of the children are almost inexistent.

In the opinion of criminal courts, the violent facts reported by victims are of a minor nature and category, and therefore many cases do not get to be appropriately investigated. This statement may be confirmed by analyzing some of the few statistic data available, e.g. , there are around 310 rape cases reported per year, including attempted and consummated rapes⁵, while only 7 were indicted for the crime of rape and 35 for indecent assault (Annex 1).

The training of magistrates on matters related to gender and women rights is still weak and jerky. The few judges that seek training have to do it voluntarily and pay the costs of courses and seminars. This represents the persistence of stereotypes and prejudices in the judicial practice in respect of the victims of violence, which is also evidenced in the decisions of judges, where the victims behavior is questioned and the responsibility is transferred to them, just as it happened with the decision of the Second Court of Appeal in Criminal Matters in the case of sexual exploitation vs. an hotelier (Annex 2). In relation with the urgent training of magistrates, this Committee, in 2008 (p. 19,21 and 23), the Committee on Economic, Social and Cultural Rights (2011) and the CEVI/MESECVI (2008 and 2012) have issued several recommendations to the Uruguayan Government for it to gender-sensitively train its operators.

⁵ The terms employed are the same as those used by the Ministry of Internal Affairs.

Recommendation: That the State should adopt urgent measures to modify judicial practices affecting women who are victims of violence by providing gender-sensitive training to its magistrates, particularly those who work in specialized courts. Also, it should add this training to the credits required for promotion in the judicial career.

Cultural practices and stereotypes

5. In Uruguay, lesbian, gay, bisexual, trans and intersex (LGTBI) people are still discriminated because of their sexual orientation, gender identity or expression and physical diversity, violating their human rights protected under the international and Inter American human rights instruments. Transpersons are the ones who face a systematic discrimination in the access to justice and health services; in the access to education, work and political participation, among others.

On June 10, 2014, the Committee Against Torture (CAT) emphatically condemned Uruguay for the murders of transsexual women occurred in the country, stating that on one of the six murders of this type recorded in the past two years has been solved. In this regard, the CAT recommended the Uruguayan State to take urgent measures to put an end to the targeted killing of people by reason of their sexual orientation and gender identity, urging it to protect them from homophobic and transphobic violence, and prevent torture and degrading, inhuman and cruel treatment; to adopt the legislative measures required against hate crimes and establish efficient systems to report this type of violence in order to investigate, prosecute and punish the perpetrators of such crimes. Lastly, the CAT urged it to provide specific training to police agents and other law enforcement officers on matters related to violence against persons by reason of their sexual orientation and gender identity. (p. 21).

Recommendation: That the State should comply with its due diligence duty by investigating and punishing those responsible for committing such murders, and compensating the victims' families; that it should prevent homophobic and transphobic violence through information and awareness campaigns addressed to the whole society, with an emphasis on the training of police officers, judges and public prosecutors on the rights of LGBTI people. Additionally, it should develop public policies in line with the HIRL standards.

In 2011, the Committee on the Elimination of Racial Discrimination recommended the Uruguayan State to adopt measures to eliminate stereotypes about Afro-descendants and indigenous people through awareness campaigns; to promote these people's cultural identity; to include them in school curricula, highlighting their contribution to the Uruguayan culture and identity; and to allocate funds to the preservation and promotion of their cultural identity (p.19).

Recommendation: That the State should adopt measures to eliminate stereotypes and prejudices about Afro-Uruguayan women through information and awareness campaigns; that it should include in the education system their contribution to the Uruguayan identity; that it should promote and guarantee the exercise of their rights.

Persistence of deep-seated stereotypes and prejudices in the Uruguayan society is early manifested in the different shapes of violent relationships against adolescent women. Yet, the education system has not prioritized the urgency of policies to prevent this type of violence. Likewise, it has not included as an educational policy the deconstruction of chauvinistic hegemonic masculinities and submissive femininities.

Recommendation: That the Government should dedicate stronger efforts to prevent the reproduction of violent practices and attitudes against women in the educational and health systems through a budgetary strategic planning of programs and actions, as recommended by this Committee in 2008 (p. 21).

Violence against women

7. The National Survey (2013) on the Prevalence of Generations and Gender-Based Violence, in relation with intimate partner or former intimate partner violence, indicates that 7 in 10 women have suffered violence at some stage of their lives. However, probably many of these women did not have the assistance of any type of service.

Domestic violence (DV) has been the target to which the Uruguayan State has dedicated more efforts and resources, as since 2007 it has been the most reported crime, after robbery. However, this increase in reports and the implementation of new government programs did not reduce the deaths of women in DV situation, not has it improved the living condition of surviving women. All specialized courts are located in Montevideo and one in the city of Pando, department of Canelones.

Many of the women that seek protection in the judicial system are killed. There are no data available to monitor the degree of compliance with precautionary measures granted to women victims of domestic violence.

Recommendation: That the Government should increase the amount of care services for women victims of domestic violence. Also, that it should implement advice and follow-up services for surviving victims that provide for precautionary measures to avoid foreseeable violence and death incidents.

Law 17.514, 2002, the law against domestic violence, stipulates that the acting judge may order the “*compulsory attendance of the aggressor to rehab programs*”; there are no public rehab services implemented by the State.

Recommendation: That the State should implement rehab programs for male perpetrators, and periodically review the outcomes of these programs.

Although the State gives housing assistance to women victims of DV by guaranteeing a portion of the amount of the lease; such a guarantee is not available for the poorest women who are under greater life-threatening situation. Requirements to access to this support are beyond the reach of these women who are isolated from the social networks, unemployed and without economic autonomy.

Recommendation: That the State should facilitate access to housing and shelter to women victims of violence by implementing more accessible routes.

Finally, it is due mentioning that several public entities that are members of the National Advisory Committee for the Fight Against DV have protocols, such as: the Law Enforcement Protocol; Protocol for high school public education; Protocol of Inmujeres-MIDES; the Guide of Procedures in the first level of healthcare of the Ministry of Public Health. Each of them was drafted by each sector without the necessary and appropriate intersectorial articulation to stand up to this scourge.

Recommendation: That the State should articulate a protocol integrating all entities involved and their current action guides to stand up to domestic violence in order to unify resources and optimize intervention outcomes.

Although Law 18.561 covering sexual harassment at work and teacher-student relations is effective since 2009, most workers and students are unaware of it. In general, institutions fail to comply with their prevention, intervention, punishment and compensation duties. No mechanism has been implemented to measure the economic impact, absenteeism or abandonment of work for this reason, what contributes to the continuous concealment of reality. Enforcement of this rule in teacher-student relations is poorly developed in the country. There are no permanent campaigns disseminating the rights conferred by this law to schoolgirls, and no academic research has been made. Several sexual harassment cases in university classrooms have been recounted, which were not reported for lack of information and institutional protocols.

Recommendation: That the State should instruct public and private entities to provide periodic information on the degree of compliance with their duties, including the number of sexual harassment reports. The State should implement training and dissemination campaigns on the right to work and study in sexual harassment and discrimination-free environments. Likewise, it should promote investigations on the status of sexual harassment in both fields, shedding light on its impact and consequences for female workers and students.

The Criminal Code in force since 1934 is patriarchal, male-centered, and lacks gender perspective. Additionally, it is not in line with the international instruments by which the Government is bound. The

amendments made are contrary to the reconciliation with the international standards of women's human rights. The Executive Power has repeated this bad practice by sending to the Legislative Power, in March of the current year, a bill on "femicide" as a special aggravation of the crime of homicide.

Recommendation: That the State should harmonize its criminal legislation to CEDAW and the international women's rights standards, as recommended by this Committee in 2008 (p19).

Trafficking for sexual exploitation

10. The increase of job offers in Uruguay stimulated the arrival of migrant women of the region. Although the country has a good legal framework in line with migrants' human rights standards, it is still far from adapting its public policies to this new reality. The lack of accurate data on the issues detected by organizations that work with this population is not efficiently tackled. Migrant women have difficulty to find work, to obtain the documentation required for such purpose, to know their rights as users of the health system. Many of them are sexually exploited and also victims of trafficking. This is accompanied by overcrowded living conditions and the lack of follow-up of the cases reported to the national authorities confirming that women who have children are separated from them after birth as they are being trafficked.

Recommendation: That the State should create a record with accurate data of this population intended to comply with Law 18.250, the Migrations Law. Also, it should implement a comprehensive policy that includes the right to a decent work, to decent housing, to the three levels of healthcare, and to live free from violence, especially from sexual exploitation and trafficking of women and their babies.

The State does not have the mechanisms to monitor the impact of assistance services for victims of trafficking and sexual exploitation. The current Criminal Code amendment bill discussed in the parliament eliminates the crime of procuring, a long-sought objective of criminal networks operating in our country. There is also the lack of a criminal legislation on trafficking for labor exploitation, what leaves defenseless the women exploited with this purpose.

Recommendation: That the State should implement mechanisms to measure the results of the services it provides to sexual exploitation victims. Uruguay should harmonize its internal regulations on trafficking for labor exploitation with the international instruments it has ratified.

Participation in public and political life

The Uruguayan parliament enacted Law 18.476, 2009, and Law 18.487 (explanatory of Law 18.476), in March and May 2009, respectively, related to the equitable participation of men and women in the integration of national and departmental elective bodies and management of political parties.

Although in Uruguay there are actually applicable regulations, we find that such regulations are limited and inconsistent with the instructions of the CEDAW under Articles 1 and 4 of General Recommendations 5, 8, 23 and 25 of CEDAW Committee. Law 18.476 declares to be of general interest the equitable participation of both sexes in the integration of national and departmental elective bodies and management of political parties, and sets out in its Art. 5 that this law shall come into force in the internal elections to be held in 2009 and in the national and departmental elections of the years 2014 and 2015, respectively. In fact, it makes a difference between the internal (party) elections and parliamentary and departmental elections, as in case of the internal elections it shall be applicable with no maturity date, and for parliamentary and departmental elections it shall be applicable in 2014 and 2015, exclusively.

It is clear that the uniqueness of Law 18.476 did not take into account the provisions of the CEDAW under articles 1 and 4, and of CEDAW Committee in GR 25, particularly under paragraph 20, as it did not take into account its functional result, failed to contemplate the country's special electoral system, and therefore the outcome sought by the rule were not obtained, and the time to evaluate the changes in the political system in relation with the incorporation of women was insufficient.

Recommendation: That the State should adopt a law that establishes the equality in the participation of men and women in public offices, taking into account the peculiarities of its electoral system, and provide that women may only be replaced by other women.

The State has not measures seeking the substantive equality of men and women in the highest judicial offices. In the history of the Supreme Court of Justice (SCJ) only 4 women⁶ have reached this authority. The same happens with the Contentious-Administrative Court, where there is only one female minister in a five-member court.

For the past 2 years, the CSOs, Groups and Movements of Uruguay have been filing petitions to improve the process for the election of the Ministers of the SCJ, so that the said election process be performed with transparency, accountability and citizen engagement (Annex 3).

Recommendation: That the State should adopt measures to guarantee the presence of women in high judicial offices and in the Administrative-Contention Court, with the engagement of the organized citizenry.

Education

The Uruguayan State has not complied with this Committee's Recommendation (p.33) of 2008 regarding the implementation of special temporary actions to reduce and eliminate school dropouts of Afro Uruguayan adolescent girls.

The situation of education, access, option and employment market for women in general and in non-traditional

areas is particularly complex. Females have better education level than males. A higher proportion of males reach the Technical Education (UTU) as highest education level, while a lower proportion of females aims at achieving a teaching degree. Of those who graduate from the university system, women represent more than 60 % of the total enrollment in the University of the Republic⁷and in the private sub-system. It has progressed from 45% to 53% during the 1991-2011 period.

Public university education by knowledge areas has revealed a relatively persistent distribution through the years. The type of specialization chosen in each knowledge area shows the prevalence of easily recognizable gender biases: women focus on activities related to their traditional care roles and on tasks that involve the development of special sensitivity and empathy. Careers with higher percentage of women are those related to: health, social areas and education.

Although a higher educational level seems to be an asset in the possibility of obtaining employment, this is not quite so for women. Gender gaps in income per hour have not been significantly reverted by a higher labor participation or the higher qualification of women (even of the most qualified). This gap widens among those who have higher educational levels, and the difference grew in the last decade, where women achieved higher labor participation and enhanced their educational level. Obstacles for the development and promotion of academic women in universities are also conclusive: 70% of grade 5⁸professionals are men⁹. (Annex 4).

Awareness campaigns to change segregation in education and employment are sporadic. There is no systematization or impact assessment.

Recommendation: The State should implement sustained awareness campaigns to change sexist cultural patterns and promote professional education and training programs to broaden women's educational areas in order to reduce segregation and revert prejudices around alleged natural abilities of men and women. Likewise, the Government should supervise the compliance with the principles and rights to equality and non-discrimination in every field, particularly in the education and employment spheres.

Employment

13. Although there are certain programs that support labor integration, they are not specifically women-oriented, and are mainly intended to mitigate poverty situation, for example the Programa Uruguay Trabaja (Labor Promotion Program) and Programa de Inserción Laboral (Labor Integration Program) (MIDES – Ministry of Social Development). There are no policies focused on fighting against gender occupational segregation (disproportionate concentration of women in certain employments), which is the essence of pay gaps and women unemployment.

⁷ In relation with university professionals, the education obtained from the public institution covers around 80% and there is no information available for the total; education preferences below refer to the University of the Republic - UDELAR.

⁸Ascending scale from 0 to 5.

⁹Ana Meikle UNESCO Price for Women in Science, November, 2015.

At present, more than 50% of female domestic workers have not been included in the social security system, as the approval of the Domestic Work Law is not sufficient to change discriminatory social practices. In order to enforce the applicable legislation it is essential to inform and create incentives both to workers and employers. The efforts made in this respect are insufficient to increase the formalization of these workers. This concern already gave rise to a Recommendation of this Committee in 2008 (p. 37). Special attention should be paid to the situation of Afro-Uruguayan female domestic workers that represent 12.6% of the total. Although there formally exists an Afro-descendant Women Unit in INMUJERES (MIDES), it has not implemented public policies focused on these workers' reality of exclusion and poverty.

Public institutions have developed specific actions to disseminate the rights of female domestic workers. It is due mentioning the weakness of the female domestic workers' union in terms of training, financial resources and other difficulties that impair union activities during work hours, including the necessary attendance to the Salary Boards. Thus, female unionized workers state that, for them, freedom of association is not yet an actual achievement; for example, the decree whereby delegate workers that attend meetings of the Salary Board are paid their salary by the employer is not applicable to these female workers, as the hours not worked are deducted from their salary or replaced by them, as agreed beforehand with the employer.

In addition, the Domestic Service Group where salaries and working conditions are determined at the Collective Bargaining Agreement, included male and female caregivers that perform care work other than those usually made by female domestic workers. This confusion must be amended, as the country is in the process of implementing a National Integrated Care System. The State should clarify the different roles of female caregivers and female domestic workers.

Recommendation: That the State should implement and assess permanent campaigns to encourage employers to register female domestic workers with the Social Welfare Office (BPS by its acronym in Spanish), with special emphasis on Afro-Uruguayan and migrant female domestic workers. Also, it should implement a monitoring system to assess the compliance with the regulations in force. Likewise, the State shall define the categorization of the different types of female workers that perform services at family or business level.

According to the BPS, from October, 2013 the number of labor claims of female migrant workers coming mainly from Peru, Dominican Republic, Paraguay and Bolivia has increased, confirming that female migrant domestic workers are a significant part of this sector and require policies focused on efficiently dealing with such complaints.

Recommendation: That the State should implement policies focused on disseminating the rights of female migrant women and efficiently deal with their complaints, taking into account General Recommendation 26 given by this Committee.

Until 5 years ago, the National Institute of Employment and Professional Training (INEFOP, by its acronym in Spanish), gave its training courses with a gender perspective, which included theoretical classes, meetings with beneficiaries and their families, development of the Individual Occupational Project, among others. This line of work has changed radically. Courses lack gender perspective and are exclusively focused on the line of work of the training given.

Recommendation: That the State implements training courses for employment and education mainstreaming gender perspective, especially putting into practice the ideas of the CEDAW and its General Recommendations 13, 16 and 19.

Health

15. Uruguay approved Law 18.987 and its Regulatory Decree 375/012 in 2012. Under the said law, the Voluntary Termination of Pregnancy (VTOP) is legal when the woman complies with the requirements of the Law, and is carried out during the first twelve weeks of pregnancy in the frame of the National Integrated Care System (SNIS). Although this rule complements Law 18.426, the Law for the Defense of the Right to Sexual and Reproductive Health, 2008, it is a protecting law that fails to recognize women as holders of rights who are fully entitled to physical autonomy.

However, women who go to the health services to terminate their pregnancy find barriers, including: access to information; quality of the SNIS benefits, and the abusive use of the conscientious objection of 30% of health care operators, distorting the application of the rule and hampering the access of female users to this right.

Uruguay has difficulties in the coverage of specialized medical attention in the provinces of the country, accompanied by the high percentage of male and female gynecologists who have chosen to make use of the right conferred by the VTOP Law about conscientious objection. The foregoing hinders the appropriate implementation for the access to the health care services envisaged. The health authorities are not prioritizing the shortfalls existing in the different localities throughout the country.

The high percentage of adolescents who become pregnant at an early age, interrupting their life plan is a matter of concern, which confirms the shortfalls of the health and education systems in the comprehensive attention of adolescent women in the promotion and respect of their rights.

We are worried about the situation of pregnant migrant workers who fail to meet the legal requirement of having one-year minimum residency in the country and need to go to this service.

It is due mentioning that, after the law was implemented, there were two deaths from clandestine abortion, and three women were indicted for the same reason.

Recommendation: The State should guarantee access to Voluntary Termination of Pregnancy in the framework of the existing regulations, as well as implement safe services by disseminating and promoting the sexual and reproductive health law and the VTOP law, and monitoring the operation of health care services throughout the country.

Likewise, it is disturbing that new male and female physicians continue repeating, in their professional training and in their practice, discriminating stereotypes and prejudices that affect women in the exercise of their sexual rights and reproductive rights. This deficiency also appears in the other tertiary education institutions.

In 2015, a group of male and female gynecologists filed a claim at the Contentious-Administrative Court (TCA) intended to challenge the VTP Regulatory Decree. The decision No. 297 of the TCA, dated August 14, 2014 suspended the enforcement of several articles thereof, which represented an additional hindrance to VTP access, especially in those departments where the percentage of conscientious objectors is significantly high.

In March, 2015 the media disclosed the case of an intellectually disabled 11-year old girl, living in poverty, who was subject to sexual abuse by a 41 year old man with whom she lived. The girl was involved in a program called “Calle” /street/ of the NGO El Farol, supervised by the Institute for Children and Adolescents of Uruguay (INAU, by its acronym in Spanish).

On 4/16/2015 a hearing was held at the Specialized Family Court, where the depositions of the girl, her mother, the public defender, the prosecutor’s office and medical technical reports of the hospital and NGO El Farol (who executes this program under an agreement with the Government) were taken. The Judge decided that, as the girl was a child with a guardian, pregnancy could be terminated without the authorization of a judge, that the will of the girl’s mother, in coordination with the health workers, was enough. Despite the fact that many technical reports revealed the disability and incapacity to understand what pregnancy and motherhood represented, an opinion shared by the Judge and stated thereby in the Decision, the medical staff believed that the girl’s autonomy should be respected and the pregnancy should continue, although the psychiatric medication had to be suspended.

Once the term for termination of pregnancy as a result of rape –provided under Law 18.987 – had expired, they informed the mother on 4/21/2015 that pregnancy could not be interrupted. The Ministry of Public Health, INAU, the Chair of Child Psychiatry of the School of Medicine of the University of the Republic and the physicians of Hospital Pereira Rossell, on 4/29/2015, despite the fact that the girl was hospitalized, discharged her and decided that *“the girl’s height and weight are not below those of other adolescent pregnancies”*¹⁰. They also stated that they have been dealing with similar cases for the last three years, where 11 and 12-year old girls were victims of sexual abuse and sexual exploitation and their decision to continue pregnancy was

¹⁰La Diaria 07.05.2015. CLADEM Report – Child pregnancy, March 2016 www.cladem.org

respected. They held that, despite the behavioral disorder and low intellectual functioning, *“there are no gynecological grounds for an abortion”*.

Recommendation: That the State should promote the training of professionals by adapting the curricula to the CEDAW and the other HIRL instruments, thus ensuring substantive equality and unconditional of the human rights of girls and women.

Rural Women

17. In rural areas of Uruguay, there are strongly patriarchal cultural patterns that pervade customs and roles perpetuating the injustice that jeopardize the physical, political and economic autonomy of rural women. Ownership of lands and businesses is held, almost in its entirety, by men. The governmental report points out the progress in visualizing women who take part of the family farming. However, it is not reported that, as a result of a consultancy process promoted by INMUJERES, four bills were submitted to the Parliament and formally delivered to the bicameral women’s caucus. Such projects seek to enhance the situation concerning the ownership of family businesses; to modifying errors in social security registrations that diminish women as producers; to implement especial provisional actions for rural producers in the Law on State Purchases; to include economic violence on family farming and the legal prohibition of instant evictions of worker families. We regret the lack of political will to realize the initiatives fostered by INMUJERES. Although there is a formal area dedicated to rural women in INMUJERES, it is not prioritized within the agenda sector body.

Recommendation: that the State should harmonize its internal regulations on ownership of family farming businesses by rural women with the CEDAW and the existing international standards.

The country report does not include the situation of extreme vulnerability of seasonal and/or wage-earning rural workers of major farming businesses. These women do not find answers to their claims on labor sexual harassment, the lack of environmental and health protection, and the low wages they receive.

The State does not fully comply with its obligations already stated by this Committee in 2008 (p. 43), because the resistance to change the obsolete and tutelary social security legislation that places producer women as collaborators still persist. There is no political will to adapt the current regulations to the CEDAW. Traditionally, the Ministry of Labor carries out a labor and environmental inspection to rural business establishments, but such inspection does not meet the role assigned to that end, nor is it included in the agenda of the Trade Union Federation which does not provide the necessary support to rural unions as they are less important in number of affiliates and economic weight.

Recommendation: that the State should train and monitor government officers and institutions related to rural wage-earning workers for them to comply with the current regulations, with an emphasis on the CEDAW and the Convention 184 of the International Labor Organization.

While the country report informs about rural women training in non-traditional tasks in entities such as the Labor University and the National Institute of Training and Employment, this does not keep pace with the campaigns for the promotion and diffusion of equal rights and opportunities within the education fields. This lack of information influences young women's election thus limiting them in their access to better remunerated jobs.

Recommendation: that the State should integrate the public policies it is implementing from different entities for them to appropriately spread the information, so that it reaches rural women and families, promoting training opportunities in specialized jobs with higher demand and better wages.

Regarding the credits granted specifically to rural women mentioned in the Country Report, the information available is that women use those credits to improve their homes or purchase supplies related to traditional care tasks, and not to improve their businesses. This involves the need for a specific training of the technical officers who deal with them, both those working in the Ministry of Livestock, Agriculture and Fishing and those in the banking system that grants such credits.

Recommendation: that the State should, through the entities connected to microfinance or microcredit policies for rural women, train the officers who are in charge of these demands from a gender-sensitive perspective, and guarantee that resources are used in capital and production businesses that empower rural women economically.

Disadvantaged Women

18. Women with Disabilities

We recognize that there were initiatives to promote the rights of women with disabilities, but they were not sufficient. There still are multiple violence and discrimination situations that remain unsolved.

With respect to awareness materials, those printed in Braille were scarce and did not reach the addressees. Besides, it was not previously determined the number of girls, adolescents and women who would need those materials and in what format, nor the geographic localization to deliver such information to them. It should be noted that, while braille is a reading and writing system essential for visually impaired persons, there are other methods available, like audio, macro-type and electronic (accessible formats) through which girls, adolescents and women with disabilities could have access to these materials. Neither do we have the information about the availability of these materials in simple language for those girls, adolescents and women with intellectual disabilities, or in Uruguayan sign language for those with hearing impairment. Anyway, these actions were not spread and are therefore unknown by the addressees.

With respect to the prevention and socialization of information, and specifically regarding the community of visually impaired people, nobody got in touch with the relevant institutions to contact the girls, adolescents and women with visual impairment for the purpose of offering them workshops on awareness and promotion of their rights. In such regard, the impact of these actions on women with disabilities in the country was minimum, as the target population could not have access to the existing material. Consequently, women, girls and adolescents with disabilities do not have information about their rights and violence prevention through the adequate means.

Recommendation: that the State should implement and evaluate the public policies focused on disabled women in close collaboration with the CSOs to emphasize that disabled women's rights are also human rights. Similarly, the Government should spread information on their rights and existing resources in order to facilitate their access to the instances that guarantee the exercise of those rights.

The 2011 national census incorporated the disability variable. Nevertheless, the socio-economic characteristics of this population have not been disclosed. Therefore, although we have the disability population data, we cannot determine how many girls, adolescents and women with disabilities have access to education and employment, or what is their situation in comparison with disabled men. The last available data in this area appear from the Continuous Survey of Households of 2004, the estimates of which differ from the general data shown by the 2011 census. Hence, we are not certain about the actual socio-economic situation of this population sector.

Uruguay has laws that guarantee the human rights of disabled people (Laws 17.817 of 2004 and 18.651 of 2010). However, such laws have not been fully implemented as of this date. Also, the public policies that assure the exercise of rights by the disabled people has not been implemented. For example, universal education is provided by law. However, education institutions do not have the necessary resources to guarantee an inclusive education (teachers trained on a diversity approach, materials in accessible formats, Uruguayan sign language interpreters, physical accessibility, among others). This example applies to employment, health, policies against violence, inter alia.

Recommendation: that the State should generate a database with the disabled people throughout the national territory, specially with the disabled women in order to visualize them; and prepare focused and inclusive public policies, monitor and evaluate such policies with the participation of those involved.

Though there are reports on the measures adopted to fight violence against women, they do not inform about the violence situation against disabled women.

Women with disabilities who are victims of violence have limited access to the courts specialized in domestic violence as they do not have the adequate resources: Uruguayan sign language interpreter; accessible building structures; sensitive and trained personnel to treat women with disabilities, among other factors.

Recommendation: That the State should provide resources for disabled women who are victims of violence so that they have access to justice in equal conditions as other women, by having Uruguayan sign language interpreters; accessible building structures; personnel trained both in gender issues and in the relationship with disabled women.

19. Elderly Women

Uruguay was the quickest country of Latin America in processing demographic transitions due to life quality improvement and low birth rate trend. The proportion of people older than 65 years is markedly increasing according to the analysis of Census of centuries XX and XXI. After 75 years of age, the percentage of women is twice that of men. This fact represents a challenge, which has been tackled by the last two governments with the creation of the National Care System (SNC, by its acronym in Spanish) addressed to dependent people. The CSOs that promoted the realization of this matter in the government agenda demand that the SNC mainstreams the gender perspective in every direction.

Recommendation: That the State should include gender perspective in the training of all the people involved in the SNC; in the regulations of all the services (both public and private) and in the “scale of dependencies” that serves as a guide to allocate the Personal Assistants providing home support. The State should implement public awareness campaigns to involve the population in the right to care as a culture of shared responsibility that changes prejudices and stereotypes according to which only women have the duty to care, as provided by the General Recommendation 27 of this Committee.

20. Women in detention.

Uruguay has received warnings from international institutions for the abusive use of preventive detention. In 2011 the Inter-American Commission on Human Rights urged Uruguay to “*promote a change in the established judicial practice and culture intended to cause a material change in the paradigm of the properness and need of preventive detention*”¹¹. In July, 2015 there were 9,982 detainees; women deprived of liberty (WDL) represented a little over 6 %, an aggregate of 617 women and 59 boys and girls living with their mothers in prisons throughout the country¹².

In October, 2015 The National Institution for Human Rights (INDDHH) recorded that Unit No. 5 of Montevideo accommodated 398 women with 7 girls and boys. Three hundred and six of them, i.e., 77%, were under

¹¹IACHR, Report on the use of preventive detention in the Americas, 2014, p. 22.

¹²Report of the National Human Rights Institution and the Ombudsman Office of 07/13/2015

preventive detention, while 92 women (23 %) were convicted. This reveals that the percentage of abusive use of preventive detention is higher in women than in men deprived of liberty. Despite the several international recommendations made, and the provisions of Law 17.897, 2005, that gives the possibility of house-arrest to women in the last trimester of pregnancy and the first three of breast-feeding, this measure is not put into practice because of the refusal of the acting judges, save for specific exceptions. Prison public policies keep ignoring the needs and peculiarities of WDL in clear violation of their human rights and particularly those established in CEDAW.

The right to vote of people deprived of liberty is limited to the restrictive interpretation of the authorities under Art. 80 of the Constitution of the Republic (Annex 5).

Since 2015 the Ministry of Internal Affairs has been planning the transfer of Unit No. 9 “El Molino”, that accommodates women and their children, to a new sector that is being prepared in ground floor of Unit No. 5; this represents a regression in the good practice introduced by “El Molino” and a violation of the rights of WDL and their children, including education, work and the right to reduction of sentence (Annex 6).

Recommendation: That the State should make an exceptional use of preventive detention in accordance with IHRL standards; that it should implement prison private policies in line with the CEDAW; that it should comply with Law 17.897; that it should implement the right to vote to people deprived of liberty, and that it does not transfer the WDL and their children from El Molino to Unit N° 5.

21. Afro-descendant women

Afro-Uruguayan women are in a more unfavorable situation than Afro-descendant men, as discrimination is deepened by their gender. Afro-Uruguayan women start their reproductive life earlier, what means that they have their first child during adolescence.

In 2011, the Committee on the Elimination of Racial Discrimination (CERD) recommended the Uruguayan State to carry out specific studies on the ethno-racial dimension of gender-based discrimination and on the plans and programs where the application of special measures would be appropriate.

Law 19.122, 2013, a law of affirmative actions for Afro-descendants, is a generic rule that lacks gender perspective and fails to comply with the recommendations given by this Committee in 2008 (p. 45).

Recommendation: The State should implement studies that account for the ethno-racial dimension of gender-based discrimination. Likewise, it should comply with the 2008 recommendation by implementing Special Temporary Measures for Afro-Uruguayan women.

Marriage and family relations

Despite the repeated recommendations received by Uruguay from the Universal System for it to raise the minimum age for marriage to 18, this has not been complied with. The situation of widows or divorced women

who may not contract marriage within 300 days from the date of death of the husband or divorce remains unchanged. This legal discrimination was already pointed out by the Committee in 2008, with the corresponding recommendation to change it (p. 46 and 47).

Recommendation: That the State should raise the minimum age for marriage in accordance with the standards of CEDAW and the Convention on the Rights of the Child; that it should harmonize the Civil Code with the CEDAW.