

EXECUTIVE SUMMARY
ALTERNATIVE REPORT TO THE ECONOMIC, SOCIAL AND CULTURAL
RIGHTS' EXPERTS COMMITTEE. (61th session)

Elaborated by Coalition of Organizations for the Monitoring of the
Uruguayan State for the fulfillment of its obligations to the ECOSOC

Introduction

The current report has been elaborated following the structure of the articulation of the International Covenant on Economic, Social and Cultural Rights. It seeks to add specific information regarding the List of Issues related to the fifth periodic review of Uruguay added by the Economic, Social and Cultural Rights Committee, taking as a reference the experience and work in the field developed by the signing organizations. ..

The report informs about the institutional and normative situation of the country in human rights related issues with a special emphasis on the economic, social and cultural rights. It outlines the institutional deficit in this area, the procedural difficulties to process collective cases, the discrimination faced by certain groups -women, teenagers and girls, aggravated in relation to their sexual orientation, racial-ethnic origin, nationality and/or some disability situation- in the workplace,, educational and medical environments, among others

Recommendations.

I. Information regarding the general dispositions on the Covenant.

General Information

Enforceability of the Economic, Social and Cultural Rights before national Courts¹

1. The State ought to modify the normative framework to allow the enforceability in the judicial process of the ECOSOC Rights, adopting:

¹ Related to question 1 in the List of Issues

- a) legislation that enhances legitimacy of the testimonies made by the social and collective organizations, regarding the emergencies of the situations, and at the same time widely enables the introduction of collective claims and AmicusCuriae.
- b) legislation in which the Habeas Corpus holds a general material scope of application, proceeding indistinctly against acts, facts, or omissions of any nature, and is emanated from any Power or Institution of the government and individuals;
- c) a legislation comprising jurisdictional courts specialized in ECOSOC rights issues, matched with policies in line with the training of the judges, and the wide and public dissemination of such a tool among the population.
- d) measures addressed to the Supreme Court of Justice in order for it to dictate an "judicial agreement" favoring the introduction of the AmicusCuriae, clearly establishing that it is not referred to *third-party proceedings that support to one or another part* in the process, therefore guaranteeing the transparency of the Judiciary Power.

Assistance and International Cooperation (Article 2)

2. Setting up proper mechanisms in order to guarantee the transparency on the use of international resources, regularization and greater control of the dependency relation that are established between the State and social organizations.

II. Questions regarding the general disposition on the Covenant (art. 1 - 5)

No discrimination, art 2 par. 2

3. To strengthen the institutionalism of human rights through the allocation of greater resources. The honorary character of the inter-institutional Commissions proves that the existent legal mechanisms are not given priority enough to prevent, address and sanction all forms of discrimination, directly and indirectly.

4. The Uruguayan State ought to perform awareness campaigns to confront the deep-rooted stereotypes in relation to ethnic-racial origin, the national origin, disability, sex, identity or sexual orientation.

5. It is necessary to centralize the complaints reception on discrimination, in order to monitor them accordingly. It is necessary to provide a platform of

accompaniment for complainants on discrimination due to the particular implications of these situations.

6. To define the role Uruguay is prepared to perform and foresee steps, considering: where will the main groups of migrants come from, what specific needs will they have or in what regions of the country will they settle, to mention just a few questions needing an urgent response. Public policy should include also a chapter on local awareness-raising to overcome fears and prejudices that may challenge the settlement and integration of the migrant families in a country that considers itself as culturally homogeneous.

7. We request the State to find the means by the National Migrations Directorate to offer support to the migrant population consonant with the position that Uruguay is beginning to have in the global migrations scenario. It is absolutely inadequate that because of the lack of staff fluent in languages such as French, English and Portuguese, the Directorate demands immigrants to attend the place with the assistance of an interpreter. Likewise considering the national identification is indispensable in our country for the development of numerous activities, it is inadmissible that this procedure for obtaining national identification takes up to four months.

Equality Rights for men and women (art. 3)

Measures against discrimination

8. The Uruguayan State ought to implement accountability procedures of finance and management to the INMUJERES (National Institute of Women) and to the citizens, with clear and accessible mechanisms, especially from the consultative national council on gender.

9. The State needs to compile disaggregated statistical information on sexual orientation and gender identity, along with ethnicity and race, in order to know the life conditions of groups crossed by multiple discriminations and consequently formulate public policies to transform those conditions.

10. The Uruguayan State needs to develop an action plan related to the National Plan against Racism and Discrimination and carries on its implementation through dialogue with organized civil society.

11. The Uruguayan State ought to report the Committee the progresses on the Plan in a term no longer than two years.

Right to work, equal and satisfactory conditions (art. 6,7,9 and 11)

EMPLOYMENT

12. To strengthen the Equality Mechanisms by allocating an adequate budget.

13. To implement urgently the recommendations given in August 2016 to the State by the United Nations Committee on the Rights of Persons with Disabilities, in accordance with the final observations made by such Committee.³

14. Particularly, regarding the subject on the Right to work, considering the final recommendations and observations of the aforementioned Committee on the Rights of Persons with Disabilities (numerals 57 and 58), we reaffirm the need to implement specific strategies in order to increase the employability level of the persons in situation of disability and ensure the achievement of a productive and decent employment, in which it is necessary to take actions on a public and private level, including collecting data on employability (being publicly available and adequately) and to ensure the compliance of the principle of equal remuneration for work on an equal level.

15. In the public sector, more strict controls and sanctions are required for the State organisms not complying with the working inclusion quota of persons with disabilities. It is considered necessary the existence of a single, State nature audit body, constituted by the representatives of the three sectors (public, private, and civil society -including trade union representatives) in equal proportion, centralizing the quota compliance audit, at the State and private level, with wide sanction powers. At the same time, it is necessary to ensure the implementation of the methodology on the Employment with Support for those who need it.

16. Analyzing the breakdown by type of disability, age and gender, it is obvious the need to create specific strategies for the inclusion of persons in situation of psychosocial disability, women and youngsters.

17. It is encouraged the immediate endorsement (and its consequent regulation and audit), of the *Law on the Working Inclusion of Persons in Situation of Disability in the private sector*.

18. The full regulation of the law 18,651 (currently only partially regulated) it is considered fundamental

³ Available:

19. To implement systematic monitoring mechanisms and the elaboration of statistics regarding the working situation of migrant people, possible gaps in financial remuneration and access to dignifying conditions of work and social security. It is necessary to incorporate specificities on gender and race in this monitoring. Uruguay ought to establish a specific assistance service to immigrant women in situation of home violence and sexual or gender harassment at their workplace.

20. To increase the available places and CAIF (Centers for the Family and Childhood Care) centers, taking into account the dynamics and working routines of the migrant population. Considering the entry to the working market for the most disadvantaged women is in cleaning and caring tasks, characterized by rotating schedules and long working hours, it is fundamental their children are included specially in the care policies and access to educational centers.

21. Reviewing the proceedings for the validation of professional titles, the over rating and immigrant underemployment holds in the case of qualified workers, close relation with the impossibility to exercise their learnt profession in their origin country.

Retirement Rights related to the Laws 18033/ 18596 (ex-political prisoners in Uruguay. Article 9).

22. To modify the reparatory character of the Especial Reparatory Pension (PER). The PER should be compatible with retiring plans and pensions, just like it is for the other citizens in other cases.

Protection of the Family, Mothers and Children (article 10)

23. Set 18 years as the minimum age to get married.

24. Parliament should adopt the Comprehensive Law Against Violence in response to gender-based violence, with particular emphasis on the rights established in the International Covenant on Economic, Social and Cultural Rights (ICESCR).

25. Generate data on the impact of efforts in order to redirect them efficiently, and generate data on the prevalence of violence on the entire population since the survey conducted in 2013 only covered women over the age of 15 years.

24. We recommend, for this purpose, to provide the necessary budgetary resources, and design articulated strategies that will ensure the necessary information ,based on human rights, is accessible to civil society to develop

monitoring actions.

25. We recommend allocating realistic budgetary resources for the fulfilment of the actions proposed in the aforementioned Plan, with particular emphasis placed on conducting quantitative and qualitative studies on the issue of commercial sexual exploitation of children and adolescents in the country in question, with academic bodies and international cooperation; as well as making effective the voluntary pledge (c) made by the country before the second cycle of the Universal Periodic Review (UPR) (2014)² to “create support mechanisms that will guarantee the rights of children and adolescent victims of commercial sexual exploitation with national coverage for the period of 2015-2020”.

25. Increase support services for women in situations of violence, especially by facilitating their right to decent work and adequate housing.

26. Standardize the accessibility to processes of specialization at the national level, the formation of professionals, and the shaping of specialized courts beyond the Metropolitan area.

27. The government should articulate in a single response protocol to all of its agencies, in order to unify resources, thereby optimizing the results.

28. The state should monitor the extent of non-compliance with protection measures imposed by the justice system, in support of women, girls and adolescents.

29. Establish alternatives to situations of risk that involve the vital security of the victims, as well as housing alternatives that are sustainable and affordable for women who seek to overcome situations of violence.

30. We ask that the Uruguayan government revise the visa requirement for certain nationalities, by either eliminating it, or by relaxing it in cases of family reunification. Given the recent migratory flows, it is imperative that the country considers visa exemptions for nationals of Cuba, Haiti, and the Dominican Republic. The visa requirement does not contribute to better management of migratory flows, but instead, it leads to an increase in the risk factors associated with international migration, and generates distortions such as the increase in transportation costs between origin and destination, and gives rise to the emergence of entities or mafias that operate illegally, and are related to human trade and trafficking.

The Right to an adequate standard of Living (Article 11)

The Right to Housing

31. Set up a protocol regarding evictions, which guarantees that all rights are taken into account during the process, and that the persons being evicted have housing alternatives before the eviction proceeds. For this purpose, it is necessary the articulated and coordinated action of the different state agencies with competence on the matter. The Judiciary must guarantee the full right to adequate housing and the non-use of criminal charges against persons who are

occupying land or buildings due to the lack of access to housing.

32. Develop adequate measures to respond to the varying and complex situations involving all persons in vulnerable situations, whether living in irregular settlements or slums, homeless, or persons in overcrowded or inadequate housing (situations which are often made invisible).

33. Particularly for the homeless population, it is requested that a plan be developed with deadlines to ensure access to adequate housing, and not to perpetuate the precarious situation by providing only shelter services, as is currently the case.

34. Regulate the boarding houses sector, and carry out inspections that guarantee improvement in the conditions of access to housing.

Health (Article 12)

35. The government should record reliable information on teenage pregnancy and child pregnancy.

The government should coordinate educational and health care as well as follow-up for girls, respecting their autonomy according to the international standards of law in the best interest of the girls.

36. The policies of prevention and resolution of situations included in the Goals of the Ministry of Health should be monitored at the short-term.

37. The implementation and compliance with the Law on Sexual and Reproductive Health, especially with regard to the voluntary termination of a pregnancy, should be guaranteed in all its terms.

Article 12. Mental Health

38. Promote a mental health law that eliminates social and normative stigmatization. In the entirety of the aforementioned law, the concept of mental disorders should be replaced with simply *person or person who uses mental health services*.

39. An interdisciplinary approach should be firmly guaranteed in the law. The care teams must always be interdisciplinary, in order to holistically approach the person and his/her environment.

Article 13. Education

40. The government should urgently adopt Special Measures to decrease student dropout from school by encouraging other careers/professions other than those in the social sciences.

41. The government should adopt temporal special measures to reverse student dropout, by training teachers to adequately address racism and racial discrimination, or discrimination based on sexual orientation or gender identity. In terms of employment, the Afro-descendant population is underrepresented in managerial, decision-making and senior positions. According to research conducted in 2013 in a population of 6787 persons in senior positions in political institutions, private companies and civil society organizations, 51 people self-identified as Afro-descendants, making up 0.8% of the total. Of these persons, 42% work in civil society organizations, trade unions, political parties; 35% in the state and 22% in private companies. The research revealed that the participation of persons of African descent is clearly marginal in private companies (0.2%), media (0.3%) and the government (1%).

The Uruguayan government should adopt appropriate measures for improving access to education, especially for children and adolescents of African descent.

42. The government should also include adult education, in a systematic way, in order to strengthen citizenship and improve job skills.

43. The government should urgently adopt special measures to reduce school and student drop-outs, encouraging other careers in addition to those in the social sciences, thereby promoting access to tertiary education.

44. The state should adopt temporal special measures to reverse educational dropout, training teachers to adequately address racism and racial discrimination, or discrimination based on sexual orientation or gender identity.

45. The state should adopt ~~precise~~ concrete actions, which will guarantee the effective fulfilment of Law 19.122 in regard to the field of education.

The state should implement an education policy that promotes training in sexual diversity for all educational personnel, especially teachers, with a view of forming new paradigms for school life.

46. The state should implement an education policy that will establish a protocol to identify and address/solve situations of violence and discrimination based on sexual orientation and gender identity, involving parents and families.

47. It is essential that the access to education is guaranteed to all people in situations of disability, which is critical to the development of the person and access to employment. While the approval of the Protocol of Action to Include Persons with Disabilities in Educational Centres is a significant

advance, yet concrete actions for implementation and control mechanisms are needed, with the aim to eradicate the special education.

48. Uruguay should take appropriate measures to improve access to education, especially for children and adolescents of African descent, and migrants.

49. The state should adopt temporal special measures to reverse educational drop out, training teachers to adequately address racism and racial discrimination on the basis of sexual orientation, gender identity and nationality.

50. The migrant population that has been deprived of identification documents due to government delays should not be deprived of their access to universal public policies such as the Ceibal Plan.