

Shadow Report of CLADEM Uruguay, Mizangas and RUDA to the CEDAW Experts' Committee, August 2008¹

I. Violence against Women (Article 1)

Absence of political will to modify the Penal Code (PC), (specially Chapter X: Felonies against the good customs and order within the family).

The Uruguayan PC of 1934, which maintains directives of 1889, is of a patriarchal ideology and positivist roots. It contains stereotypes and prejudgments regarding women; except for the partial modifications that the Uruguayan State has specifically implemented in the laws developed below, it remains unchanged with those characteristics. We mention as examples the following offenses: (i) incest, which requires for its configuration the “*public scandal*”, established in Article 276 of the PC and (ii) rape, established in Article 272.

The Uruguayan PC establishes in Chapter X that the juridical good protected in the sexual offenses are **honor and good customs**², contrary to the universal trend of protecting in these cases the sexual integrity or sexual freedom.

In this legal, patriarchal framework, rape within marriage is not typified as an offense.

The modification of Chapter X of the PC is one of the most urgent pending debts of the State regarding the acknowledgment, enjoyment and exercise of women's human rights. The lack of harmonization of the national juridical order with the international human rights norms that the State has ratified is flagrant.

The amendments introduced to the PC in the last three years are partial, making visible the absence of an integral approach. For example, Law N° 18.039 dated October 20, 2006, introduced modifications to the Penal Process Code, establishing routine procedure for certain offenses (the denouncement by the victim is not necessary): kidnapping, rape, violent indecent assault, corruption and defloration of a minor. It reiterates Articles 271 and 279 of the PC of 1934. This norm maintains the patriarchal and discriminatory concept towards women.

The Law of Incarceration Humanization created to work in commissions to elaborate “the basis” of the reform of the Penal Process and Penal Code “*inspired in modern principles of criminal policy (...) and that would include exemplary norms in relation to the prosecution of organized crime*” (Articles 21 and 22). Three years after said instances have been installed, the advances achieved are still unknown since there was no public debate either.

Recommendation:

The State must harmonize the internal Penal Norms, specially the one referred to Chapter X of the PC, with the human rights' international norms of the CEDAW, ratified by the State.

¹ CLADEM Uruguay Latin American and Caribbean Committee for the Defense of Women's Rights, RUDA, Red Uruguaya de Autonomías y Mizangas: Grupo de Mujeres Jóvenes Afrodescendientes.

² The bold letters are ours.

Domestic Violence – DV –

In 2002 by means of Law N° 17.514 the Uruguayan State complied with one of the Final Observations of this Committee. The norm is being complied partially. From 2006 to 2007 the claims about DV at the police level have increased 50%³, probably due to a greater sensitization of the population and of the victims/survivors regarding this violation of human rights.

Among the various limitations we found in the implementation of the DV Law, we point out: *Financing*: the DV Law lacks a specific budget for an adequate enforcement. Since the moment it was enacted this was one of the strongly wielded arguments against it on the part of the male and female juridical operators.

Recommendation: The State must grant the adequate budget for the implementation of Law N° 17.514.

Decentralization: On December 13, 2004 by means of Law 17.707 the four Specialized Courts on Domestic Violence and Childhood and Adolescence started functioning. Its jurisdiction is limited to the country's capital, leaving half the population (18 departments) without the specialized attention of said courts.

Recommendation: The State must create specialized Courts throughout the country.

Insufficient Resources: There are no resources at the human, technical and financial level. Since its installation, male/female judges, officers and technical team denounced the excessive workload and the tension as a consequence of the specialization of this instance (burn out syndrome), a situation already made explicit by male/female officers of that service⁴. In this respect, the information provided by the Judiciary's website dates back to 2003⁵.

Absence of support for the victims: The State has not implemented attention programs for the victim/survivor. At the national level there are only attention services for victims of domestic violence handled by NGOs. From the State, by means of the Ministry of Social Development (MSD), there are only four attention services throughout the country: Montevideo, Bella Union, Atlantida and Melo.

In the majority of the assassinations of these women the murderers commit suicide, leaving their children unprotected, a situation that repeats itself when the woman kills the aggressor. There is no State program for the support of these orphan children.

Recommendation: The State must create and implement attention programs for DV victims throughout the country. Likewise, it must create and implement a support program for the orphan children in cases of homicide due to DV.

³ Web site of the Observatorio Nacional on Violence and Criminality of the Ministry of Interior.

⁴ CIEJ Notebooks (Centro de Investigación y Estudios Judiciales): Contributions on Interventions Regarding Domestic Violence from the Judiciary July, 2006.

⁵ www.poderjudicial.gob.uy

Protection measures: These measures constitute de core of the DV Law. We denounce the existence of a systematic pattern to omit compliance of the restriction orders that protect the victim. In the 4 cases that we are attaching and that correspond to: (i) Maria Fernanda Rial, assassinated on April 18, 2007; (ii) Giovanna Isabel Olivera, assassinated on March 5, 2007; (iii) Manuela Gonzales, assassinated by her partner on January 27, 2006, (iv) Mariela Illia Guilleminott, Attorney-at-Law, assassinated at the beginning of 2007 by her former partner. In two of these assassinations fire weapons were used (Exhibit 1).

There are no statistics regarding the number of Protection Measures granted since the Specialized Courts began functioning, which impedes knowing their efficacy. The information available is the number of hearings for the adoption of protection measures and assessments for the 2005⁶ period.

The mandate that the aggressor attend rehabilitation programs is not complied with for several reasons, among them, the resistance of the judges to enforce the law and also due to the absence of State rehabilitation facilities. There is only one NGO that treats violent males for free.

In spite of the mandate of the Belem Do Para Convention and of the commitments of the DV Law there are no shelters either State-run or through agreements with NGOs for the attention of women victims/survivors.

Recommendation: The State must create shelters for DV victims/survivors.

Liberating homicide or legitimate self defense: There are cases of women that have killed their partners or former partners after being subjected to DV. According to the PC the relationship constitutes a specific aggravating circumstance of the homicide offense and is sanctioned with a sentence of 10 to 24 years. There is no obstacle towards the application of legitimate self defense, as has been determined by a few judicial verdicts, except the cultural concept of considering that the violation of the victims/survivors of DV rights does not constitute a violation of their human rights.

Recommendation: The State must broaden the scope of the legitimate self defense in the PC, so as to include liberating homicide.

Training: This Committee recommended in 2002 sensitizing and training the officers in charge of enforcing the law, the Judiciary, the health operators and the juridical operators. These recommendations have not been complied. On the contrary, the requisite of education to enter the Police academy has been brought down from high school to elementary schooling.

We denounce the case of discrimination on the part of the former Director of the Family Defense Office, Raul Antúnez, who prohibited the exhibition of posters on human rights in the waiting room of the service, among them one that said: "*Without women, rights are not human*". (Exhibit 2).

⁶ Idem.

⁷ On March 15, 2005, Antúnez issued a service order prohibiting "(...) posters or signs mentioning rights of any gender which could induce certain public to think that due to their condition in relation to what was mentioned above they would be attended in a manner that would harm their rights (...)", after which he took down said posters. This situation was denounced by the public defenders of said

In 2002, the Judiciary created the Gender Commission, which presented a triennial work plan that was not considered.

Recommendation: The State should guarantee the permanent training for the male/female juridical operators in the international norms regarding women's human rights.

Attention protocols for victims/survivors: Currently, there are two attention protocols for DV victims: (i) from the Ministry of Public Health and (ii) the guide of Police Procedure of the Ministry of Interior. Both were presented publically but in practice none has been applied, since the first one is left to the discretion of the physicians and the second one has not even being distributed among its members.

Uruguay lacks an attention protocol for the victims of sexual violence in spite of the increase of denouncements in this respect⁸. This is an important debt to be remedied, given the violation of the victims' rights and their lack of protection on the part of the State.

Recommendation: The State must implement the existing protocols and elaborate and implement the attention protocol for victims of sexual violence.

Women deprived of freedom: Women in prison constitute a significantly lesser number than men. For this reason and due to the good behavior, they have been made invisible by society and the corresponding authorities.

Only in Montevideo and Canelones there are reclusion establishments specially thought for women, with a high degree of over-population. In the rest of the country (17 departments), there are no specific establishments for women, therefore they share the same buildings with the male prisoners.

The right to the intimate visit is not duly implemented due to lack of space. There are no elemental conditions that guarantee the right to privacy and the human rights to a full sexual life. In the case that their partners are in prison they are transferred to the prisons where they are.

Recommendation: That the State guarantee the implementation of the access to the right to intimate visits on the part of all the State Agencies in charge (Ministry of Interior, Judiciary and Public Health)

II. Legislation to Eliminate Discrimination (Article 2)

Absence of a definition regarding discrimination by sex.

We again point out the absence of an internal definition of discrimination by sex that relates to Article 1 of the CEDAW. Even though the Legislative Power enacted Law N° 17.817 in September, 2004, which in its Article 2 defines discrimination for several reasons, one of

department. The Judiciary ordered an internal investigation and as a result two denouncing officers were transferred from their labor site.

⁸ Declarations of the Director of the Criminality Observatory of the Ministry of Interior, R. Paternain dated November 20, 2007 (www.uruguaysolidario.com)

which is sex, it is limited to the public sphere. This lack of harmonization of the internal legislation has already been pointed out by this Committee in 1988 and 2002.

Recommendation: The State should harmonize its internal legislation enacting a norm that contains the definition of discrimination against women, both in the public sphere as well as in the private one.

Legislative and institutional framework

In spite of the fact that legislative and institutional progress has been achieved since the inauguration of the administration of the leftist coalition government Frente Amplio – Encuentro Progresista – Nueva Mayoría, the Uruguayan State has still not complied with many of the Final Observations of this Committee.

Omission of the enforcement of the CEDAW by the male/female juridical operators

The non-enforcement of the international human rights norms, specifically those of the CEDAW, on the part of the juridical operators, Police, judges, attorneys, litigating lawyers and academy –either by resistance or for lack of knowledge, generates a status of defenselessness in the women that recur to Justice.

The Incarceration Humanization Law N° 17.897 dated September 14, 2005, includes norms for the protection of pregnant women deprived of freedom or that are breastfeeding, which allows them to comply with their incarceration at home. The same benefit comprises senior women as of age 70. However, the norm is not enforced by those in charge of enforcing it, since they argue security reasons. They are afraid that the female inmates might run away.

Recommendation: The male/female juridical operators must comply with the legislative mandate regarding the alternative measures to imprisonment for women deprived of freedom.

Rank and insufficient budget of the Instituto Nacional de las Mujeres (Women's Institute)

The Instituto Nacional de las Mujeres (INAMU) is currently part of the Ministry of Social Development (MIDES), and as such it does not have an autonomous budget as required by the objectives indicated in Article 337 of Law N° 17.930. The country report indicates that out of the total budget allocated to INAMU, half of it is earmarked for payment of salaries, which reflects its insufficiency.

On March 8 last, the head of the Planning and Budget Office (OPP), Enrique Rubio, proposed studying the change of the institutional rank of INAMU in the framework of the State reform: “*Why not to a ministerial rank?*”⁹ After this proposal no other initiative was made known.

In 2002, this Committee stated: “*the hierarchic dependence of the national mechanism with respect to the Ministry of Education and Culture, as well as its lack of human and financial resources worries this Committee*”. The State continues not complying with the recommendation for it to “*carry out a re-structuring of the mechanism and allocate the*

⁹ Diario La Republica, dated March 30, 2008.

necessary human and financial resources to supervise the effective application of the governmental policies and plans in relation to gender equality (...).¹⁰

The INAMU created in 2005 the Secretariat of the Afro descendant women, currently Department, which does not possess sufficient resources to fulfill its commitments.

Recommendation: The State should grant ministerial rank to INAMU so that it can comply with its objectives, hand in hand with the necessary budget to guarantee the effective application of the plans and policies in favor of gender and race equality.

III. Special Measures of a Temporary Nature – MECT – (Article 4)

Uruguay is at fault regarding the implementation of the Special Measures of a Temporary Nature in all the CEDAW articles, especially in: education, economy, political and public life, employment, international representation and participation in international organizations.

The Country Report does not explain the absence of the MECT as mandated by the General Recommendation N° 25 of this Committee and furthermore when it renders account of these it says: *“provisional measures of positive discrimination”*¹¹

Throughout the report we develop the need that the State implement the MECT in: (i) women and girls victims of slavery with sexual exploitation purposes; (ii) political and public life; education; employment; representation at the international level and international and health organizations.

We emphasize the need that the State implement the MECT in the areas mentioned above specially addressed to the Uruguayan women that suffer multiple discrimination: afro descendants and rural women.

IV. Stereotypes (Article 5)

Communications Media.

The *Observatory of communications media on violence against women*, carried out by Amnesty International-Uruguay section and RUDA¹², shows that, in relation to the treatment of violence against women, the media does not only not place the news as a human rights problem, but rather it reinforces gender stereotypes that maintain the hierarchic structure of domination. The study also evidenced the symbolic violence exercised from the media in a wide array of communications, including the sites allocated to male/female communicators and the adjectives with which women and men are qualified. Regarding this situation, the State has not developed any type of public policy with the intention of regulating it. There is no organism that supervises the female and male models produced and broadcasted by the media. The same omission on the part of the State was verified with respect to other groups: afro-descendants, girls and boys, handicapped people, youngsters and third-age persons.

¹⁰ Final Observations of the CEDAW Committee, Uruguay: January 28, 2002. CEDAW/C/2002/CRP/Add 6

¹¹ INAMU, Country Report CEDAW Convention. Page 36, Montevideo, June 2007

¹² Observatory of communications media on violence against women: Male/Female Communicators as agents of change. Amnesty International-Uruguay Section/Red Uruguaya de Autonomías (RUDA), Montevideo, 2007. <http://www.amnistia.org.uy/informeaiu.pdf>

This concern was noted by this Committee in its Final Observations of 2002 to the country. It then recommended: “(...) adopting measures to eliminate the stereotypes in the Uruguayan society, (...) prompting the Government to increase its awareness-creating programs, as well as adopting measures to change the stereotyped attitudes and perceptions regarding the function and the responsibility of men and women”¹³

Recommendation: The State, from INAMU, should: (i) regulate the female and male models transmitted through the national communications media: (ii) provide gender-sensitive training to the male/female communicators so that they can get to know the CEDAW, the CEDAW's Facultative Protocol and the other women's human rights instruments.

Stereotypes and Prejudices in operators of the Judicial System

As we have pointed out above, the non-enforcement of the human rights international norms, specifically that of CEDAW on the part of the juridical operators, Police, judges, attorneys, litigating lawyers and academy –whether due to resistance to incorporate them or due to lack of knowledge- generates a state of defenselessness in the women that recur to justice.

In the Specialized Courts on Domestic Violence and in the Childhood and Adolescence Code that functions in the country's capital, Montevideo, there is a reproduction of stereotypes on the part of some operators of both sexes, while among those that carry out practices that modify the domination relations there is a backlash effect.

Frequently on the Specialized Courts on Domestic Violence the judicial operators perform a minimization of the facts, attributing them a certain nature of “normality in the relationships between partners”. Specific training has been offered to the staff of these Courts with a minimum attendance by its members. These trainings consist in a first sensitization and the necessary cultural changes have not yet been accumulated so that all the judicial operators can act without reproducing stereotypes¹⁴.

This Committee made observations and recommendations to the Uruguayan State in 2002 about this point: “*The Committee recommends that educational programs on the directives of the Convention and the Facultative Protocol and women's rights be established for the judicial staff and the officers in charge of enforcing the law (...)*”¹⁵

Recommendation: The State must prioritize the gender-sensitive training of all its male/female operators so that they get to know the CEDAW and its Facultative Protocol, within a framework of Women's Human Rights.

V. Women's Slave Trafficking and Exploitation of Prostitution (Article 6)

Women's slave trafficking

Uruguay recently typified the offense of slave trafficking¹⁶. The country lacks statistical data and systematized official records about the magnitude of the slave trafficking phenomenon. The bulk of the information comes from the press and most of the studies carried out from different organisms both governmental as well as non-governmental are based on the information provided by it.

¹³ Final Observations of the CEDAW Committee. Uruguay: 01/28/2002. CEDAW/C/2002/CRP/Add 6.

¹⁴ Information taken from: “Study of the material, cultural, and formation limitations of the male/female operators of the Judiciary for the implementation of Law 17.514, currently.” RUDA-INAMU (in print).

¹⁵ Final Observations of the CEDAW Committee. Uruguay: 01/28/2002. CEDAW/C/2002/CRP/Add 6.

¹⁶ Law N° 18.250, January 2008.

Some studies concerning slave trafficking¹⁷ and infantile and adolescent prostitution¹⁸, PIA, emphasize the invisibility and silencing of the phenomenon. The hypothesis proposed in the case of the PIA¹⁹ can also be extended to slave trafficking. *“...Invisibility is the condition for the existence of the social practice. (...) The infantile and adolescent commercial sexual exploitation (ESCIA) constitutes a hidden economy, just like the trafficking (of persons, arms and drugs). Its visibility ends with a business that provides a lot of profits, so much that it is possible to buy State agents.”*²⁰

Uruguay is not complying with organizing and convoking activities that tend to visualize the trafficking problem and procure solutions, limiting itself to participate in instances promoted by the OIM.

Recommendation: The State must develop sensitization campaigns for the population in general and specifically for the juridical operators and Police, both male and female.

There is a generalized opinion among those that work in this area that in Uruguay there are networks of international trafficking at work²¹. Vis-à-vis the absence of global figures, knowing about “cases”²² acquires great importance, for example the “Montevideo” operation, developed by the Italian Police, thus called because the 23 young girls recruited and turned into prostitutes came from the poor zones of Montevideo. The news consigned by the ANSA Agency was denied by INTERPOL Uruguay²³. Also, several cases of prostitution networks in Spain, in which the women recruited came from Uruguay²⁴. According to a report from the International Organization for Migrations (OIM) the warehouses of Maldonado receive women from all over the country. Many of these are transferred to Europe during the Uruguayan winter by pimps, who facilitate the connections²⁵.

Likewise, the Ministry of Foreign Affairs has received news of some cases of international trafficking on the part of families residing in Montevideo.²⁶

Regarding the trafficking of boys, girls and adolescents with purposes of sexual exploitation, its existence has been proven, being greater the internal one than the international one, identifying adolescence as the most vulnerable age group and within it, women.²⁷ The general perception is that in Uruguay there is international trafficking linked to sexual

¹⁷ González Perret, D; Tuana Nageli, A.; “Invisibles y Silenciadas: Aportes y Reflexiones sobre la trata de personas con fines de explotación sexual comercial en Uruguay. Montevideo, Pegasus, 2006

¹⁸ Rostagnol, S.; Grabino, V (col) “Historias en el silencio”, Montevideo, RUDA/UNICEF 2007

¹⁹ PIA, infantile and adolescent prostitution.

²⁰ Rostagnol, S.; Grabino, V (col) “Historias en el silencio”, Montevideo, RUDA/UNICEF 2007

²¹ González Perret, D; Tuana Nageli, A.; “Invisibles y Silenciadas: Aportes y Reflexiones sobre la trata de personas con fines de explotación sexual comercial en Uruguay. Montevideo, Pegasus, 2006.

²² Those raised by the press as well as those presented by Interpol, judicial cases, etc.

²³ OIM, report published in December 2006.

²⁴ Margarita Navarrete, “La Trata de personas en Uruguay”, information taken from the Spanish newspapers ABC (www.abc.es/elpepiatmad/20050505elpmad_12/tes)

²⁵ Petit, Juan Miguel “Maldonado, sus nuevos desafíos” OIM, Montevideo. Page 60.

²⁶ González Perret, D; Tuana Nageli, A.; “Invisibles y Silenciadas: Aportes y Reflexiones sobre la trata de personas con fines de explotación sexual comercial en Uruguay. Montevideo, Pegasus, 2006, who also make reference to other cases. Rostagnol, S.; Grabino, V (col) “Historias en el silencio”, Montevideo, RUDA/UNICEF 2007, also render accounts of internal trafficking.

²⁷ Regional investigation “Tráfico con fines de explotación comercial sexual de niños, niñas y adolescentes en MERCOSUR, Bolivia y Chile”, 2004

tourism.²⁸ Regarding internal trafficking there are various cases that have been detected, among them the “Paysandú case”, which involved 120 girls²⁹.

Recommendation: The State should record and systematize the data regarding trafficking of women and girls.

Exploitation of prostitution

Pimping is a felony. Prostitution is regulated by Law N° 17.515 of 2002, which is only partially implemented. It is a discriminatory law towards those that perform sexual services. The law considers them male/female workers with rights and obligations, but the sanitary controls are designed to protect only the users³⁰. In the Prophylaxis Service, approximately 7,000 women from all over the country are registered. In Montevideo there are around 3,000 but it is estimated that only 500 go continuously to undergo the medical controls.

The scarce attendance to this service is due to the fact that the only tests performed are those for HIV and VDRL, without performing other services, such as the vaginal exuded. The gynecological exam is done by general practitioners³¹. The law created the National Honorary Commission for the Protection of Sexual Work, which is currently functioning but the delegates that represent the male/female sexual workers consider that they are not offered the space needed to carry out the actions that correspond³². Decree 480/03³³ demands that every male/female sexual worker report any transfer of site, which implies an important Police control.

Recommendation: The State should modify the existing discriminatory legislation.

PIA is illegal; however, it is a fairly disseminated phenomenon, of which there are practically no records, denunciations or processes only isolated cases in the press. It is an activity that enjoys impunity³⁴. Some actions have been carried out in relation to child pornography³⁵.

²⁸ Instituto Interamericano del Niño “Tráfico con fines de explotación comercial sexual de niños, niñas y adolescentes en MERCOSUR, Bolivia y Chile”, 2004

²⁹ González Perret, D; Tuana Nageli, A.; “Invisibles y Silenciadas: Aportes y Reflexiones sobre la trata de personas con fines de explotación sexual comercial en Uruguay. Montevideo, Pegasus, 2006, who also make reference to other cases. Rostagnol, S.; Grabino, V (col) “Historias en el silencio”, Montevideo, RUDA/UNICEF 2007, also render accounts of internal trafficking.

³⁰ In Rostagnol, Susana “Reglamentación: ¿Control Social o Dignidad en el Trabajo?” in: A.I. Fabregas – Martínez and M.R. Benedetti: “Na Batalha. Identidade, Sexualidade e Poder no Universo da Prostituição.” Dacasa, Porto Alegre, 2000 there is an analysis of the law when it was still a bill.

³¹ Information obtained from an interview with the Chairwoman of the Association of Professional Prostitutes of Uruguay (AMEPU).

³² Information obtained from an interview with the Chairwoman of the Association of Professional Prostitutes of Uruguay (AMEPU).

³³ Regulatory Decree of Law 17.515 regarding sexual labor.

³⁴ Oliver Ricart, Q. “Una Mirada a la Situación de la Prostitución Infantil y Adolescente en Uruguay”, Montevideo, UNICEF, 2003; Rostagnol, S., Grabino, V. (col.) “Historias en el Silencio”, Montevideo, RUDA/UNICEF 2007.

³⁵ Work “Promotion of Capabilities for the Prevention of Social Vulnerability: Slavery, Trafficking and Pornography Related to Boys, Girls and Adolescents” (2007) organized by the OIM and the Departmental Bureau of Rivera of INAU; research performed by the National Bureau for the Social Prevention of Felonies, Ministry of the Interior.

Law N° 17.815 of 2004³⁶ penalizes the demand of the PIA but it has not yet been implemented.

In 2007 the Inter-institutional Committee created by the Executive Power and presided by the INAU with the participation of civil society elaborated the National Plan for the Eradication of Commercial and Non-Commercial Sexual Exploitation of Boys, Girls and Adolescents. To date the actions foreseen have not been carried out.

Recommendation: The State must implement the actions foreseen, providing the necessary resources.

The issue of trafficking is present in the agenda of various regional organisms (MERCOSUR and associated States), but the superposition of priorities generates dispersion of information and of economic and human resources to carry out the actions. No information was obtained regarding the compliance on the part of Uruguay of the Action Plan for the Fight against the Trafficking of Persons among the States Party to the MERCOSUR and Associate States (2006).

Recommendation: The State should articulate regional agendas prioritizing the implementation of actions tending to prevent, sanction and eradicate the trafficking of women and girls.

The proceedings linked to prostitution and trafficking are made difficult by the non-existence of adequate legislation referred to the protection of witnesses, occasionally applying the decree of the Executive Power that allows maintaining the anonymity of the witnesses that are in risk situation³⁷.

Uruguay has few protection norms for victims of felonies, both regarding their participation in judicial proceedings as well as in respect of the specific rights of protection and assistance.

An OIM investigation affirms that in Uruguay there is no Police policy or a judicial attitude intended to guide investigations aimed at detecting pimping³⁸.

Regarding the treatment of victims of trafficking, forced prostitution and PIA, there are no attention protocols, nor institutional instances where they can be carried out, nor support and redress programs. The estimated magnitude of trafficking requires consular support mechanisms for the victims, in order to facilitate their restitution to the country. Uruguay lacks a specific legislation on proceedings and scope of the consular protection in situations of trafficking of persons.

Uruguay is a country of origin for women victims of trafficking with purposes of sexual exploitation. The economic, social, political and cultural conditions place women and girls in a situation of vulnerability and risk vis-à-vis trafficking.

The State has failed to implement the Special Measures of a Temporary Nature, MECT, that specially attend women in the situations described.

³⁶ "Commercial or Non-commercial Sexual Violence Committed Against Children, Adolescents or the Handicapped"

³⁷ The judge of Maldonado, Graciela Eustachio (now in Montevideo in charge of the 8th penal court) was able to process a woman pimp that forced several women to prostitute themselves in high social circles. The testimony of the protected witness was key. <http://www.cnccs.com.uy/softies/print/news/6385/>.

³⁸ Petit, Juan Miguel: "Maldonado: Sus Nuevos Desafíos". OIM. Montevideo. Page 71.

Recommendation: The State must articulate and enforce the internal and international legislation that protects victims and witnesses of trafficking, forced prostitution and PIA.

VI. Political and Public Life (Article 7)

The participation of women in the three State powers described by the Country Report has been modified in prejudice of women.

In the Executive Power, out of 13 Ministries, there are 4 headed by women. In the Vice Ministries, the number went down to 2. In the Presidencies and Vice Presidencies of the 8 public companies and 5 public banks, which heads are appointed by the President, there is only one woman. The head of the Attorney General's Office of the Nation is a man.

In the Judiciary, during the 2002-2008 period only one woman was a member of the Supreme Court of Justice. In the Departmental Peace Courts, 75% is occupied by women. In the First Instance Courts, 59% and in the Appeals Courts, 38%. Women are located in instances of lesser hierarchy and/or in disqualified instances such as Family Courts³⁹. In the Public Ombudsman Office, 70% of the Defenders are women.⁴⁰ In the hierarchic positions women occupy only 28.7%.

Parliament keeps showing scarce participation and a setback of women with respect to the prior legislature. The number of legislator women has decreased from 11.5% in the 2000-2004 period to 10.8% in the 2005-2009 period. Among the 130 legislators, only 14 are women and there are no afro-descendant legislators.

As Johnson and Pérez point out: *"In Uruguay, since 1988 to date, 8 bills have been presented, which establish some form of quota. However, only two got to be discussed in the Plenary of any of the two Chambers and only one obtained half a sanction and awaits being discussed by the second Chamber."*⁴¹

In this process we underscore the resistance of many legislators to accept the bill on quotas, basing their argument on stereotypes and prejudices about the role of women: *"the presence of the mother, of the woman, is indispensable in the home. (...) we men are dispensable⁴²; the political activity does not have schedules, fixed places and sometimes it is difficult to make this compatible with the exercise of some professions, with the roles of mother and wife (...) the political activity has a specialty that maybe makes many women voluntarily quit it⁴³".* The problem was expressed in terms of vocation: *"For some reason more women graduate as physicians than men, but very few are inclined to surgery or traumatology, but they predominate in pediatrics. It seems that there is not much vocation for politics in women."*⁴⁴

On the contrary, Johnson and Pérez point out that: *"In this sense, the last survey (...) carried out by the Policy and Gender Area of the Institute of Political Science shows that the citizenry*

³⁹ This qualification is given from the Judiciary itself and from civil society.

⁴⁰ See further statistical information in the exhibits.

⁴¹ Dossier on quotas elaborated by Niki Johnson and Veronica Perez in the framework of the "Parlamenta" Project that is developed in an agreement between the Instituto de Ciencia Política (FCS, U. de la R.) and the Bancada Bicameral Femenina of the Uruguayan Parliament. Being edited.

⁴² Idem. Senator Heber (Partido Nacional), diary of sessions of the Senate, N° 213 – Tome 452, 5/21/2008.

⁴³ Senator Moreira (Partido Nacional), diary of sessions of the Senate, N° 214 – Tome 452, 5/28/2008.

⁴⁴ Senator Julio Maria Sanguinetti (Partido Colorado), editorial in El Pais newspaper, 4/20/2008.

has a broadly favorable opinion with respect to increasing the presence of women in the Parliament, as well as the fact that half the public opinion agrees with the use of quotas.”⁴⁵

The Uruguayan women participate broadly of the partisan politics. However their participation is hampered and made invisible by their own peers. In their vast majority they are relegated to substitute positions and they lack the basic conditions to perform their tasks.

This lack of harmonization of the State with the CEDAW norms and the successive General Recommendations has already been pointed out by this Committee in 2002. The Country Report does not explain the absence of the MECT as mandated by General Recommendation N° 25 of this Committee.

Recommendation: The State must implement the MECT to equal the number of women with that of men in decision-making positions in the three State powers.

The multiple discrimination of afro-descendant women due to their poverty, race and gender determines the real and sustained impossibility of occupying political positions to boost transformations and make decisions that modify their situation of structural exclusion.

Recommendation: The State must implement the MECT to promote the participation of afro-descendant women in the political activity and the access to decision-making positions.

VII. Education (Article 10)

In 2006 the initiative for the reform of the Uruguayan education system arose from the National Administration of Public Education, ANEP. In view of this, a Responsible Commission was formed, which promoted open fora throughout the country, in order to opine and discuss said reform, entitled “*Educational Debate*”. This reform has not yet been approved.

On March 8 last, the Minister of Education and Culture (MEC), Maria Simon -for whom “*the cultural change will take generations*”- trusts that by incorporating the education law in the human rights course as a transversal area, will set the basis for that to be the constant that permeates the relationship between teachers, girls and boys.⁴⁶ The Minister announced the incorporation of sexual education into the educational system as well as the gender perspective in the school texts, the non-discrimination in the use of language and the effective control of the infantile day-care centers.

Several international studies indicate that Uruguay is characterized by allocating a low portion of its gross domestic product to education, allocating only 2.6% of GDP to public education at all levels⁴⁷, placing itself, in view of this, side by side with African and Central American countries.

The universalization of primary education in Uruguay is not the main problem since it has been overcome two decades ago. The main problem in this educational cycle “*(...) is the high repetition rate produced in the first year with the consequent growth of the extra age and its strong impact on the levels of early dropouts, specially in the first years of secondary education (...)*” *The repetition of the first school year in Uruguay is 60% higher than in*

⁴⁵ Idem.

⁴⁶ La Republica, March 30, 2008.

⁴⁷ UNICEF. Op. Cit.

*Argentina, 8 times higher than that of Chile and Switzerland and almost quadruple of that of Luxembourg*⁴⁸.

The total repetition in elementary schooling has a very high economic cost for the country amounting to US\$ 11.2 million per year, of which 4 million are earmarked for the financing of repetition of the first school year. The extension of initial education has been one of the measures that help reduce the repetition index in the first year of schooling since the boys and girls acquire an adequate level of cognitive and linguistic development in it.

The pending challenge is the universalization of secondary schooling. A study cited by Llambi and Furtado⁴⁹, points out that the urban/rural gaps broaden as of the levels of secondary education. In the study cited it is affirmed that “(...) *almost one out of every four youngsters between the ages of 12 and 14 and almost one out of every two between the ages of 15 and 17 had abandoned their studies (...)*”.⁵⁰ To shorten this gap implies increasing the resources aimed at education and improving the quality of the latter.

The poverty of the rural population makes access of women to secondary schooling difficult due to the laws of the transport subsidy of the primary level. This situation is worsened if they manage to reach the tertiary level due to the distance, housing and food costs and patriarchal prejudices that imply their exclusion from the educational system.

This situation implies that women must train in traditional activities such as knitting, sawing, canning of foodstuffs, among other, without counting with the possibility of receiving an integral and qualified formation that allows them to reach a greater development.

In 2003 the CEPAL performed a comparative study of 18 countries of Latin America, which indicated that 30% of the male/female adolescents aged 15 to 19 of the urban zones of Uruguay was affected by desertion.⁵¹

The absence of more specific statistics that inform about the race, age, sex, socio-economic level, among other variables of the male/female dropout students on the part of the public institutions continues being a debt of the State in spite of the fact that the various Monitoring Committees of the several human rights treaties recommended their collection in several Final Observations.

Access to education of the afro-Uruguayan women

On 2006 the National Institute of Statistics (INE) performed the Expanded National Survey of Homes, ENHA, where one of the questions was about the perception of each male/female interviewee regarding his/her race. 9.1% of the total population identified itself as of African race. Of the total of afro-Uruguayan women “*3.4% performs as managing staff, 9.3% are professionals and technicians, 9.6% office employees and 77.77% sales girls and manual workers.*”⁵²

This ENHA, called “*the democratic and socio-economic profile of the Uruguayan population according to its racial ascendance*” by Buchelli and Cabella, 2007, verifies that “*regarding the type of occupation, the afro-descendant population is concentrated in the low qualification*

⁴⁸ UNICEF: Inversión en la Infancia en Uruguay. Análisis del gasto público social: tendencias y desafíos. Montevideo, 2005.

⁴⁹ Op. Cit. (Cardozo y Papa, 2004)

⁵⁰ Op. Cit.

⁵¹ Op. Cit. Cited by Llambi and Furtado.

⁵² CEDAW Country Report 2007. INAMU, May, 2007.

jobs and has a significantly minor participation in the managing positions, professionals and technical. The important participation of the male Negroes in the construction industry and of women in the personal services is highlighted. (...) Finally, it has been verified that the average remunerations are lower for the male and female afro-descendants compared to those received by the persons of white ascendance (...) This result suggests that there is racial discrimination in the labor market and is another one of the aspects that merits a more detailed analysis”.

The social situation of the male/female afro-descendants in terms of their location in the income stratus and in their levels of poverty is in co-relation with their locations in the educational system and in the workspace.

Only since the past legislature, year 2005, this collectivity has a representative in the Legislative Power. There are no representatives in any other instance, neither governmental or judicial.

Regarding the consequences of the afro-Uruguayan women’s poverty, Beatriz Ramirez⁵³ told us that “(...) *Studies performed by Mundo Afro (socio-economic and cultural diagnose of the afro-Uruguayan women), suggests that the relation observed between the level of instruction and personal valuation, not only has consequences for women but also for their children, who learn this inferiority feeling (...) The mother’s low level of instruction strongly conditions the entry, permanence and performance of the children in the formal educational system (...) In this context there is an evident risk of reproducing the ethnic discrimination forms, of which the mothers have been victims”.*

We verified that there is *de facto* discrimination on the part of the Uruguayan State since it is omitting its obligation of facilitating the access to the education to the afro-Uruguayan community, since it has not generated MECT that traverse the declarative and bear in mind the conclusions of the Committee to Eliminate all the Forms of Racial Discrimination of 2003, where the Uruguayan State is held responsible as the principal actor in the generation of said actions as well as the various General Recommendations that this Committee has issued in this respect.

For this, it is important that the education system have coherent policies with the various international instruments ratified by the country, specially the CEDAW and the implementation of the MECT, so that the afro-Uruguayan girls and adolescents continue their studies and have other alternatives of employment and life project.

Recommendation:

1. The State must adopt legislative measures that regulate the incorporation of the teaching of human rights, of equality and non-discrimination with a gender and race prospective as transversal axis in all the subjects of all the educational levels.
2. The State must boost the MECT in formal educational policies in favor of the afro-Uruguayan community, with special emphasis in the girls, adolescents and youngsters.

⁵³ Responsible for the Secretariat of Afro-descendants INAMU.

VIII. Employment (Article 11)

Women and employment

In spite of the fact that Law N° 16.045 prohibits the violating discrimination of equality in the treatment and opportunities at work, the difficulty of access for women in the same conditions as men continues.

The convocations to work exclude women or request from them “good looks”, which implies a stereotyped model of woman: young, white, slim, among other characteristics, perpetuating the cultural patterns of discrimination.

The possibility of pregnancy, the civil status and the family dependencies are borne in mind by the employer when contracting female workers, blocking their access to employment, training and promotions to positions of superior hierarchy.

The rate of activity of women is 21% lower than that of men, increasing as of age 45 and beyond. Men maintain advantage in rate and quality of employment.

The number of women that work or seek employment grows progressively. Generally, they access inferior-level jobs, low remuneration, unstable and informal, such as: (i) domestic work and (ii) sectors of lower income and qualifications, which together with the female head of house hold, determines their lower economic level or poverty situation.

The social stereotypes of the jobs considered male, which influence in the education and professional formation of the women that determine the access to jobs traditionally considered female, are maintained: (i) services; (ii) care and teaching (nurses, teacher, professors); (iii) professionals in humanistic careers (social assistants, sociologists, psychologists, lawyers, physicians). In spite of these, women have begun to perform jobs traditionally considered male (taxi and bus drivers, construction, military academies) and to diversify their training, but they are discriminated upon at the time of being contracted.

There is an important number of professional women with a tertiary level of education who nevertheless receive incomes that are lower than men’s. They are requested better resumes than men for similar jobs. We are attaching statistics in this respect.

The Circumstantial Report of July 2008 of the Instituto Cuesta-Duarte-PIT CNT⁵⁴ verified: (i) the inferior quality of women’s jobs; (ii) the greater vulnerability of women and young girls regarding work conditions and with a higher rate of unemployment; (iii) less promotions and qualifications to access superior positions that are filled mostly by men; (iv) higher unemployment among the poorer women, the young ones that are seeking employment for the first time or those that became unemployed at a mature age, without access to retirement.

Recommendation: The State must inform about the concrete actions in compliance of the Equal Opportunities and Rights National Plan.

Pregnancy. The legislation does not foresee a mandatory reimbursement in favor of the pregnant woman fired⁵⁵. Aside from the common indemnity, there must be a special indemnity equal to six month’s salary. The stability to the maternity reimbursement is foreseen without setting forth the term.

⁵⁴ Published in the Semanario Brecha on 8/1/2008.

⁵⁵ The reimbursement is only legislated in the case of anti-syndicate firing.

Maternal leave of absence. The public workers enjoy 13 weeks⁵⁶ and the private ones 12 weeks.⁵⁷

The paternal leave of absence is only legislated in the public activity, granting ten working days to the father that accredits the birth⁵⁸. Few private workers have paternal leave by agreement, which varies between one to three days.

Leave due to adoption. Six continuous weeks for male/female public or private workers that receive children in adoption or adoptive legitimization that can be used by one of the members of the marriage.

For the public sector the leave is a paid one, while the private employees receive a subsidy from the Banco de Previsión Social, BPS, maintaining the differences in detriment of the latter.⁵⁹

Recommendation: The State should uniform the internal legislation regarding the maternal and paternal leaves.

Breastfeeding. Only the public employees have the right to part-time employment due to breastfeeding until the child requires it by medical supervision.⁶⁰ The private worker can only interrupt her day's work during two moments of half an hour each one.⁶¹ It is generally not complied with, opting for reducing by one hour the day's work or giving a larger lunch break in case of two separate shifts.⁶²

Recommendation: The State must acknowledge and guarantee the equality of the public and private workers regarding breastfeeding, supervising the existence of adequate places for its compliance.

Salaries' Councils. Since 2005 the Salaries' Councils establish a sole salary by category. Women's salaries continue being lower percentage-wise than those of men.

Recommendation: The State should supervise compliance of the law, guaranteeing the enjoyment of their labor rights under equal conditions.

Domestic work. The male/female domestic workers have a right to indemnity if they are fired after 90 days of work. 29.3% of the total domestic workers is afro-descendant women (Exhibit 3).

Some advances have been made regarding entry into the Social Security, but in many cases the contribution is done based on a salary lower than the real one, in detriment of the worker. The BPS, at the time of affiliation induces to affiliate for a minimum.⁶³

⁵⁶ Law 16.104, Articles 24-25 – one week before birth which can be advanced up to six and extended twelve after birth.

⁵⁷ Law 15.084, Article 12 – six weeks before birth and six after birth.

⁵⁸ Law 17.930, Article 26.

⁵⁹ Law 17.292 of 2001.

⁶⁰ Law 16.104, Article 28.

⁶¹ Decree dated June 1. 1954.

⁶² There is a bill since 1985 in the Chamber of Representatives on reduction of the working hours to four due to breastfeeding for female workers of the private sector for a period no less than 90 days.

⁶³ Manifestations of the syndicalist Mariella Burlon at the Round Table on Domestic Work, dated April 29, 2008.

Sexual harassment at work. The victims of harassment at work are mostly women. Even though Law N° 16.045 defines it, it does not typify or sanction sexual harassment as a felony but rather as a fault.⁶⁴ It is not an efficacious mechanism and therefore it is not used.

The moral harassment or mobbing is not legislated. Women are the most affected due to systematic intimidation conducts, devaluation and contempt at work.

Recommendation: The State must harmonize the internal legislation with the international norms regarding sexual harassment and mobbing.

Social Security. To retire it is required to have worked for 35 years and to be 60 years old. This discriminates against women by not taking into account the time dedicated to maternity and raising children, which determines a lesser period of contributions to Social Security and consequently a lower retirement pension.

Recommendation: The State must legislate by reducing the term to 30 years of work and computing one year for each child.

Afro-descendant women. Important and persistent gender and race inequalities are observed according to the data of the ILO⁶⁵. In Uruguay, 11.8% of the Economically Active Population, EAP, has afro ascendance.

Afro-descendant women show a larger rate of unemployment, lower health coverage, pensions and income comparatively inferior by 80% to the rest of the EAP. They earn 12% less than men belonging to other ethnic groups. Due to multi-employment and their condition as heads of households, they obtain 13% more than afro-Uruguayan men.

Recommendation: The State should implement the MECT so that the adult afro-Uruguayan women can train in more qualified non-traditional tasks and can have other employment alternatives.

IX. Health (Article 12)

Budget allocated to the Women's National Health Program

The Country Report indicates the creation of the Women, Health and Gender National Program of the Ministry of Public Health (MSP) and outlines its objectives. Said program has 4 officers assigned to it, among the 14,502 officers that said Ministry records as at 2006. It does not have a budget to comply its objectives with; therefore, it depends on the international cooperation and the specific allocations made by the ministerial hierarchies.

Recommendation: The State must allocate to said program a sufficient budget to enable it to comply with its objectives.

Abortion

In Uruguay abortion is penalized. This punitive legislation constitutes discrimination against women. In the case of the poorer ones, the discrimination is multiple since they suffer higher rates of morbid-mortality for practicing abortions under conditions of risk for their health and/or life. Here are two examples of this discrimination:

⁶⁴ There is a bill of Dr. Martha Marquez presented to the Tripartite Commission on Equal Opportunities and Treatment at work.

⁶⁵ Labor Panorama 2007. ILO, page 38.

- (i) On May 16, 2007 a Uruguayan woman was processed for the “felony of abortion” by the Judge of the 19th Court, Luis Charles, in view of the claim filed by a physician.⁶⁶
- (ii) *“On April 18, 13 women were arrested, incommunicado and led to the Pereira Rossell Hospital⁶⁷ to be subjected to gynecologic tests, under suspicion of having practiced an abortion onthemselves, verifying pressure over the health professionals on the part of the Police officers. The Police procedure, which motivated the arrest of the women accused of undergoing an abortion, as well as the pressure upon the physicians to violate the confidentiality principle of the doctor-patient relation, were all determined and supervised by Judge Merialdo, as auxiliary of the Judiciary.⁶⁸ (Exhibit 4).*

Since 1985 there have been different bills that proposed de-penalizing abortion under certain circumstances and conditions⁶⁹. The opinion surveys have given a growing citizen support, which reached 63% in 2004. However, Presidents Batlle (Partido Colorado) and Vázquez (Coalición de Izquierda EP-FA-NM), announced their veto if the norm were approved. We note the existing gap between the public opinion that broadly backs this project and the opinion of the political class (Exhibit 4).

The State continues not complying with the recommendations made by this Committee in 2002.

Likewise, the Committee for Children’s Rights recommended to the Uruguayan State in May 2007 that *“(...) the Committee urges the State Party (...) to review the penalization of the interruption of pregnancy (...)”*⁷⁰

Recommendation: The Uruguayan State must de-penalize the interruption of pregnancy, harmonizing its internal legislation in this respect in accordance with CEDAW and the other Human Rights international norms.

More than four years since Ordinance N° 369, it has only been implemented in the Pereira Rossell Hospital and in four health centers of the Network of first-level attention in Montevideo with the support of civil society organizations. The Ordinance establishes the duty of the health professionals to inform the women about the procedures of “lesser risk” for the voluntary interruption of pregnancy: before, during and after the interruption. In this respect, Leonel Briozzo states: *“(...) We do not point out any abortion method in particular nor a place to go, but we do inform them about how Misoprostol acts. Misoprostol is the generic name of a drug used to treat ulcers that cause hemorrhages and can cause interruption of pregnancy. Since a couple of years it has turned into the abortive method of the impoverished medium sectors also in the Argentine.”*⁷¹

⁶⁶ 9,763 citizens, among which are women and men members of the first level of government, Academia, syndicalism, and arts, among others, signed a public letter blaming themselves for having committed the same felony without having been processed: “all of us are the twenty year old women being processed. Or all of us are delinquents or that law is unfair. participa@ciudadania.org.uy

⁶⁷ The Pereira Rossell Hospital is in Montevideo, it is public and a maternal/infantile reference center.

⁶⁸ <http://ceda.org.uy>. Declaration of Youngsters for the Law in Defense of the Right to Sexual and Reproductive Health.

⁶⁹ In the past legislature the Chamber of Deputies sanctioned a project that the Senate did not approve. In the current legislature the Senate approved a similar bill that is awaiting its consideration in the Chamber of Deputies for more than ten months.

⁷⁰ Final Observations of the Children’s Rights Committee to the Uruguayan State: CRC/C/URY/2, July 5, 2007.

⁷¹ <http://www.fac.org.ar/pipermail/cardtran/2004>.

The Uruguayan State promoted the following measures that constitute an obstacle for the access to Misoprostol, among them:

- a) In 2005 it withdrew Misoprostol from the market and imposed on the laboratories the obligation of increasing its price, as denounced by the then-Vice President of the Uruguayan Medical Syndicate.⁷²
- b) The obligation of the pharmacies to sell this drug through prescriptions of gastroenterologists, thus taking it out of the “over the counter” sales.⁷³ (Exhibit 4).
- c) The non-ratification of a position in the MSP to a university professor for claiming for a State policy that facilitates the access of women to Misoprostol.⁷⁴
- d) Resolution N° 158/2006, which although it authorizes some obstetric uses for the drug, it reinforces the restrictions so that the health professionals cannot offer them to those that have decided to have an abortion.⁷⁵

Recommendation: The Uruguayan State must implement Ordinance N° 369 throughout the country.

Use of contraceptives

Even though there are researches that report the broad dissemination of information regarding the different contraceptive methods (MAC), there is no evidence that the access to these has reached equivalent levels of fulfillment of the population’s needs. This is expressed in the first place by the estimated abortion rate (38.5%).

In recent researches performed in specific populations (poor women and young women) with samples not statistically representative, approximations were obtained of the magnitude of the “*sentences and failures in the decision to regulate fecundity through authorized means*”. It is highlighted that within the reference sample “*among the women that used MAC, there is a range between 45% and 66% that had all or some of their unplanned pregnancies” and “*among the women that continued unplanned pregnancies” 43% handled information and used adequately” the MAC, while “21% revealed not using them correctly, even though they handled adequate information”⁷⁶. It is significant that among these women, those that protected themselves with MAC and never had an unplanned pregnancy, reach 35%, while those that did not protect themselves with any MAC and had all their unplanned pregnancies reach 40%.**

Recommendation: The State must harmonize its internal legislation with the international legislation, especially with the CEDAW and implement the immediate installation of the services foreseen by Ordinance N° 369/04 of the MSP.

In spite of the implementation of specific measures regarding the health attention of rural women, the contraceptives do not arrive and many times they are not informed of the access to: (i) the contraceptive methods; (ii) sexual education; (iii) prevention of adolescent pregnancies; (iv) sexual diseases, among other.

⁷² See press note in Exhibit.

⁷³ La Republica newspaper, May 17, 2008.

⁷⁴ See press notes in Exhibit.

⁷⁵ See Article 3 resolution 158/206 in Exhibit.

⁷⁶ Sanseviero, Rafael; Barreras. “Investigation on the Right to Choose” 2008. IPPF, RUDA, AUPF editors.

Cancer

Cancer has a high incidence in the country, with a rate of 229.28 per 100,000 inhabitants in 2002, according to information from the MSP. Among the female population, the two most frequent cancers are breast cancer, which constitutes the second cause of death originated by a tumor among women, and that of the uterine cervix. That is the reason why the universalization of the preventive tests⁷⁷ is so important.

Law N° 17.242 dated June 13, 2000, Ordinance N° 402 dated July 11, 2006 of the MSP and the recent inclusion of the PAP and the mammography in the Health Card, of mandatory procurement for all the female workers, constitute important advances. However, 76.1% of the women that have never had breast control performed on them declared that the gynecologist did not indicate nor performed the preventive exam.⁷⁸

The State has not made sufficient efforts to modify the cultural guidelines that impede the universalization of oncologic prevention.

Recommendation: The State must perform public sensitization campaigns aimed at the male/female gynecologists and at the users to prevent breast and uterine cancer.

HIV-AIDS

34.2% of the HIV cases and 25% of the AIDS cases are women's. From 2000 to 2006 the cases of women affected went from 29.5% to 31.1%, showing a worrying tendency towards the juvenilization and feminization of the epidemic: *"while in the year 1991 for every 8,5 men infected there was one woman, in 2005 for every 2.5 men infected there was one woman. This man/woman ratio is maintained currently in the new cases notified."*⁷⁹

The vertical transmission (mother to son) of HIV decreased from 26% in 1995 to 3% in 2006, after it was made mandatory to provide to all pregnant women the serology for HIV in their first obstetrics control and if necessary, prior informed consent, provide the antiretroviral treatment⁸⁰. However, *"...little progress was made in the inter-relationship between the strategies for the prevention, attention and treatment of HIV AIDS and the focus on sexual and reproductive health. These continue being vertical strategies not strongly interconnected among them..."*⁸¹

The information and sensitization campaigns in favor of the population and other preventive actions have been discontinuous and erratic and currently there are no substantial improvements in sight.

Recommendation: The State must perform sustained campaigns to prevent HIV AIDS, aimed specially at women, with emphasis in the young.

⁷⁷ National Observatory on Gender and Sexual and Reproductive Health in Uruguay. Report MYSU, 2007.

⁷⁸ Idem.

⁷⁹ Dissemination notebooks on Rights and Sexual and Reproductive Health, Epoca II/Nº2/July 29, 2008, MYSU.

⁸⁰ Decree N° 158/97.

⁸¹ "Monitoring of the Declaration of Commitment on HIV/AIDS (UNGASS, United Nations) on the goals of the Sexual and Reproductive Health of Women. Report of the Civil Society, Uruguay 2005, 2007, performed by MYSU and ASEPO.

Mental health

In 2006, according to data from the INE, 3.6% of the population was under psychological treatment (2.2%) and/or psychiatric treatment (2.4%), which represents 4.2% of women and 3% of men.⁸² The consumption of psycho drugs is high among the female population. However, no mental health policies with a gender perspective can be observed. In the case of rural women, they do not receive attention, an aspect made more serious by the isolation in which they live.

Recommendation: The State should design and implement mental health policies with a gender perspective.

X. Rural Women (Article 14)

Invisibility of the rural women

There is scarce research in relation to the living conditions of rural women. In the case of quantitative data, in general they only cover the urban area; there is no data on the rural environment.

According to the “Expanded National Survey of Homes, 2006, Gender Perspective”⁸³, out of the total population that lives in the Uruguayan territory, 41% lives in Montevideo and 59% in the provinces. Within this 59% that lives in the provinces, 46% live in cities of 5,000 or more inhabitants, whereas almost 7% live in minor locations and 6.5% in the rural provinces. In the differences by sex, more women live in Montevideo (54% vis-à-vis 46%). At the same time, the portion of males increases to the extent that the size of the location decreases and clearly in the rural provinces (47% women and 53% men).

Rural women live in a situation of isolation, in an environment in which “male chauvinism” has its stronghold. The progress (due to organizations and women’s groups) is slow and isolated.

Female work

The invisibility of the female work is expressed in a sub-registry in the interviews. The problem is how to highlight the non-remunerated or undervalued activities in relation to the main activity of the area. As an example, the survey of the Ministry of Cattle-Raising, Agriculture and Fishing, MGAP, highlights only plots larger than 1 hectare, therefore excluding activities in vegetable gardens, poultry breeding, or farming activities in small locations.

The MGAP, on July 29, 2008 signed a resolution establishing a sole definition of “family product”, in reference to male/female producers⁸⁴. However, there is a lot to be done in practice, where it is essential to propitiate and strengthen (both at the level of formation in the universities as well as in the updating) sensitization instances for the professionals of the agricultural and farming areas, who frequently reproduce stereotyped images of the male/female rural workers.

When rural women define their main activity as “domestic chores” they make invisible their productive tasks, thus limiting recording of the data.

⁸² ENHA 2006, Theme Report: Uruguayans and Health. <http://www.ine.gub.uy/enha2006>

⁸³ “Expanded National Survey of Homes, 2006, Gender Perspective”. Karina Batthiany, Mariana Cabrera, Lucia Scuro. UNDP, UNFPA, INE. May, 2007. Available at www.ine.gub.uy

⁸⁴ See resolution in Exhibits.

Women (especially in small and medium exploitations) perform a triple shift: rural and home tasks, as well as some other such as the production of foodstuffs, knitting, and handicraft in order to obtain their own income.

The MGAP recently created a Unique Registry of Agricultural and Farming Producers, which is being implemented. Nevertheless, the methodology employed for the construction of this registry does not allow highlighting the different persons involved in the same family exploitation. For example, they refer to 46,000 producers when actually they are 46,000 agricultural/farming exploitations⁸⁵, making invisible other persons that take part in the production: adult women, men, youngsters and boys and girls. (Exhibit 5).

Recommendation: The Uruguayan State should highlight precise information that accounts for the persons involved in the family production.

Social Security

The category of “rural collaborators” is the one generally allocated to the women producers in relation to the “holder” of the premise, who is male. The law does not establish that the holder should be male. Both could appear as holders, but at the level of the family production it is a custom based on cultural and economic stereotypes so as to contribute less to Social Security. In some circumstances⁸⁶ the female producers themselves have stated that they are not willing or in conditions to contribute for two holders. In this sense a cultural change and the empowerment of women must be promoted.

The role of rural tasks such as milking, cattle feeding, working of the land, and sowing is totally ignored at the time of acknowledging the generation of wealth. Generally the economies are handled by men, who are also the ones that decide how the income is to be spent.

Recommendation: The State must implement specific policies that make visible the reality of rural women.

Access to the political representation and participation

In spite of the existence of various discussion and construction of political agendas venues such as: the associations of rural women around the Association of Rural Women (AMRU) and the Network of Rural Women, it is necessary to emphasize the scarce political incidence that these groups have in the decision-making and coordination instances with governmental and non-governmental institutions.

In the case of the Cerro Largo department, a diagnosis performed by the Universidad de la República in 2006⁸⁷ evidenced the scarce participation of the female rural workers in

⁸⁵ OPYPA 2007 Yearbook, Chapter Advances in the Creation of the Registry of Agriculture/Farming Producers. Available at:

www.mgap.gub.uy/opypa/ANUARIOS/anuario07/docs/18_avances_creacion_reg.pdf

⁸⁶ For example, in the framework of the REAF, organ dependant on the MERCOSUR, which has among its objectives the identification and strengthening of differentiated public policies for the family agriculture, as well as the coordination between the States Party in the matter. In this environment, as stated by the Country Report, women’s organizations and women of mixed organizations participate in the National Section.

⁸⁷ “Diagnosis of Gender Inequality in Cerro Largo”. Extension and Activity Sector Commission in the Media (CSEAM-UDELAR), Municipal Intendancy of Cerro Largo, Institute of Anthropology (FHCE) Institute of Economy (FCCEE), Montevideo, December, 2006. Susana Rostagnol, Alma Espino,

associations: *“in the Fraile Muerto Work Union [associated to the Rural Federation] there are 170 active members, of whom around 23 are women, most of them rural workers. None of them is in the management staff (...) of the Sociedad de Fomento Rural. The management staff is made up by 18 members, of which 5 are women. Although the percentage turns out to be flattering, they are engaged in tasks associated to the traditional roles of women (development of the rural women). In this report it is also established that: “the syndicate participation of women is not in proportion to the establishments headed by women, which according to information taken from the electoral directory of the Asociación de Fomento Rural, they make up 15%.”*⁸⁸

The Network of Rural Women’s Groups made some recommendations in 1999, aimed at the presidential candidates, the local and national representations and the institutions linked to the rural sector in the sense of *“guaranteeing the representation of the male/female family producers in the negotiations to be implemented with the State, through the convocation to delegates of women’s groups, syndicate representatives, male/female delegates of youth groups, etc.”*⁸⁹

Recommendation: The State should guarantee the representation of the female family producers in the negotiations implemented with it.

Legal norms and access to land

The National Institute of Colonization, INC, carried out in 2005 the Census of Colonies and Settlers, in which information was collected in relation to the possession of the land. In this instance no analysis by sex was foreseen. The census also highlighted key information to obtain a comprehensive panorama of the situation of the male/female settlers, limiting itself to describing number and ages, focusing especially in the productive aspects.

Access to health services

The National Women’s Health and Gender Program of the MSP includes in its Plan specific actions for rural women. However, there has been no important progress in this sense.⁹⁰ As an example of this, the women that make up the Rural Women’s Network have not been consulted.

In many rural locations, women have access to general medicine, but not to specialists and they must go to the cities to have clinical exams performed.

According to the ENHA 2006: *“the greater coverage differences are given in the rural provinces and in the smaller locations, where women are the ones that present the greater coverage percentages in public services, whilst men have 20% more assistance than women in mutual benefit societies.”*⁹¹

Valeria Grabino, Serrana Mesa, Mariana Viera, Ivonne Do Santos, Victoria Espasandin, Natalia Montealegre (publication in press).

⁸⁸ Idem.

⁸⁹ “Visions, Proposals and Recommendations of the Grupos de Mujeres Rurales del Uruguay Network” 2004, page 14.

⁹⁰ There is the program Productive and Healthy Locations (MGAP) developed as of 2006 that suggests a holistic approach to health, but that cannot be understood as a specific policy to attend the needs of rural women.

⁹¹ “Expanded National Survey of Homes”, 2006, Gender Perspective. Karina Batthiany, Mariana Cabrera, Lucia Scuro. UNDP, UNFPA, INE. May, 2007. Available at www.ine.gub.uy

Domestic violence

The Country Report does not inform about the attention to rural women victims of domestic violence. Rural women are especially exposed since they live away from any possibility of help. As the saying goes: *“the farthest they can get is to the door”*⁹², which means nowhere. We must not forget that additionally, they not only serve but they also work with whoever inflicts that violence.

Female migration

According to data from the 2004 Census (INE), the de-population of the rural environment affects mostly women and young women.

Those that abandoned the countryside are basically women, due to the impossibility to continue studies; due to the upbringing of their children (not having schools or health centers nearby they go to the towns while the male remains in the fields). Likewise, women find few opportunities to work in the field, which can be explained *“by the type of production prevailing in the country (farming), in which women face higher barriers and on account of the limitations imposed by the work regime, which prevent them from establishing themselves with their families in these areas”*⁹³

Rights of the rural boys, girls and adolescents

In 2007 the Children’s Committee expressed their concern to the Uruguayan State regarding the collection of data. *“The Committee remains concerned by the lack of disaggregated data, in particular regarding society’s vulnerable sectors and the disparities existing between the urban and rural zones.”*⁹⁴

Likewise, that Committee recommended that Uruguay supply larger resources to the public health system and that it improve the access to medical services in the rural zones. Also, it is considered necessary to apply measures that improve the access to education of the boys and girls in the rural zones.

There is still no information available to evaluate the compliance of these recommendations.

Public policies

We verified the tendency in the representatives of the government organizations to assume that the MGAP has competence over all the aspects related to the daily life of rural women (health, work, and housing).

Recommendation: The State must record the number, conditions and needs of rural women throughout the country. Likewise, it must attend their needs by means of decentralized public policies.

XI. Marriage and family (Article 15)

Minimum age of the girl/adolescent to get married and exercise guardianship.

In spite of the recommendations of the Children’s Rights Committee to the Uruguayan State in May 2007 that *“(...) it perform a new reform of its legislation to establish the minimum age*

⁹² Network of Rural Women and Colonies of Uruguay. Document contribution to the CEDAW 2008 Shadow Report.

⁹³ Lilián, Ion, 2006. “Pesquisa sobre a situação das mulheres rurais e as políticas públicas no Uruguay”, page 171. In: Gender, family agriculture and agrarian reform in MERCOSUR, MDA, Brasília.

⁹⁴ Final Observations of the Children’s Committee. CRC/C/URI/CO/” July 5, 2007

to get married as age 18, applicable to both boys and girls”⁹⁵, the age to get married continues being maintained as 14 and 12 respectively.

Same discrimination was established with the sanction of Law 18.246 dated December 18, 2007, Law of Concubinary Union, which demands the same capability.

The Code of Childhood and Adolescence, enacted in 2004, establishes that the women aged 12 and the males aged 14, unmarried, can validly acknowledge their children. However, guardianship is exercised as of age 18. This discrimination was observed by the Children’s Rights Committee in 2007: “(...) *The Committee recognizes the anti-discriminatory directives of the 2004 Code of Childhood and Adolescence, but continues being concerned by the fact that the children born out of wedlock continue being stigmatized and discriminated upon, since the single parents not of legal age cannot have the guardianship of their children (...)*”⁹⁶

Recommendation: The Uruguayan State must establish the minimum age to get married at 18 years of age for both boys and girls. Likewise, that the adolescent parents that acknowledge their children can exercise their right to guardianship.

The internal norms continue discriminating both in the positive norms as well as in the denomination utilized. Thus, the children born within marriage are called *legitimate*, distinguishing them from the ones born out of wedlock, which are called *natural*.

Persistence of the prohibition to the widow or divorced woman to get married again within the 300 days after her divorce or the death of her husband and deprivation of the food pension to the woman that leads a “loose life”.

The patriarchal ideology that exists in the PC is repeated in the Civil Code.

The persistence of the prohibition for the widow or divorced woman to get married within the 300 days after the divorce or demise of her husband, (Article 112 of the Civil Code) and the deprivation of the food pension to the woman that leads a “loose life” (Article 183 of the Civil Code) are norms that exist since 1925; that is, almost a century ago. When reforms were introduced into the Civil Code, these were partial and circumstantial. In spite of the fact that the State has ratified several conventions contrary to many of the directives that this Code contains, it has not harmonized its internal legislation with these international instruments.

Recommendation: The State must harmonize the Civil Code with the CEDAW and with the international norms of the human rights it has ratified.

Law of the concubinary union

On December 18, 2007, Law N° 18.246 was approved, regarding Concubinary Union, which protects the *de facto* situations derived from the community of life of two persons, whatever their sex, identity or sexual orientation. It consecrates similarities between matrimony and concubinage without equaling them. The law does not allow the concubines to adopt children since the only source of legitimacy in our juridical order arises from matrimony.

Recommendation: The Uruguayan State must derogate the discriminatory norm of the Law of concubinary union, replacing it by one that contemplates adoption by same-sex couples.

⁹⁵ Idem.

⁹⁶ Idem.

The following persons participated in the elaboration of this Shadow Report:

For CLADEM Uruguay:

Anández, Cecilia; De Armas, Estela; Hernández, Moriana; Lima, Ana; Maurin, Mabel; Meza T., Flor de María; Simois, Mabel; Scarpitta, Marta and Chiacchio, Rosa.

For Mizangas:

Maciel, Noelia; Moreira, Karina; Suárez, Elizabeth and Ramírez, Tania.

For RUDA:

Grabino, Valeria; Laporte, Victoria; Mesa, Serrana; Rostagnol, Susana and Sanseviero, Rafael.

Writing Team:

Lima, Ana; Meza T., Flor de María; Suárez, Elizabeth and Rostagnol, Susana.