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Asociación Civil El Paso

Red Uruguay contra la violencia doméstica y sexual (RUCVDS)

This document is a contribution elaborated by the Asociación Civil El Paso and the Uruguayan Network against Domestic and Sexual Violence (RUCVDS) for the 135th session of the Human Rights Committee, in its sixth periodic report to Uruguay, to contribute to the improvement of the respect and guarantee of Human Rights.

Constitutional and judicial framework for the implementation of the Covenant (arts. 1, 2 and 4)

While the Uruguayan State recognises structural problems such as violence against women, human trafficking and violence against children, and has made progress in creating national regulations that reflect human rights principles, the limited or non-existent resources for the effective implementation of these regulations and the lack of budget for training on gender and sexual violence, makes it responsible for not providing a policy response to an identified problem.

We highlight the following regulations in addressing violence against women, human trafficking and the rights of children: regarding Sexual Violence against children or incapable persons, n°17.815 (2004); law about Personal Integrity of children and adolescents n°18.214 (2007); law on Gender-Based violence against women, n°19.580 (2017); law criminal procedure code, n°19.293 (2017); law of preventing and combating trafficking in persons,

n°19.643 (2018); and law n°19.747 (2019¹). However, these national frameworks do not have a budget for their implementation, which implies an omission by the State to provide timely and quality responses.

The lack of training of public officials and operators on gender-based violence and in particular sexual violence determines the prevalence of stigma and discrimination when it comes to guaranteeing protection and ensuring access to justice and reparation for women victims.

There are concerns about some normative modifications established in the Law of Urgent Consideration (n°19.889) that limit and weaken rights and guarantees, as well as the existence of bills under discussion such as 'Co-responsibility in Parenting' and 'Shared Responsible Parenting', which violate human rights principles and directly threaten the rights of girls and boys.

The Accountability law passed in 2020 (n°19.924) eliminated in its article 508 the formal participation and integration of Civil Society Organizations in the Observatory against Gender Violence established in law on Gender-Based violence against women (n°19.580), leaving it as an invitee and violating the right to participation.

RECOMMENDATIONS TO THE URUGUAYAN STATE

13. *Provide a budget for the regulations approved to effectively comply with its mandate, in particular for the creation of specialised courts for the various forms of gender-based violence throughout the national territory, and training for social, legal and educational operators.*
14. *Derogate article 508, which removes from the law civil society's formal effective participation in the Observatory against Gender Violence created in law n°19.580.*
15. *Comply with human rights standards and guarantee progressivity and non-regression in regulations and refrain from violating human rights.*

V. Violence against women (arts. 3, 6, 7, 14, 17 and 26)

The Law on Gender-Based Violence against Women (n°19.580) does not have a budget for its implementation. There is a lack of public policies for the training of civil servants and systematic policies to prevent gender-based violence against women.

There are services but they are insufficient, many are in the capital cities and with overflowing capacities and barriers to assist women with disabilities. This means an omission in the attention and effective protection of victims, violating the right to life, liberty and access to justice.

Addressing violence against women and gaps in femicide prevention

The lack of exhaustive data and records on gender-based violence prevents a full understanding of the existing situation. The Second Survey on the Prevalence of Gender-Based

¹ <https://www.impo.com.uy/bases/leyes/19747-2019>

Violence conducted in 2019 identifies that 8 out of 10 women suffered some situation of gender-based violence in their lifetime (76.7%). In addition, 47% of women aged 15 years and over reported having experienced some situation of Gender-Based Violence by a partner or ex-partner in their lifetime, while 19.5% of women said they had suffered it in the last year. Data on reports of domestic violence registered by the Ministry of the Interior reached a total of 36,229 reports by 2020.

Services for women in situations of gender-based violence are insufficient. The services are concentrated in the capital of the departments of Uruguay with limited opening hours and are oriented towards situations of intimate partner or ex-partner violence.

These mechanisms do not manage to cover the existing emergencies. The gender-based violence services are overwhelmed in their capacity or with sporadic follow-ups.

The shortage of quotas in shelters to protect women in situations of gender violence and the income requirements put women's lives at risk or expose them to a continuum of violence.

In addition, specialised responses to gender-based violence are excluded. Attention is mainly focused on dealing with violence by partners and ex-partners in services for women over 18 years of age.

Resources to accompany women in the process of leaving situations of gender-based violence are insufficient and make it impossible for them to leave effectively.

Femicides

The classification of the crime of femicide (law n°19.538, year 2018) allowed its visibility and recognition, although in its application there are judicial rulings that do not use it.

Femicide is the main cause of the murder of Uruguayan women. Access to official data on femicides is incomplete. The Ministry of Interior states that between 2012 and 2018, 347 women were murdered, and 50% were femicides; while the systematisation carried out by *Femicidios.uy*² records a total of 224 femicides for the same period.

Obstacles to access to justice, re-victimisation and reparation for victims and their families as direct victims are identified.

Although laws n°19.580 and n°19.747 recognise that children of women victims of gender-based violence are direct victims and oriented to protection measures, serious failures in the implementation of these measures have been identified.

RECOMMENDATIONS TO THE URUGUAYAN STATE

35. Guarantee the right of women victims of violence to immediate access to justice and protection when reporting situations of gender-based violence. It is necessary to strengthen the number of human and material resources and territorial dispersion of services for reception, care and psychosocial and legal response. In addition, different services should be implemented for the different types of gender-based violence.

36. Provide a budget for law n°19.580, which has not been able to fulfil its objective and

² <https://sites.google.com/view/femicidiouruguay/base-de-datos?authuser=0>

mandate. In particular, the creation of multi-material courts for a comprehensive response and non-re-victimisation. .

37. *Raise awareness and training campaigns for public operators*
38. *Strengthen and create shelters for the immediate protection of single women or women with children in situations of gender violence in different departments of the country.*
39. *Develop public policies that guarantee real housing solutions for women victims of violence, especially those with children in their care.*
40. *Create inter-institutional working commissions with the participation of organised civil society to study cases of femicides, attempted femicides and homicides of children and adolescents in the context of gender-based violence with a history of intervention due to violence.*
41. *Collect detailed statistical information on cases of violence against women, including disaggregated data on the number of complaints, investigations, prosecutions, sentences handed down and reparation measures granted to victims.*

VI. Equality between men and women (arts. 2, 3, 25 and 26)

The application of the Quota Law (law n°18.476, passed in 2009) has not reversed the worrying and unequal participation of women in political representation. In the last national elections held in 2019, only 20.9% of women were elected to the Legislative Branch at the national level. At the executive branch level, only 2 women are Ministers out of a total of 14 Ministries.

Policies that promote and sustain greater political participation of women have not been deployed. This situation of inequality in women's political representation is compounded by the higher levels of political violence they face.

The impunity of political authorities for crimes of gender-based violence is serious. There remain in their positions hierarchs and elected representatives of whom there are known situations of gender-based violence (in particular domestic and/or sexual violence) that have been publicly denounced, many of them with open or finalised criminal proceedings. There are no clear messages of condemnation or repudiation from the authorities.

The unequal participation of women in decision-making spheres also persists in the labour market, in the public and private spheres. Women's participation in these positions decreases as they move up the hierarchical levels. Workplaces also represent insecure environments for women, where gender violence is reproduced.

RECOMMENDATIONS TO THE URUGUAYAN STATE

52. *Develop effective measures to increase the participation of women in the spheres of representation and decision-making, both public and private, in compliance with the recommendation given by this Committee to our country. (CCPR/C/URY/CO/5, párr. 10).*

53. *Create and facilitate safe spaces for reporting situations of political violence and violence in the workplace in the different institutional spheres*
54. *Political parties must have systematic training on gender, gender-based violence and sexual violence, as well as clear procedures to sanction and eradicate acts of gender-based violence and sexual violence in their representatives.*
55. *Develop awareness campaigns*

VII: Elimination of human trafficking, slavery and servitude **(arts. 2, 3, 7,8,14,23, 24, 26)**

Uruguay is a country of origin, transit and destination for human trafficking, and in recent years it has become a country of transit and destination.

The problem of human trafficking does not occupy a relevant place in the definition of public policy to prevent, attend to, repair the damage and prosecute the crime. Law n°19.643 is not accompanied by policies that make its real enforcement possible.

Regarding trafficking for sexual exploitation, the main victims are women who suffer rights violations as a result of gender inequalities. The National Committee for the Eradication of Commercial and Non-Commercial Sexual Exploitation of Children and Adolescents (CONAPEES) identifies a total of 410 situations linked to the sexual exploitation of children and adolescents in 2020.

About labour trafficking, situations of labour trafficking of women have been identified in the domestic sector, and of labour trafficking of men in the construction, agricultural and livestock sectors and, to a lesser extent, in fishing.

There are no psycho-social and legal services for male victims of labour trafficking; nor are there accommodation services for male victims of trafficking. There are also no specialised shelters for female victims of sex and labour trafficking.

In adolescents, situations of internal trafficking or temporary disappearances are identified. Efforts by the Uruguayan Institute for Children and Adolescents (INAU) and other public agencies to strengthen training have improved the capacity to identify situations of internal trafficking, but this improvement is not accompanied by strengthened care and protection responses.

Disappearances of women and adolescents

Official data, various investigations, press studies and records of social organisations and activists identify disappearances of women in a democracy that remain unresolved. The disappearance of women is not recognised as a serious problem associated with violence against women. The data provided by the Ministry of the Interior concerning missing girls and women shows that a significant proportion of the total number of current reports is more than 10 years old, i.e. women who have been reported missing for more than 10 years, with no

response as to their whereabouts.

Trafficked adolescents disappear repeatedly for limited periods of time and are sexually exploited during that time.

The centres for the protection of children and adolescents must strengthen and specialise their intervention mechanisms, considering the complexity of the situations of sexual exploitation and trafficking. The 2020 data provided by the Ministry of Interior show that of the 1,245 female adolescents who were reported as absent, 764 refer to situations of adolescents institutionalised for protection in INAU.

Failure to comply with fundamental guarantees and procedures to search for, investigate and punish enforced disappearances and femicides in contexts of trafficking and exploitation.

The disappearances of women in democracy, the intermittent disappearances of adolescents and the unclarified femicides represent a serious problem for the Uruguayan State, which is failing to fulfil its obligations due to barriers in access to justice, prevention and due diligence in investigations.

The three situations presented below have been studied deeply, with an analysis of court files, prosecutors' folders and interviews with the families' lawyers.

70. Silvia Fregueiro Yacobazzo

Disappeared in the city of Punta del Este, department of Maldonado, on 21 December 1994. To date her whereabouts are unknown or if she is deceased. The case was presented to the Inter-American Commission on Human Rights by her son and is currently being processed.

In response to the report of disappearance made by the person for whom Silvia was working and by her mother two days later, there was practically no response from the security forces in Maldonado. The police did not look for her in those first days and months. This lack of response led her mother to file a third complaint in February 1995. It was only with this third complaint that a judicial file on Silvia's disappearance was created. The family was only able to access these proceedings in 2011 and it was confirmed that the investigation had been carried out with multiple omissions, negligence and irregularities.

71. Yanina Milagros Cuello Baladán

A 16-year-old girl disappeared in Pando, Department of Canelones, on 3 December 2016. To date, her whereabouts are unknown.

Between 6 and 21 December 2016, the police questioned several people, as well as called on various agencies to gather information. From the beginning, and despite the evidence that emerged from the first testimonies of Yanina Milagros' links to situations of sexual exploitation, the hypothesis that this was a non-voluntary disappearance motivated by gender-based violence was not assumed. This omission was of such importance that the spontaneous confession of having committed the crime of sexual exploitation against the adolescent by three men initially investigated for their links with her did not attract the attention of either the police or the court and had no consequences. It was only in November 2019, 3 years after the disappearance, and after the repeated insistence of the defence of the victim's family, that the 3 individuals who sexually exploited the teenager were prosecuted.

72. Rocío Belén Duche Viana

The 14-year-old girl was found murdered on 6 July 2018 in the city of Treinta y Tres. To date, the femicide of Rocío remains unpunished.

Before her murder, the teenager had been under 24-hour protection for a year because her rights had been violated, as well as the presumption of sexual exploitation, which was not referred to the Public Prosecutor's Office. After the murder, it emerged from the interrogations that she and other adolescents were victims of sexual exploitation, and were also used for drug trafficking. Statements were taken from underage adolescents at police headquarters, in violation of the legislation on child victims or witnesses.

The prosecutor's file contains statements that point to specific perpetrators of the death, and the context of sexual exploitation and organised drug trafficking with several victims, but these lines have not been pursued further.

The largest number of proceedings are from 2018 (carried out at police headquarters) and in the following two years, there were no proceedings or progress. The family wanted to participate in the investigative process from the beginning but they have not had spaces for specialised attention and support, nor active participation in the investigation as victims.

RECOMMENDATIONS TO THE URUGUAYAN STATE

- 73. Provide a budget to effectively enforce the Law to Prevent and Combat Trafficking in Persons, n°19643.*
- 74. Create a Plan to combat human trafficking focused on the reality of the problem, with budget allocation, to respect the needs of the victims and human rights standards.*
- 75. Create a cross-cutting public policy of systematic training for justice system operators and other sectors on gender, generations and sexual violence..*

76. *Strengthen psychosocial and legal services for trafficked women that include affirmative action policies to address the factors of inequality that trafficking networks exploit..*
77. *Create specialised accommodation for female victims of trafficking*
78. *Create services and accommodation for male victims of labour trafficking.*
79. *Strengthen and create psychosocial and legal services for child and adolescent victims and specialised shelters to ensure their protection and access to justice.*
80. *Strengthen Specialised Prosecutor's Offices for Sexual Offences throughout the country.*
81. *Include in policies to prevent and combat trafficking a migration policy with a human rights perspective, and a policy that addresses the structural causes that make the population vulnerable to being trafficked.*
82. *Investigate thoroughly the disappearances of women and the absence of children and adolescents, in compliance with the duty of due diligence..*
83. *Comply with the recommendation given to the Uruguayan State in 2013 by this Committee (CCPR/C/URY/CO/5, párr. 16 lit a).*

VIII. Rights of the child (arts. 2, 3, 7, 8,9, 10,14,23,24,26)

Serious regressive threats

Clearly regressive bills. The bills on Shared Tenancy and Co-responsibility in Parenting pose a concrete threat to the life and protection of children who suffer situations of violence. These bills impose visitation for children with those accused of violence until there are court rulings, violating the general precautionary principle that should govern all actions in the case of allegations of violence against them. Both are being debated in the Legislative Branch.

Violence in childhood and adolescence

Children and adolescents are exposed to the gender-based violence experienced by their mothers. There are serious failures in training and measures for the protection and prevention of child homicides in the context of gender-based violence.

The pandemic has led to isolation and confinement in families, increasing the risk of children and adolescents becoming victims of violence. Furthermore, child poverty represents a deep and structural problem in Uruguay, and its increase will reach 19% of all children and adolescents by 2021.

In this sense, the Integral System for the Protection of Children and Adolescents (SIPIAV) registers a total of 7,035 detected situations of violence against children and adolescents for the year 2021. A high percentage of the situations are detected in a recurrent or chronic phase (74% of those registered in 2021).

The SIPIAV does not have sufficient resources to deal with these situations, and there are long waiting lists for reparation services or mental health treatment, which puts children's lives at risk.

Services for dealing with situations of violence against children and adolescents are far from meeting the criteria of availability, accessibility, adaptability, appropriateness, informed consent and confidentiality.

In the area of justice and sexual crimes, the Attorney General's Office has a Victims' Unit and has created Specialised Prosecutor's Offices for Domestic Violence, Gender and Sexual Crimes only in Montevideo. In the rest of the country, these are the Prosecutor's Offices, with little capacity to prioritise the criminal investigation of violence against children, which has a high-risk impact on protection.

The lack of training in gender and children's perspectives among justice system operators (police, prosecutors, judges, defenders) is a cause for concern.

Forced Pregnancy in Girls

Weaknesses in the training of the health sector and others to understand that forced pregnancies are the result of situations of sexual violence lead to actions that pressure girls into forced maternity, putting their physical, emotional and relational health at risk.

Data show a steady decline in births to girls under 15 years of age, and to adolescents between 15 and 19 years of age between 2013 and 2018. In 2020, there were 60 births to girls under 15 years of age.

Although the creation of regulatory frameworks and guidelines for a comprehensive approach to the problem from a human rights perspective is seen as progress, it has not translated into effective actions that guarantee access to these rights throughout the territory.

There are effective barriers to access to abortion and quality public health services. The VTP legalised the right to terminate a pregnancy but implied for situations of sexual abuse the reduction of the time of legal access to abortion (to 14 weeks). This is particularly serious in the case of girls under 15 years of age, where records show that between 2015 and 2019, 65% of births to girls under 15 years of age will be registered after the 13th week of pregnancy.

Abusive or forced partners or marriages

The number of adolescents, especially women, living in partnerships with adults with significant age differences that constitute abusive relationships or forced partnerships is a cause for concern.

The Uruguayan State continues to fail to effectively protect adolescents in forced marriages or partnerships. Law 19.075 (2013) raises the minimum age of marriage to 18 but allows marriage from the age of 16.

RECOMMENDATIONS TO THE URUGUAYAN STATE

Violence in childhood and adolescence

105. *Develop effective policies and programmes to prevent and protect children and adolescents from mistreatment and sexual abuse.*
106. *Allocate a specific budget to address child and adolescent poverty, in particular early childhood.*
107. *Prevent new situations of violence, addressing the situations detected without delay of any kind, to ensure the protection of children and adolescent victims.*
108. *Ensure violence services for all forms of violence in all departments of the country.*
109. *Create a specialised ombudsperson for children.*
110. *Strengthen the justice system for the effective enforcement of Laws 19580 and 19747 and ensure that all children exposed to gender-based violence are protected and their situation assessed under the State's responsibility to prevent and protect their lives and their sexual and emotional integrity.*
111. *Respect the principles of progressivity and non-regression in human rights by enacting laws that ensure progress in respecting human rights principles.*

Forced pregnancy

112. *Health system training on sexual violence against girls, to prevent forced pregnancies and forced maternity among girls..*
113. *Make resources available to implement the Road Map for the Prevention of Unintended Pregnancy and ensure institutional interventions that guarantee the rights of girls.*

Forced couples

114. *Report the number of complaints, criminal investigations, formalisations and sanctions for 'Forced or servile marriage or cohabitation', Art 48 law 19643 which adds Art 280 -TER Penal Code.*
115. *Strengthen and create psychosocial services and support for autonomy for adolescents who are subjected to situations of violence and require public policies for their protection.*
116. *Comply with the observation made by this Committee in 2013, and raise the age of marriage to 18 years.*