

ALTERNATIVE REPORT FOR THE CERD COMMITTEE. URUGUAY¹

PRESENTATION

This report focuses on relevant issues regarding the compliance of the Uruguayan State with the recommendations issued by the CERD in 2016 (CERD/C/URY/CO/21-23), as well as on the list of issues communicated in May 2023 (C/URY/Q/24 -26) with the purpose of constructively enriching the dialogue of the Committee with the State at the time of being examined

1. From a human rights perspective with a gender, generations and intersectionality lens, we point out the outstanding debts with the purpose of accelerating measures, public policies, and in general the necessary actions to close the structural inequality gap that affects the Afro-descendant population in Uruguay which is also the subject of recommendations by CEDAW, CDESCR and the UPR.
2. The Uruguayan State assumed the obligation to present a periodic report, according to Art. 9 of the Convention, on the legislative, judicial, administrative or other measures adopted to enforce the provisions of the Convention.
3. One of civil society's main objective is to monitor the State's compliance with the human rights treaties that have been ratified by the State, and which, consequently, it is obliged to comply with.
4. We have made a call to civil society organizations to form a coalition committed to the defense of human rights with a perspective of race/ethnicity and gender.
5. This report is structured based on the provisions of arts. 1, 2, 2.2.; 5 and 6 of the Convention, in chapters related to: I) Compliance with Treaties; II) National Plan Against Racism and Discrimination; III) Afro-descendant population: education, employment, cultural stereotypes, LGBTI Afro-descendant people; IV); Access to Justice; V) Persons Deprived of Liberty; IV) Racial Equity Mechanisms. A gender perspective is mainstreamed across the chapters.

BRIEF ANALYSIS OF THE CONTEXT

6. The current government took office in March 2020, and since then it has carried out a drastic change in the legal frameworks and public policies, restructured state agencies, as implemented cuts in the budgets allocated to public policies aimed at guaranteeing human rights, with the consequent obstacle to its development and functioning, thus generating a regression.
7. In the legal framework, we highlight the adoption of Urgent Consideration Law No. 19889² of July 9, 2020, with more than 400 articles on multiple topics such as public security, increased penalties, tax policy, education, restructuring of institutional mechanisms of protection of rights and, in general, issues that did

¹ This report was prepared by the CLADEM Uruguay (Latin American and Caribbean Committee for the Defense of Women's Rights - Uruguay), Colectivamujeres (an Afro-Uruguayan feminist organization) and Instituto Afrodescendiente para el Estudio, la Investigación y el Desarrollo (Afro-descendant Institute for Study, Research and Development.)

²<https://www.impo.com.uy/bases/leyes/19889-2020>

not require urgent consideration by the Parliament, which constitute the government's road map and its priorities.

8. In March 2022, a referendum was held to repeal 137 articles of Law 19889, reaching 48.7% of the votes, but not reaching the required absolute majority, which shows the public's disagreement with the law. As well, an educational reform and a social security reform were recently introduced, the first without the participation of the teaching teams. The second has imposed an increase in retirement and without provision of funds from the State for the sustainability of the pension system. Numerous studies predict that this reform will have a strong negative impact on the most vulnerable populations of the country, of which Afro-descendants are a structural and overrepresented group.
9. Regarding the COVID 19 pandemic, Uruguay is one of the countries in the region that allocated the least resources to face the social crisis resulting from it, with 0.7% of the GDP according to an ECLAC report³.
10. The State's response focused on the epidemiological aspect, encouraging the population to voluntarily remain at home, requiring social distancing and implementing mobility restrictions, with no social focus for the population in vulnerable conditions. Despite having a National Care System that has been a benchmark in the region with particularly strong features, Uruguay ranked among the first places in the world during the months of April-May-June 2021 in the number of infections and deaths in proportion to its population. There was even an increase in maternal deaths for this reason, evidencing that the measures adopted by the government were insufficient.⁴
11. The measures adopted did not contemplate and did not focus on the dimension of gender and race/ethnicity. In this emergency situation, the State thinks again from the perspective of a normative subject whose living conditions keep him afloat. For those who have always struggled to keep their heads above the water, the measures were insufficient. Once again, the immediate answers came from ourselves; and thus, those with better opportunities provided the time and resources to collaborate. The unbreakable network of solidarity that we have established is consolidated, knowing that only by saving all of us can we truly save ourselves. This certainty is illustrated by the emergence or strengthening of new women's organizations, among which Afro-feminists stand out.
12. The pandemic left 100,000 more persons under the poverty line. According to 2021 data from the National Institute of Statistics (INE), 35,000 people had moved out of poverty, which means that there are still 65,000 more poor persons than before the pandemic and a higher unemployment rate.
13. Households that are below the poverty line are mostly located on the outskirts of Montevideo, the national capital, and in the Northern provinces, a phenomenon that "(...) affects women heads of household (9, 1% of total households) more than men (5.8%), as well as the "afro/black" population (20%) more than the "white" population (9%)".⁵

³<https://www.cepal.org/es/temas/covid-19> Social Panorama of Latin America 2020

⁴Red zone according to the Harvard index <https://guiad-covid.github.io/estadisticasuy.html>

⁵<https://ladiaria.com.uy/economia/articulo/2023/4/analisis-preliminar-de-los-principales-resultados-de-desigualdad-y-pobreza-2022/>

14. In June 2023, an unprecedented water emergency was declared, mainly due to the 8-month drought without consistent rains (announced by the National Institute of Meteorology, INUMET), but also to insufficient and late state measures, who did not call the experts to face it. The fresh water reserves of the metropolitan area (housing more than 50% of the country's population) have been depleted. Since April, as announced by the government, the levels of chloride, sodium and trihalomethanes in the water have been rising with the authorization of the Ministry of Public Health, forcing a big part of the population to start consuming bottled water. The government insists that the water is not potable, but it is drinkable, while advising against its use by pregnant and/or lactating women. The use of water is limited to sanitation and cleaning. This situation affects households and people living in poverty and extreme poverty, and has an impact on industry and services, affecting food security and the overall health of the population. On June 27, it was announced that some 500,000 low-income persons in the metropolitan area (with a total of 80,000 retired and pensioners) will receive two liters of water a day.⁶ The Montevideo provincial government has distributed water to soup kitchens, municipal polyclinics, and others.⁷
15. Finally, as of 2020, the government stopped the dialogue with human rights civil society organizations that have historically participated in the construction of policies and monitoring of Treaties and Conventions.
16. We acknowledge and appreciate the support of the United Nations office in Uruguay for the construction of this report. As well, we acknowledge the contribution and support of the national offices of the High Commissioner for Human Rights, UNDP, UNFPA, as well as the reports and investigations of the World Bank and the Inter-American Development Bank for the diagnoses and suggestions to close inequality gaps.

I. COMPLIANCE WITH HUMAN RIGHTS TREATIES.

17. We recognize the progress made by the State in updating its periodic reporting to the different monitoring mechanisms, particularly the CERD Committee (2010-2016).
18. Likewise, the State has submitted three country reports in the framework of the Universal Periodic Review and two progress reports to the Human Rights Council (between the first and second review of the UPR 2012, 2016). However, the Uruguayan State has not "adequately, or effectively implemented" the monitoring of compliance with the received recommendations.
19. In the Ministry of Foreign Affairs, the Dialogue and Consultation System for the follow-up to treaties has not been convened since 2020. In June 2023, civil society was convened for the current CERD review without including Afro-Uruguayan civil society organizations.
20. Although the State has recognized the competence of the Committee to receive and examine communications from individuals or groups of individuals (Art. 14), this has not been sufficiently publicized. The Uruguayan society in general ignores the existence of this mechanism.

⁶ www.gub.uy/presidencia/comunicacion/noticias/gobierno-distribuir-agua-bottellada-500000-personas-zona-metropolitana

⁷ <https://montevideo.gub.uy/noticias/institucional/la-intendencia-comenzo-a-distribuir-25000-litros-de-agua-en-policlinicas-de-montevideo>

21. The National Institution of Human Rights and Ombudsman's Office (Law 18446), for its part, lacks competence to examine and investigate complaints against individuals, and refers the complaints to the Honorary Commission for the Fight against Racism, Xenophobia and all other forms of Discrimination (CHRXD) which does not have sufficient human and material resources to adequately respond. Thus, the right to equality before the law, personal security and protection of the State of victims of racial discrimination are being violated (Art. 5 of the Convention.)
22. The dissemination of the Committee's Recommendations is scarce, which is particularly evident in the fact that in the training and awareness raising of State officials, the incorporation of the prohibition of discrimination is carried out without specifying that it is a mandate that the State accepted when signing the Convention.
23. Article 305 of the Urgent Consideration Law in created the Agency for Monitoring and Evaluation of Public Policies, whose mandate cover the public policies established by the Executive Branch as a way of maximizing administrative efficiency, but there is no information available the operation of the agency.

RECOMMENDATIONS.

24. That the State accelerates the effective functioning of the Dialogue and Consultation System created with the task of monitoring treaty body recommendations, calling on organized civil society for their full participation, updating the Follow-up and Monitoring System (SIMORE) information from all state agencies.
25. That the State defines and disseminates the objectives, scope, budget, resources, managers and results of the Agency for Monitoring and Evaluation of Public Policies.

II.- NATIONAL PLAN AGAINST RACISM AND DISCRIMINATION (Art. 2 of the Convention)

26. Within the legislative framework, we recognize the sustained progress in the 2017-2019 period through a set of laws that guarantee non-discrimination for reasons of ethnic or racial origin, specifically Law on Gender-Based Violence against Women, the definition of racial-ethnic violence, the comprehensive law against trafficking with special protection for victims without discrimination, and the Comprehensive Trans Law. The State began to comply with the Committee's 2016 recommendations in para.13.
27. Through Law No. 19670 (2018) and its Regulatory Decree No. 81/019 of March 2019, the Executive Branch created a National Advisory Council for Racial Ethnic Equity and Afro-descent. Its tasks include advising the Executive Branch on matters within its competence, promoting the mainstreaming of the ethnic-racial and Afro-descendant perspective in public policies, and working on the design and implementation of a National Plan of Racial Equity and Afro-descendance. It also aims to "promote the incorporation of the ethnic-racial variable in all official public records, especially in the information of personal data, as well as in the systems of recruitment and selection of human resources, training and allocation of scholarships. and student support."

28. In March 2019, the 2019-2022 National Plan for Racial Equity and Afro-descendance (Ministry of Social Development - MIDES) was approved. The execution term has expired and it is noteworthy that its extension is not found on any official page, nor are qualitative and quantitative reports of its implementation. According to the follow-up report carried out by the University of the Republic (UdelaR) and Organizaciones Mundo Afro⁸ (2023), the incorporation of the racial ethnicity variable is insufficient in the administrative records and statistical production is scarce. On the other hand, in some publications institutions such as the Ministry of Social Development (MIDES), the incorporation already existed before the plan. Thus, the information does not allow for reliable impact evaluations of the Plan.
29. As of March 2020, MIDES adopted the strategy "Actions for the Construction of Autonomies" that seems to have replace previous policies⁹ and which: "(...) includes the granting of basic support to guarantee food, shelter and monetary transfers that allow access to essential goods; accompaniment programs, socio-educational and socio-economic inclusion. The purpose of this matrix of benefits is to build autonomy, the exit of its users being the success measure of the management of this Ministry." There is no systematized information on results in the period 2020 -2023. There is also no information available on the specific actions carried out in execution of the National Plan, nor of the indicators and strategies contained in it.

RECOMMENDATIONS.

30. That in a period not exceeding two months, the State arranges the extension of the National Plan against Racism and Discrimination.
31. That the State complies with the objectives, strategies, actions, indicators and terms of the Plan, designating its supervisors and assigning a specific budget for its fulfillment, presenting a progress report within a period of no more than one year.

III.- AFRO-DESCENDANT POPULATION

32. Uruguay is a country of 3,400 million inhabitants. The 2011 Population Census recorded 250,000 people with "Afro or black" ancestry through self-identification, which represents 7.8% of the total population, constituting the largest ethnic minority in the country. The percentages of Afro-descendants obtained with the Expanded National Household Survey (ENHA) and the Continuous Household Survey (ECH), record an Afro-descendant population of 9.1% and 10.6%, depending on the year considered. Data from the 2006 ENHA indicated that 9.1% of the population declared having Afro or black ancestry, while in the ECH it reached 10.6% in 2008, 9.9% in 2010 and 9.4% in 2011, to name a few years.
33. Research carried out based on the 2011 Census^[2], as well as most of the studies that analyze the living conditions of people of African descent, coincide in pointing out the disproportionate poverty that

⁸ Report. Monitoring of the National Plan for Racial Equity and Afro-descendants 2019-2022, Available at <https://www.extension.udelar.edu.uy/blog/books/observatorio-sobre-racismo-y-xenofobia-informe-2019-2022/>

⁹ <https://www.gub.uy/ministerio-desarrollo-social/sites/ministerio-desarrollo-social/files/documentos/publicaciones/Acciones%20MIDES.pdf>

characterizes this population, directly related to levels and patterns of employment linked to racial inequality in education, as well as persistent inequalities and discrimination processes in society.

34. We point out that, due to the health emergency, in 2020 the Continuous Household Survey (ECH) was carried out by telephone without including questions on racial-ethnic ancestry, taking the information from 2019. Data collection is in progress for the 2023 Population Census, which includes a question on racial ethnic ancestry.
35. The pandemic had a harsh impact on the Afro-descendant population, especially women, girls and adolescents.¹⁰ For the population in informal employment, the response was weak due to insufficient monetary transfers. Being overrepresented in this population group, people of African descent suffered a greater impact than the non-Afro population. Likewise, Afro-descendants were put at a disadvantage by distance learning in public educational centers, with fewer possibilities of access to technology to maintain virtual education. In particular, Afro-descendant women saw their tasks multiplied by adding home office work to child care and support for educational tasks, in homes with more children, greater dependence on school meals and with a younger population (15% of the Afro-descendant population is between 15 and 19 years of age¹¹.)
36. The policies and actions implemented by the State during 2020 - 2021 lack a gender and race-ethnicity perspective, which is why they left behind a significant percentage of the Uruguayan population. In this period there was a significantly lower application of employment quotas mandated by Law No. 19122 of Affirmative Actions for Afro-descendants¹².
37. In relation to Afro-descendant women, ethnic and gender inequalities interact with each other and are strengthened by socio-economic conditions, perpetuating exclusion and poverty and seriously violating their rights. If the intersectionality of poverty, race-ethnicity and gender identity is taken into account, the situation of vulnerability of trans, Afro-descendant and poor women is one of the worst in Uruguayan society. “The age and ethnic-racial descent of people are relevant variables for the analysis of poverty. This affects the youngest to a greater extent. In particular, the population comprised between the sections of children under 6 years of age, from 6 to 12 years of age and from 13 to 17 years of age is where the highest incidence of poverty is registered, regardless of the region of the country that is considered. In the first semester of 2022, for the country as a whole, the incidence of poverty for people who declare they have Afro-descendant ancestry is higher than the estimate for those who declare they have white ancestry by 9.5 percentage points”.¹³

RECOMMENDATIONS.

¹⁰“The impact of the COVID-19 pandemic on the Afro-descendant population in Uruguay”. UNFPA, Uruguay, July 2021. Available at www.uruguay.unfpa.org

¹¹Ibid. 8

¹² Ibid. 6

¹³Estimation of poverty by the income method for the first semester of 2022 (INE.)

38. That the State systematically incorporates the ethnic-racial variable in the administrative records of all its agencies.
39. That the State reports on the quality of the racial equality training provided to civil servants, its expected and obtained results to evaluate how it will affect the improvement of Afro-descendant people's lives.
40. That in the face of extreme situations such as epidemics or environmental crises, the policies and actions developed by the State take into account the perspective of gender and race-ethnicity.

III.1 EDUCATION

41. The most visible and profound manifestation of racial inequality continues to be educational participation and performance. In primary secondary, the percentage of completion is 39.4% for the Afro-descendant population compared to 41.1% for non Afro-descendants. On in four Afro-descendant males from 60 to 69 years of age, one in five among women, have not completed primary school. In secondary education, although the percentage of completion among the Afro-descendant population has grown in recent years, when comparing the percentages of completion of the youngest Afro-descendants, they equaled or barely exceeded the percentages of non-Afro-descendants between 60 and 69 years of age, according to figures from 2017 (De Armas, 2019). “The case of the university is very clear: in the 2016-18 triennium, 6% of adults in households with Afro-descendant children reached this level compared to 15.3% of adults in households with non-Afro-descendant children. The current educational achievements of the Afro population are similar to those of the non-Afro population 40 years ago (De Armas, 2019)¹⁴.
42. According to the 2019 ENHA, 29% of Afro-descendant youth complete upper secondary education studies compared to 45% of non-Afro-descendant youth (ECH 2019)¹⁵. This inequality perpetuates discrimination with an impact on access to quality jobs, housing and wage gaps, among others, to the detriment of the Afro-descendant population.
43. The absence of public policies for the access and permanence of the Afro-descendant population, especially adolescents, in quality educational centers negatively affects school performance and encourages abandonment of the educational system. Uruguay has not complied with the 2008 CEDAW Committee Recommendation (CEDAW/C/URY/CO/7, para. 33) regarding the implementation of temporary special measures to reduce and eliminate expulsive causes that lead to abandonment of the system educational.
44. Affirmative action student scholarships for the Afro-descendant population have been difficult to implement and the impact on closing the labor gap has not been significant since this population tends to lack the minimum education level required for quality jobs.
45. It can be said that Afro-descendant students do not drop out, but the discriminatory system expels the from educational centers. 33.9% of students in Uruguay have felt discriminated against because of their hair

¹⁴ Retrieved from Panorama of Afro-descendant Children and Adolescents in Uruguay UNICEF 2020 <https://www.unicef.org/uruguay/media/3776/file/Panorama%20de%20la%20situaci%C3%B3n%20de%20los%20ni%C3%B1os,%20ni%C3%B1as%20y%20adolescents%20afro-descendants%20in%20Uruguay.pdf>

¹⁵ April 27, 2023 available at www.ine.gub.uy

and/or skin color¹⁶. This means that the strategies implemented to achieve permanence are ineffective and must deepen the construction of identity and the modification of a social stereotype that leads to discrimination against Afro-descendants, indigenous or migrant population.

46. As well, Afro-descendant students point out that there are no public Afro-Uruguayan role models to emulate, and social stigma persists in this population. Life trajectories are affected by gender stereotypes that overvalue motherhood in such a way that, when they are expelled from the educational system, young Afro-Uruguayan women transition to early maternity, unlike their non-Afro-descendant peers.
47. Men who want to be the breadwinners cannot do so due to educational gaps that prevent them from getting quality jobs, which causes them to suffer from illnesses, depression and even commit suicide. In 2021 and 2022, Uruguay showed very high suicide rates affecting young men¹⁷.

RECOMMENDATIONS

48. That the State adopts temporary special measures to reverse educational expulsion, trains teachers to educate in racial-ethnic relations, sexual orientation and gender identity. Likewise, that public and effective protocols for anti-discrimination action are developed, and the measures to protect the educational trajectories of Afro and trans populations are implemented.
49. That the State incorporates Afro-descendant persons in books and curricula among the role models to follow.
50. That the State encourages women to take other careers in addition to those in the social sciences and care giving, so young Afro-Uruguayan women identify with those paths.

III.2 CULTURAL STEREOTYPES

51. There have been no sustained public campaigns to modify the structural patterns of discrimination against women in general, and Afro-descendant women in particular. In April 2021, the National Drug Board (JND) began a campaign to reduce risks and harms from drug use.¹⁸ The advertising spot included an image of three friends: an Afro-descendant girl and a young man, and a non-Afro-descendant man saying: "I don't want to get high today." After intense rejection from the Afro-descendant community, the spot was withdrawn from social, but it can still be viewed in the digital platforms of national newspapers.
52. CLADEM y COLECTIVA MUJERES presented a complaint before the NHRI applying the Convention and CERD Recommendations¹⁹. The JND's allegations to justify their decision are worrying in that they have shown that they do not understand the nature of racism: "(...) The discussions in relation to the campaign focused exclusively on the fact that it should be oriented towards a strategic perspective of risk

¹⁶ANEP and MIDES (2019). Convivencia y discriminación en centros de educación media en Uruguay. <https://www.gub.uy/ministerio-desarrollo-social/sites/ministerio-desarrollo-social/files/documentos/publicaciones/2003.pdf>

¹⁷World Bank.2020.Social Inclusion in Uruguay. Washington, DC:World Bank.License:Creative Commons

Attribution CC BY 3.0 IGO <https://documents1.worldbank.org/curated/en/215211595402950751/pdf/Social-Inclusion-in-Uruguay.pdf>

¹⁸<https://www.elobservador.com.uy/nota/junta-nacional-de-drogas-dio-de-baja-campana-contra-el-consumo-de-alcohol-tras-ser-acusada-de-racism-20214121059>

¹⁹CERD/C/URY/CO/16-20, para.19

management and harm reduction". The JND attributed the responsibility to their advertising company, omitting that the contents and control belongs to the State, which has a reinforced obligation towards the Afro-descendant population. The NHTI understood that the JND violated the rights of Afro-Uruguayans, and recommended that the JND carries out trainings of their staff. There was no explicit acceptance of the NHRI recommendation²⁰.

53. The Minister of the Interior, Mr. Luis Alberto Heber has publicly argued that Uruguay must have restrictive policies against migrants²¹. In August 2021, he declared about Venezuelan and Colombian migrants who committed crimes: "(...) we have to have a legal weapon to expel these people that we do not want in Uruguay. Not even in prisons²². The State has not shown a firm response to public demonstrations denying racism and racial discrimination in the country.
54. Although the national and international social imaginary does not associate racism and racial discrimination with Uruguayan society, the cultural reality and daily life experience of people of African descent show that both are deeply rooted. In the city of Rivera, on the border with Brazil, where the percentages of Afro-descendant population are the highest, students from an institution denounced a teacher who, among other things, said that in his "(...) family we don't hire blacks because they aren't workers, much less Brazilian blacks of African origin, they are even more lazy. Brazilians who are half bred with gringos, those are hard workers. Rural workers must be exploited in the same way as the poor, and if they don't like it, they must be left to starve."²³

RECOMMENDATIONS.

55. That the State implements sustained campaigns to modify the discriminatory socio-cultural patterns against the Afro-descendant population, and especially against Afro-descendant women, taking into account General Recommendation No. 25 of that Committee.
56. That the State trains and sensitizes the civil service staff regarding everyday manifestations of discrimination, especially those that are "customary".
57. That the Honorary Commission against Racism, Xenophobia and all other forms of Discrimination, the National Advisory Council for Racial Equity and Afro-descendants, among other mechanisms, must support and encourage campaigns for the public good to forcefully show the Recommendations of this Committee, the persistence of racist stereotypes and prejudices and its serious consequence in the violation of the rights of 10% of the population and the negative impact for the whole society.

III.3 EMPLOYMENT

²⁰ December 7, 2021 Resolution N- 1030/2021 INDDHH N- 2021-1-38-0000292

²¹ <https://www.partidonacional.org.uy/portal/index.php/9-noticias/3487-heber-sobre-inmigracion-debemos-ser-bastante-restrictivos>

²² https://www.swissinfo.ch/spa/uruguay-migraci%C3%B3n_el-ministro-de-interior-uruguayo-quiere-expulsar-a-extranjeros-que-delinquen/46890416

²³ <https://ladiaria.com.uy/educacion/articulo/2023/6/estudiantes-de-utu-en-rivera-denounced-two-teachers-for-class-racist-comments-sexist-and-xenophobic/>

58. Regarding poverty, which showed an increase since 2017, as a consequence of the differentiated impact on the Afro-descendant population, especially women and children, it grew by 1.2% during the pandemic in terms of boys and girls where it was always higher, in the period 2019- 2020 grew by 3.5%.
59. Disengagement or expulsion from the educational system leads the Afro-descendant population to enter the workforce earlier than non-Afro-descendants. However, they do so in informal sectors, which is why they work many more hours earning less. In Uruguay, domestic workers represent a significant proportion of employed women (10.2%), also being a feminized occupation since 99% of those who perform it are women. Early insertion and labor segregation explain why Afro-descendant women are overrepresented in domestic work, where informality still persists.²⁴
60. “The 2017 Continuous Household Survey estimated that people who identify as Afro-descendants in Uruguay comprise 22.5% of those who live below the poverty line. Afro-descendants earn less than other Uruguayans for the same type of tasks and work in the informal sector in a much higher proportion”. They are underrepresented in decision-making and management positions, both in the private and public sectors.²⁵ The same study highlights that a possible way out is to focus the work of the State not only on the eradication of poverty but on the obstacles of exclusion for marginalized groups such as Afro-descendants, people with disabilities and trans people.
61. The educational gap is not the only explanation for inequality in employment, which is why it has been pointed out that racial discrimination and racism are among the unexplained factors.
62. Regarding sexual and reproductive health, in 2011 the percentage of Afro-descendants between 15 and 19 years of age who are mothers is 15.3%, while for non-Afro-descendant young women the figure was 9.1%²⁶. This has a direct impact on the continuation of education and its correlate of employment, access to health, decent housing. In the last 5 years, 431 births have resulted from the pregnancy of girls aged 14 or younger (MSP, 2020)²⁷. The visibilization of this phenomenon²⁸ has allowed a better approach, which has decreased from 2015: 165 girls to 2020 - 2021 to 108 situations of child pregnancy in the health system, of which 50 resulted in births and 58 in voluntary interruptions ²⁹. There are no official data available on the race/ethnicity variable in this universe, nor are there any data on the race/ethnicity variable in relation to voluntary terminations of pregnancy.

²⁴https://uruguay.unfpa.org/sites/default/files/pub-pdf/informe_afrodescendientes_y_pandemia_de_covid-19_en_uruguay.pdf

²⁵ World Bank.2020.Social Inclusion in Uruguay. Washington, DC: World Bank. License: Creative Commons Attribution CC BY 3.0 IGO

²⁶ Coitiño, Mauricio (2020). An approach to the reality of adolescents and young people of African descent in Uruguay.United Nations Population Fund - Uruguay (UNFPA Uruguay), Colectivamujeres, CEFIR, Instituto Afrodescendiente para el Estudio, la Investigación y el Desarrollo. Montevideo,. Available at https://uruguay.unfpa.org/sites/default/files/pub-pdf/documento_de_incidencia_zoom_a_tu_voz.pdf

²⁷ Retrieved from <https://amnistia.org.uy/files/tmp/os8hik8md8apcbuoytjc.pdf> They are girls, not mothers.Put the pieces of sexual violence together.

²⁸ Regional Balance of Child Pregnancy Latin American and Caribbean Committee CLADEM <https://cladem.org/wp-content/uploads/2018/11/nin%CC%83as-madres-balance-regional.pdf>

²⁹ Recovered from Monitoring pregnancy in girls and adolescents under 15 years of age in Uruguay 2022. Amnesty Uruguay

63. Regarding adolescent pregnancy, Uruguay registered a decrease as a result of comprehensive and prevention public policies launched in 2016³⁰. Live births per 10,000 adolescents decreased from of 55 in 2014 to 36 in 2018.
64. The State has not fully complied with Law 19,122 regarding the call for entry or incorporation of Afro-descendants to the civil service, except for the National Institution of Human Rights and Ombudsman's Office (INDDHH). In its 2019 and 2021 monitoring reports ³¹, the INDDHH recommended awareness campaigns for the entire population about the objectives of the law, law enforcement monitoring systems, and promoting analysis and discussion about the measures that will need to be created for compliance. The INDDHH also recommended the design, development and subsequent evaluation of permanent training programs for public officials involved in the calls and contests for admission to the public service, urging that Afro-descendants be taken into account for the entry of all profiles and not only for the lower echelons.
65. This scenario of difficulties in which only one of the ten Recommendations formulated by the INDDHH have been fully complied with, shows that the State has lacked sufficient will to fulfill its commitment with concrete actions to eradicate structural racism affecting the institutional framework and violating rights.
66. On April 21, 2023, in an expanded session of the Council for Racial Ethnic Equity and Afro-descendants (CENERA), the status of the implementation of affirmative action mechanisms aimed at the Afro-descendant population in Uruguay was presented. Among the findings, it is reported that the implementation of the 8% quotas has been decreasing in absolute and relative terms. In 2021, the percentage of Afro-descendant among new workers in the Executive Branch has been 1.88%, and 0.33% in provincial governments. Meanwhile, the incorporation of the racial ethnic variable (VER) and Afro-descendant variable (VERA) shows delay, with implementation difficulties when it comes to effectively incorporating workers, a lack of knowledge of the mechanism, without an understanding the usefulness of the VERA in institutions and bodies³².
67. The National Institute for Training and Employment (INEFOP) is obliged to allocate an 8% quotas for Afro-descendants in its various training and qualification programs. INEFOP has incorporated training scholarships and carried out specific research in the framework of Technical Cooperation UR-T1199 “Cost of Exclusion: Design of Actions to Promote Inclusion in Education and the Labor Market in Uruguay”³³ with the IDB. The purpose of this behavioral economics experiment was to increase the enrollment of Afro-

³⁰Ministry of Public Health (2020), Report National and intersectoral strategy for the prevention of unintentional pregnancy in adolescents Uruguay, 2016-2020. Retrieved from <https://igualdad.cepal.org/es/repository-of-policies-and-strategies/estrategia-nacional-e-intersectorial-de-prevencion-del>

³¹<https://www.gub.uy/institucion-nacional-derechos-humanos-uruguay/comunicacion/publicaciones/informes-2019-2021-seguimiento-ley-19122>

³²https://uruguay.unfpa.org/sites/default/files/resource-pdf/presentacion_estado_de_situacion_de_la_implementation_ley_19122_final_web.pdf

Retrieved online on July 5, 2023. Initiative of the Division for the Promotion of Public Policies for Afro-descendants MIDES, with support from UNFPA.

³³ <https://www.inefop.org.uy/aucdocumento.aspx?3937,9189>

descendants in INEFOP training courses, and it was based on studies in Uruguay (Bucheli 2008; Porzecanski, 2008) and international evidence that suggests that one of the reasons why people of African descent do not attend training courses is due to stigmas or individual beliefs. It was implemented through a set of text messages to potential beneficiaries over three weeks with information about the courses but also with content aimed at removing the racial stigma barrier, and encouraging registration. One in every three people contacted entered the online forms to register, with a greater effect among men and in the age group of 18 to 25 years. This type of intervention can be used by INEFOP and other agencies as a way to break down obstacles to learning and improve opportunities to access better qualified jobs or develop skills for Afro-descendants, without major costs from the state.

RECOMMENDATIONS.

68. That the State reports on compliance with the INDDHH Recommendations within a period of two years.
69. That the State implements, within a period of three years, the necessary measures to eradicate the obstacles in the proper implementation of affirmative actions, carrying out training for civil servants to understand the measures and their impact on the elimination of racism and racial discrimination.
70. That the State implements policies that enable Afro-descendants who have not completed secondary education to enter the public service, with an institutional commitment to provide the worker with access to PROCES³⁴ program, in order to achieve the effective completion of their education. This will result in a medium-term promotion of equal opportunities for accessibility to better job opportunities when accommodating quota quotas.
71. That the State evaluates the impact of these and other measures in reducing the racial gap in employment and wage.

III.4 Afro-descendant LGBTI People

72. The Uruguayan State lacks regular demographic studies that record the sexual orientation and gender identity of people, which would allow to know the characteristics and access to rights of the LGBTI population. However, in light of what is stated in this report, we can assume that Uruguay is no stranger to "the high levels of discrimination and violence against lesbian, gay, bisexual and trans (LGBT) people of African descent in the Americas."³⁵
73. The First Census of Trans Persons (FCTP) carried out by the Ministry of Social Development of Uruguay in 2015 showed that only 17.6% are over 50 years of age, compared to 30% for the total population (2011 Census , INE), which confirms a substantially lower life expectancy for this population group.58% of the

³⁴This program is intended for the student - official/adult employee, and is implemented after the signing of an agreement between the DGES and the organization (public or private) that requests it, which takes charge of the human and material resources for its implementation.

³⁵IACHR (2015). *Violence against LGBTI persons in the Americas* (OAS/Ser.L/V/II. Doc. 36)

people in the census declared having been discriminated against by a member of their family and the average age of leaving the family home is 18 years^[20].67.6% do or did sex work at some point in their lives³⁶.

74. Regarding the exercise of the right to gender identity regulated by Law No. 18620, only 36% of trans persons in the FCTP had changed or were in the process of changing their name or sex in their identification documents³⁷. Likewise, these people reported a high level of discrimination in the educational system, consisting of various forms of verbal and physical violence and attitudes of segregation. In particular, discrimination from educators and teachers, in the case of primary school is reported by 19% of respondents and in secondary school exceeds 20%³⁸. Given these worrisome indicators, and in light of the statistics of the Afro-descendant population in general, we can affirm that Afro-descendant trans persons are located at an intersection of conditions that results in a very significant violation of their rights.
75. While the Comprehensive Law for Trans Persons (No.19684) provides that State agencies, the Contentious-Administrative Tribunal, provincial governments, autonomous bodies, decentralized services and non-State public law institutions must allocate 1% of job vacancies filled annually to trans persons, this mandate has been fulfilled in deficit.

RECOMMENDATIONS.

76. That the State complies with the provisions of Law 19684, especially with the percentage of job vacancies filled by trans persons (Article 12).

IV.ACCESS TO JUSTICE

77. Uruguay does not register convictions for acts of discrimination, racial-ethnic violence or incitement to hatred, which does not mean that this acts do not happen, nor that there is an adequate State approach to racism, racial discrimination and xenophobia.
78. In 2004, the first anti-discrimination law was adopted³⁹, which was later expanded with the current penal provisions⁴⁰. There is a lack of training for justice system operators to detect and investigate racism and discrimination in accordance with the Convention and the General Recommendations of this Committee.
79. As an example, a ruling of June, 2023⁴¹ that provides penal sanctions for acts of anti-Semitic discrimination, inciting acts of violence and hatred against Jews invokes and exclusively applies national law⁴². The same

³⁶Ministry of Social Development (2016). *Transform 2016. "Making realities visible: Progress from the First Census of trans people"*. Base document. Available at: http://www.mides.gub.uy/innovaportal/file/66572/1/doc_transforma_2016-nap01.pdf

³⁷ Ibid.

³⁸ Ibid.

³⁹ <https://www.gub.uy/fiscalia-general-nacion/comunicacion/noticias/jornadas-legislacion-antidiscriminatoria-20-anos-ley-17677>

⁴⁰ Articles 149 bis and art. 149 ter of the Penal Code and article 29 of Law 18,026. (Apology for past events). Anyone who publicly defends events prior to the entry into force of this law, which would have been classified as crimes or offenses had it been in force, will be punished with three to twenty-four months in prison. <https://www.impo.com.uy/bases/leyes/18026-2006>

⁴¹ <https://www.gub.uy/fiscalia-general-nacion/comunicacion/noticias/joven-condenado-delito-incitacion-odio>

⁴² Law 17.817 of 09/06/2004 Art. 2: "... discrimination shall be understood as any distinction, exclusion, restriction, preference or exercise of physical and moral violence, based on race, skin color, religion, national or ethnic origin, disability, aesthetic appearance, gender, sexual orientation and identity, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, in conditions of equality, of human rights and fundamental freedoms in political, economic, social, cultural spheres or in any other sphere of public life".

happened in another case of incitement in which the fight against any idea that is not fascist, misogynist, anti-Semitic, homophobic is encouraged⁴³.

80. In the described context of exclusion of the Afro-descendant and indigenous population, it is evident that access to justice, as available justice, is far from being achieved. The Judiciary included in its 2015-2024 Strategic Plan the mainstreaming of equity and gender (but not the ethnicity/race dimension), as well as the creation of an advisory unit and monitoring in the application of policies on human rights, gender and childhood⁴⁴. It does it include the mandatory study of this matters by judges, or even as a merit for promotions and performance in different subjects. The Center for Judicial Studies (CEJU), which trains aspirants to the judicial magistracy, judges, and civil servants, has conducted training with the support of the OHCHR and the Spanish Agency for Development Cooperation (AECID) on human rights and the elimination of harmful gender stereotypes in 2018. In March 2020, the Guide for the Judiciary and Prosecutors on the use of international human rights standards with a gender perspective was presented.
81. The Attorney General's Office (FGN)⁴⁵ has a Gender Equality Policy, a commitment to mainstream the gender perspective throughout the institutional structure and in each of its services, as well as a Unit Specializing in Gender and the Victim and Witness Care Unit⁴⁶.
82. We believe that the justice system (police, prosecutors, public defense and judges) does not escape the invisibility to which the Afro-descendant population has been subjected, although anti-discrimination legislation is generally addressed.
83. Regarding the remedies contained in Law No. 19580, which defines racial or ethnic violence, there has been no concrete application, with no data available on protection measures ordered. In other words, there is no data available on protection measures for multiple discrimination: women, Afro-Uruguayan, and migrant persons. On the other hand, even in the face of a declaration of national emergency due to femicides and the express mandate to create courts specialized in gender and sexual violence, the State has failed to create sufficient courts and adequate infrastructure for dignified attention to women, children and adolescents in situations of violence.
84. Public defense lacks sufficient lawyers and officials trained in the subject. Considering that Afro-descendant women are in a worse situation than their non-Afro peers in education, employment and social justice, it is not difficult to assume that their access to justice as prompt and available justice is scarce.
85. The absence of criminalization of the dissemination of theories/ideas of racial superiority in accordance with the Convention persists. One explanation of this is in an unresolved national debate between freedom of expression and the dissemination of these theories.
86. In 2019, the Honorary Commission against Racism, Xenophobia and all other forms of Discrimination (CHRXD), the Ministry of the Interior, the INDDHH and the Judiciary Branch presented a draft amendment

⁴³<https://www.gub.uy/fiscalia-general-nacion/comunicacion/noticias/fiscalia-deltos-sexuales-imputo-persona-pornografia-infantil-incipacion-odio>

⁴⁴<https://www.poderjudicial.gub.uy/gestion/plan-estrategico-y-plan-operativo.html>

⁴⁵<https://www.gub.uy/fiscalia-general-nacion/politicas-y-gestion/politica-genero#>

⁴⁶<https://www.gub.uy/fiscalia-general-nacion/tematica/atencion-victimas-testigos>

to article 149 bis of the Criminal Code introducing a specific sanction of acts of discrimination in the workplace, admission to commercial premises, access to benefits, and other discriminatory acts with an ethnic, racial, identity or sexual orientation basis. This reform has not been successful.

RECOMMENDATIONS

87. That the State trains and sensitizes justice and police officers in the manifestations of racial discrimination, specifically against Afro-descendant, indigenous or with indigenous ancestry, and migrant populations, including the issued of multiple discriminations, including its compulsory study.
88. That the State publicly condemns, from its highest hierarchies and through the mass media, all discriminatory practices, especially if they come from its officials.
89. That in well-known cases of denunciation of physical violence against Afro-descendants, migrants or people with indigenous ancestry, Jews, LGBTI people, with a strong component of racial hatred, the acting judicial magistrates and prosecutors apply the Convention and CERD Recommendations as the basis for their decisions, so as to install a judicial culture of rejection of multiple discriminations.
90. That the State harmonizes criminal legislation with the Convention and other international human rights standards.

V. PERSONS DEPRIVED OF LIBERTY

91. According to the Annual Report of the Parliamentary Commissioner for the Prison System, the rate of imprisonment increased in 2022, reaching 14,302 people deprived of liberty. The 2021 average was 13,693 prisoners, a prisonization rate of 3.86 per 1,000 that places Uruguay in 12th place in the world. In 2021, 9,134 people entered prisons, and 7,179 people were released, "which means that in one year more than 22,000 people deprived of liberty have passed through the prison system."⁴⁷
92. Growth is around 12.5% per year, with an important difference between genders: the average annual increase for men was 9% and for women 28%. The number of girls and boys living in prisons remains stable: there are an average of 50.
93. "Regarding the self-perception of ethnic-racial ancestry [of prison inmates], 69.4% identified themselves as white, followed by 24% who stated that they were Afro. This last piece of information is striking given that it represents at least twice the percentage present in the general population, 10.6%, according to the 2008 Continuous Household Survey."⁴⁸ There is no public data available on Afro-descendant people deprived of their liberty, despite the fact that this information is collected at the time of admission to prison.
94. The judicial culture is one of abusive use of preventive detention, for which Uruguay has received observations from international organizations. In 2011, the Inter-American Commission on Human Rights urged Uruguay to promote a change in the culture and established judicial practices, which establishes a true paradigm shift in the conception of the origin and need for preventive detention. In 2023, the IACHR

⁴⁷https://parlamento.gub.uy/sites/default/files/DocumentosCPP/Inf_2021_final_para_web.pdf

⁴⁸ *ibid.*

presented its report on women deprived of their liberty, pointing in the same vein as the investigation carried out observing the increase in the imprisonment of women.⁴⁹

95. Discrimination originates long before the deprivation of liberty, worsens during it and is perpetuated in the stage of social reintegration. The bias of the police and penal system “labels” the most vulnerable populations as “criminals”.
96. In short, the information related to the registration and systematization of the presence of the ethnic-racial dimension of the Afro-Uruguayan and Afro-descendant population by the State continues to have great weaknesses, making it difficult to eliminate cruel, inhuman and degrading treatment in confinement environments.

RECOMMENDATIONS.

97. That the State collects sufficient, reliable and public statistics on the ethnicity/race/gender variable in prisons.
98. That the State implements the Recommendations of the Parliamentary Commissioner on the Prison System to achieve the rehabilitation of persons deprived of their liberty, which must be reported in detail in their next report.
99. That the State focuses rehabilitation policies on the specificities and needs of people in a progressive system, as recommended by the Commissioner.
100. That the State facilitates the work and cooperation of civil society organizations with a proven track record in prison work from a human rights gender, race/ethnic perspective, among other intersections.
101. That the State, as guarantor of the rights of persons deprived of liberty, accelerates the measures to comply with the rehabilitation measures.
102. That the State includes a race/ethnicity and gender perspective in prison policies, with special emphasis on pregnant women and delivery and postpartum care, with diseases that require specific treatment.

VI. Racial Equity Mechanisms

103. In 2020, the Division for the Promotion of Public Policies for Afro-descendants was created by law under the Ministry of Social Development and allocated 10 million pesos annually (250,000 USD) “to fund affirmative actions, in order to help promote policies aimed at improving the quality of life of people of African descent”. While institutionality was expanded, the specific unit of targeted public policies aimed at Afro-descendant women in the Ministry was lost, and we saw a return to general, non-focused public policies for the Afro population.
104. As well, the Department of Afro-descendant Women in the National Institute for Women (Ministry of Social Development INMUJERES/MIDES), the only mechanism for racial equity in matters of gender and Afro-descendance, was eliminated. Regarding gender-based violence, we consider this is a significant setback, as the last survey of gender-based violence in our country (2019) shows a difference of 11% in the

⁴⁹ <https://www.oas.org/es/cidh/informes/pdfs/2023/Informe-Mujeres-privadas-libertad.pdf>

prevalence of GBV situations in some settings for women of Afro-racial ethnic descent⁵⁰. This takes public policy back to the concept of a generic woman, not recognizing the specificities of different female populations from a paradigm of equality.

105. In her report on racial equity mechanisms in Uruguay (2004-2014), international expert Diana Prado points out that "The vast majority of ethnic-racial equity mechanisms are spaces that civil society promoted and advocated for their implementation, and where the government provided limited support. This was reflected in the lack of capacity to execute plans and projects due to a lack of budget, the impossibility on occasions of having a dedicated space within a State office, and even activists providing a public service without being a public servants, or persons who carried out work ad honorem."
106. Fragmentation into multiple equity mechanisms without coordination demonstrates a lack of political will to move in concert to mainstream racial equity in all state policies.
107. The State has not implemented its 2030 National Policy Strategy for Afro-descendants (ENPA 2030), a commitment it assumed in 2015, when the Planning and Budget Office (OPP) included racial equality as a cross-sectional perspective it within the 2050 National Development Strategy (together with Territorial Equity and Gender Equality).
108. Regarding gender-based violence, we consider a significant setback that in 2020, the Department of Afro-descendant Women of INMUJERES was removed from MIDES and it was created a Department of Multiple Discrimination. Especially taking into account that, according to data based on the last Survey of Gender-Based Violence in our country (2019) there is a difference of 11% in the prevalence of GBV situations in some setting for women of Afro-racial ethnic descent.⁵¹

RECOMMENDATIONS.

109. That the State avoid the overlapping and duplication of mechanisms, as well as the unification of departments, since in this way it cuts human and material resources or renders them inoperative.
110. That the State designate those responsible with their clearly established tasks and roles.
111. That the State strengthen avoiding weakening INMUJERES as the governing institute of public policies for women's rights.

⁵⁰<https://www.gub.uy/ministerio-desarrollo-social/comunicacion/publicaciones/encuesta-nacional-prevalencia-sobre-violencia-basada-genero-generaciones>

⁵¹ <https://www.gub.uy/ministerio-desarrollo-social/comunicacion/publicaciones/encuesta-nacional-prevalencia-sobre-violencia-basada-genero-generaciones>