



**General Assembly**

Distr.  
GENERAL

A/HRC/WG.6/5/URY/1  
24 February 2009

ENGLISH  
Original: SPANISH

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HUMAN RIGHTS COUNCIL  
Working Group on the Universal Periodic Review  
Fifth session  
Geneva, 4-15 May 2009

**NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15 (A)  
OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1\***

**Uruguay**

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\* This document was not edited before being sent to the United Nations translation services.

## **I. METHODOLOGY AND CONSULTATION PROCESS**

1. Uruguay is committed to the Universal Periodic Review mechanism of the Human Rights Council and is ready to cooperate with this mechanism in a frank manner, avoiding self-satisfied analyses of realities in the country and paying special attention to the observations and/or recommendations emerging from the review which, the Government is convinced, is an essential instrument for the protection and promotion of human rights.
2. The preparation of this report was coordinated by the Human Rights Department of the Ministry of Education and Culture, as the national authority in the matter, together with the Human Rights and Humanitarian Law Department of the Ministry of Foreign Affairs, calling on the government offices involved. In joint bodies and through the exchange of documents, public institutions participated in this report through a review of public policies in their respective areas. The preparation of the report was seen as an opportunity to draw up a financial paper on the Uruguayan State's investment in human rights policies in a broad sense. In this way, the information and reasoning in this document are founded on the public spending priorities of the Uruguayan Government.
3. During the process of preparing the report, consultations were conducted with civil society, human rights organizations and representative social movements. These initial consultations and the participation of public institutions resulted in the compilation of rights presented, with the aim of making an assessment that is as exhaustive and inconclusive as possible. Representatives of the State, civil society and the academic world met to discuss the draft report, under the coordination of representatives of the United Nations system in Uruguay. The process was also thrown open to citizen participation: men and women all over the country who, in the course of 2008, had received basic training under the "1,000 Human Rights Promoters Programme",<sup>1</sup> were invited to take part and undertook to monitor the commitments entered into and any recommendations that might be made.
4. A central concern of this document is the use of non-discriminatory language as between men and women. Linguists do not agree on how this can best be achieved, and translation problems may arise. Accordingly, the masculine will generally be used, on the clear understanding that all such gender references invariably apply to both men and women.

## **II. REGULATORY AND INSTITUTIONAL FRAMEWORK**

### **A. Constitution, legislation and case law**

5. In 1985, after 11 years of civil-military dictatorship, the citizens of Uruguay recovered their civil and political freedoms under the 1967 Constitution. This was made possible in the first instance by the citizens' rejection, in a plebiscite, of a proposed new Constitution curtailing individual rights and proposing the subjection of the civil authority to military tutelage. There followed a democratic struggle by parties, trade unions, student associations, cooperatives and human rights organizations which, after years of peaceful protests, propelled the transition to democracy. Since the restoration of democracy, successive Governments have continued to ratify and support the negotiation of the main international instruments for the promotion and protection of human rights and, not without the differences and discussions characteristic of the democratic system, have expanded and promoted respect for the civil, political, economic, social and cultural rights of citizens as a whole, as well as of vulnerable groups.

6. The 1967 Constitution establishes a republican, democratic and semi-representative system. This entails the coexistence of representative institutions elected by popular vote with mechanisms of direct democracy: the constitutional plebiscite (ratifying reforms approved by Parliament or by popular initiative), the referendum for the partial or total repeal of laws, and the popular initiative for new legislation.<sup>2</sup> In 1989, the first instance in which the institution of the popular referendum was used following the restoration of democracy was an unsuccessful attempt to repeal the Act on the Expiry of the Punitive Claims of the State invalidating trial proceedings against those responsible for human rights violations during the civil-military dictatorship (1973-1985).

7. In its statement of principles, the existing Constitution provides for the equality of all persons before the law, and expressly protects a broad range of rights including the right to freedom of expression, the right to freedom of religious belief and teaching, the right to work and decent housing and the prohibition of the death penalty; under article 72<sup>3</sup> this enumeration is not exhaustive and, under article 332,<sup>4</sup> rights do not need to have been regulated. Over the last four years, Parliament has approved 590 bills, 114 of which refer directly to human rights.

### **B. National human rights institutions**

8. Furtherance and protection of human rights is a priority for the Uruguayan Government inaugurated in 2005. To that end, institutions reflecting this priority have been promoted in various areas of activity. From March 2005 on there was a Human Rights Unit in the Ministry of Education and Culture, and it was formally elevated to the status of Department in January 2006,<sup>5</sup> as the national authority on the subject. The Department is responsible for promoting the enjoyment and observance of human rights, considered in a comprehensive and interdependent manner, including both civil and political rights and economic, social and cultural rights, as well as collective rights such as the right to peace, development and the environment.

9. In addition, a specialized unit was created within the national authority for initial, primary and secondary public education in 2006. An Advisory Service on Fundamental Rights was established under the Ministry of Labour and Social Security with responsibility for promotion of freedom of association, elimination of all forms of forced labour, effective abolition of child labour and the struggle against all forms of discrimination. Previously, the only official bodies dealing with the subject had been the Human Rights and Humanitarian Law Department of the Ministry of Foreign Affairs, responsible for relations with international intergovernmental and non-governmental human rights organizations, follow-up of international negotiations in this area, submission of periodic reports and processing of complaints to the Inter-American System or the universal human rights system, and the Human Rights Commission of the House of Representatives.

10. In 2003, the office of Parliamentary Commissioner for the Prison System was created with the main task of advising the legislature in its function of monitoring compliance with international, constitutional, legal and regulatory provisions on the situation of persons deprived of liberty. The post was finally filled in 2005. Recently, approval was given for the establishment of a national human rights institution which, unlike other institutions of this kind, has the particularity of being collective.<sup>6</sup>

### **C. Cooperation with international mechanisms**

11. The national democratic tradition has meant broad ratification of human rights treaties; since the end of the dictatorship in 1985, Uruguay has ratified practically all the various United Nations instruments for the protection and promotion of human rights. The same is true of the regional system for the protection of human rights.

12. The principle of cooperation with the international system is a mainstay of the Uruguayan Government's foreign policy. Accordingly, in March 2005, at the sixty-first session of the Commission on Human Rights in Geneva, Uruguay extended an "open invitation" to all United Nations special procedures in the area of human rights. In 2007, it issued a similar invitation to the Inter-American System for any mechanism of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights to visit our country. These invitations signify an openness to the system and demonstrate a desire to make progress in human rights and improve the public policies applied by Uruguay.

13. In 1992 MERCOSUR (Common Market of the South), through the Ushuaia Protocol, incorporated a democratic clause for the penalization and possible expulsion of countries violating the democratic system, and in 2005 it adopted the Asunción Protocol (Commitment to the Promotion and Protection of Human Rights of MERCOSUR). Recently, the MERCOSUR Parliament (PARLASUR) has been set up, including a Commission on Citizenship and Human Rights which in 2008 conducted public consultations on the subject.

### **III. ACHIEVEMENTS IN THE STRUGGLE FOR GREATER DEMOCRATIC QUALITY**

#### **A. Right to political and social participation**

14. Uruguay is notable among Latin American countries for its high level of citizen participation in elections, and their transparency, as ensured by an independent Electoral Court. Throughout the twentieth century and the early twenty-first century, the country has had a rich democratic tradition. The consolidation of democracy after the dictatorship is symbolized by the trouble-free rotation of parties in the national Government in 1990, 1995 and 2005.

15. The democratic values of Uruguayans are based not only on participation in elections but also on experiments in direct citizen participation. Experiments in decentralizing municipal government have been carried out in the capital as well as in some other departments. At the municipal level, experiments are being conducted in participatory budgeting, in which the citizens decide on the priorities for a variable part of public investment in the municipality. In 2008, the national Government tabled a bill for the establishment of the office of mayor in small localities, as a way of bringing the centre closer to decision-making at the local level.

16. Although an estimated half a million Uruguayans live outside the country - a substantial proportion considering that the resident population of Uruguay is 3.3 million - it has not yet been possible to obtain the special majorities needed to amend electoral law so as to allow our citizens abroad, whether civil servants or migrants, to vote. The legislation on political parties is also deficient as regards the financing of the parties and their election campaigns.

17. The Uruguayan Government has thrown public policies open to social participation in various areas of activity such as the work of the National Economy Board, the Wage Boards, the Education Congress, the consultations on the Tax Reform and National Defence Acts, the Local Citizen Coexistence and Security Boards and the Migration Advisory Board.

18. In 2007 and 2008 various political and citizens' movements organized the collection of signatures to activate the direct democracy mechanism of the constitutional plebiscite: one to abolish the personal income tax; another to amend the Constitution so as to annul the Act on the Expiry of the Punitive Claims of the State; and a third movement seeking to permit presidential re-election for a single consecutive term.

19. Uruguay has a low proportion of women in the National Parliament and, although various possible temporary measures have been discussed for including women in electoral lists, sufficient consensus has not yet been achieved. In 2005, 14 women became members of Parliament - 10.8 per cent of the total parliamentary membership. There are currently 16 women members of Parliament (12.3 per cent of the total), 4 of them senators and 12 deputies. The presence of women in ministerial posts is significantly higher than in the past: quantitatively, they constitute 30 per cent of the total, while, qualitatively, women have become managers in areas traditionally monopolized by men, such as national defence and internal security.

20. Broad freedom of association exists in Uruguay, as recognized by article 39 of the Constitution. There are many organizations carrying out activities in coordination with the State in such areas as children and adolescents, and the fight against poverty and destitution. Existing legislation has not been updated, although the country does have a Foundations Act,<sup>7</sup> and another Act regulating, promoting and facilitating participation in volunteer activities.<sup>8</sup>

### **B. Right to the freedoms of expression, information and public transparency**

21. In 2008, three important laws were adopted: the Community Broadcasting Service Act,<sup>9</sup> which provides that broadcasting is a technical aid for the exercise of the human right to freedom of expression, a right predating any State intervention, and that the allocation of frequencies must respect the principles of plurality, diversity and non-discrimination; the Protection of Personal Data and Habeas Data Application Act,<sup>10</sup> holding the right to protection of personal data to be inherent to the human person; and the Access to Public Information Act,<sup>11</sup> aimed at promoting the transparency of the civil service and guaranteeing the fundamental right of access to public information by individuals. A bill abolishing the offences of contempt, defamation and insult in respect of public officials or persons performing activities of public concern has already been approved by the Senate.

22. Other measures are the establishment of the Agency for the Development of E-Government and the Information and Knowledge Society (AGESIC); the MEC Centres established by the Ministry of Education and Culture (MEC), the National Telecommunications Administration (ANTEL) and municipal governments in population centres with fewer than 5,000 inhabitants for the dissemination of knowledge and culture and communication; the Citizen Care Centres (CAC) throughout the country; and the establishment of the CEIBAL (Basic Computer Educational Connectivity for On-line Learning) Plan for providing every child attending State school throughout the country with a computer. In 2005, ANTEL was transferred from the purview of the Ministry of National Defence to that of the Ministry of Industry, Energy and Mining.

23. As regards public transparency, the State Economic and Financial Advisory Board set up in 1998 to promote public policies, rules and activities enhancing transparency in State management was recently modified to bring it into line with the Inter-American Convention and United Nations Convention against Corruption. This body has been renamed the Transparency and Public Ethics Board and has been given new prerogatives, while the number of officials required to make a sworn statement of assets on entering office has been increased.<sup>12</sup>

### **C. Right of access to justice**

24. Justice<sup>13</sup> is free of charge for low-income litigants and in labour proceedings. Access to justice and legal assistance is assured in the capital and in major cities by the services of the Public Defender.<sup>14</sup> In 2006 the Directorate-General of Public Defender's offices was set up under the

Supreme Court of Justice, which acts as a focus for the various defender's offices: civil, criminal, criminal enforcement, family, juvenile offenders and labour matters. The present Government has significantly increased the budget of the judiciary.

25. In 2005, a major advance was made in formulating public policies in regard to access to justice, promotion of the rule of law and legal security through the establishment of the Constitutional, Legal and Registry Affairs Department under the Ministry of Education and Culture. Initiatives of this kind hold out the prospect of establishing a specialized Office of Secretary of State in the near future. In 2005 two commissions were set up to do the groundwork for the reform of criminal proceedings and the Criminal Code.<sup>15</sup> Both bills will be submitted to Parliament for consideration in the near future.

#### **D. Right to identity**

26. In 2005, when determining the households to be included in the National Social Emergency Plan (PANES), it was found that thousands of people did not have an identity document. Given that the right to identity is the "right to have rights" - since it is essential, for example, for access to public social benefits - a campaign for the right to identity was undertaken in 2006 in conjunction with the United Nations Children's Fund (UNICEF) and the national civil registry and identification bodies, in which more than 30,000 identity cards were issued. Under the programme, which has now been institutionalized, birth certificates are also issued and entries made in the aliens' register. Identity cards were issued to hundreds of institutionalized psychiatric patients abandoned by their relatives who did not know whether they had been registered and/or did not have an identity document. Within the country, civil registry functions are still performed by judges of the peace and it is considered that they should be transferred to and integrated in the National Civil Registry Department. The country has also carried out the "Celeste" and "Guaraní" operations designed to provide documentation to Uruguayans residing in countries of the subregion.

27. The year 2008 marked the introduction of the electronic live births certification scheme, which provides a national identity document to children in conjunction with that of the mother at all public and private maternity clinics in Uruguay, where 98 per cent of children are born. It is intended to protect the right to identity and, in consequence, the rights to a name and nationality, as part of efforts to strengthen family ties, as well as to guarantee access to the various social benefits. The goal is to supply all children born in public and private institutions with an identity document by the end of 2009.

#### **E. Right to the truth, justice, memory and compensation, and guarantees of non-repetition**

28. Twenty-three years after the return to democracy, the consequences of State terrorism continue to be felt. In 2005, Dr. Tabaré Vázquez expressed his strong commitment on this subject when entering office as President of the Republic. A re-interpretation of the Act on the Expiry of the Punitive Claims of the State by the executive from 2005 on made it possible for the judiciary to commence investigations into various cases of violations of human rights that occurred during the dictatorship. The most emblematic culprits of human rights violations during that period are now in prison.<sup>16</sup>

29. In 2005, persons whose enforced disappearance was confirmed<sup>17</sup> by the final report of the Commission for Peace created in 2000 were declared missing, and 2006 saw the adaption of the Act on cooperation with the International Criminal Court in combating genocide, war crimes and crimes against humanity,<sup>18</sup> which has provided essential support for the re-interpretation of the Expiry Act.

The Cooperation Act classified such crimes as imprescriptible, and established the universal jurisdiction and subsidiary competence of the International Criminal Court to try them. The criminal classifications are even broader than in the Rome Statute.

30. President Vázquez appointed a group of historians to research public and private records in compliance with article 4 of the Act on the Expiry of the Punitive Claims of the State,<sup>19</sup> a task which had been initiated by the Commission for Peace. He also ordered the armed forces to prepare a report on the fate of missing detainees and granted a team of anthropologists and archaeologists access to military and private premises where clandestine burials had been carried out, recovering the remains of Fernando Miranda and Ubagésner Cháves Sosa. A 3,630-page publication setting out all the information gathered was disseminated extensively in printed and electronic form. The Follow-up Committee to the Commission for Peace remains active in receiving information, repatriating remains, gathering blood samples and carrying out ADN examinations abroad, and arranging travel for relatives of victims.

31. In 2008 the National Memorial Archive<sup>20</sup> was established with the aim of promoting the full exercise of the individual and collective right to the truth, memory and access to public information on human rights violations. Three previously enacted laws supplement the provisions on archives and the right of public access: the Act establishing the National Archives System,<sup>21</sup> and the Acts guaranteeing protection of personal data and habeas data applications, and the right of access to public information, as already mentioned.<sup>22</sup>

32. In compensation for the injury caused and in order to reconstruct and dignify the historic memory of the victims, the Memorial Cultural Centre and Museum was created in 2007 under the municipal government of Montevideo, and the Memorial Library was opened, a collection of books recovered from house searches carried out by police and military personnel in the era of State terrorism. An exhibition held in 2008 recalled the main struggles for democracy and freedom conducted in 1983. State schools, as well as dozens of plaques and monuments, streets, squares and public areas throughout the country bear the names of citizens who were the victims of enforced disappearance for political reasons.

33. After democracy was restored, limited legal provision was made for public officials and private workers to receive compensation. Over the last four years, more extensive legislation has been passed reinstating the pension rights of military personnel dismissed, separated, suspended, subjected to reform provisions or similar for political or ideological reasons,<sup>23</sup> as well as the pension rights of citizens who, for political or trade-union reasons, were denied access to employment between 1973 and 1985.<sup>24</sup> Discussions are currently in progress on a draft bill for comprehensive compensation including not only economic compensation but also symbolic redress such as health and psychological care for victims.

34. The Government has reasserted civilian control of the armed forces. New legal provisions which have Senate approval are now being processed with the aim of expanding the civilian presence in the management of the Ministry of Defence and establishing that military jurisdiction falls within the competence of the judiciary and is limited solely to military offences and the state of war.

## **F. Right to security**

35. Consistent with the state of law and the promotion of human rights, Uruguay has amended the rules governing police procedure to bring them into line with the Constitution of the Republic and international treaties, with adequate guarantees to civil servants and magistrates for the performance

of their work and, essentially, protection of the rights of citizens.<sup>25 26</sup> In addition, the Internal Affairs Department has been established within the Ministry of the Interior to ensure investigation of alleged irregularities by police officers and provide the necessary mechanisms for citizens to be able to submit complaints without disclosing their identity.<sup>27</sup> Cases of ill-treatment have been recorded and, in one instance, the death of a prisoner at the hands of police officers. These complaints have been investigated and referred to the courts. A proposal to establish a Care Centre for victims of violence and offences is in hand.

36. The Government is preparing a Police Organization Act establishing the principles governing the police force and its powers, its place in the hierarchy of institutions, its organizational structure and disciplinary regime, and a national police training and career scheme. The reform bill being drawn up abolishes custodial administrative penalties imposed by the police and introduces guarantees of due process, while recognizing the right of freedom of association of Ministry of the Interior staff. Uruguay has eliminated the ceilings which, until 2005, restricted access by women to vacancies qualifying for a different wage scale. During the last four years, moreover, police wages have been increased substantially: in the lower scales, 42 per cent of real wages were recovered between 2005 and 2009.

37. The professionalization of the police force is an ongoing concern and accordingly a comprehensive curriculum reform has been carried out, with a single police training institute (currently being tried out under a pilot scheme in the metropolitan area) and preparation of the teaching staff from a human rights and gender-focused perspective. A comprehensive approach incorporating a human rights perspective has been adopted in the fight against drug trafficking and money laundering, and the National Drugs Council (JND) has been strengthened.<sup>28</sup>

38. In order to promote citizen participation in local security management, Local Citizen Coexistence and Security Boards have been set up as forums for exchanges between national, local, police and neighbourhood authorities and social organizations to come up with concrete local measures addressing the multiple causes of insecurity.

### **G. Action to combat trafficking in persons**

39. In 2008 the Uruguayan Parliament adopted the Migration Act, which classifies trafficking in persons as an offence.<sup>29</sup> The Act treats as aggravating circumstances the fact of endangering the health or physical integrity of migrants, the fact that the victim is a child, adolescent or disabled person, the fact that the offence is carried out with violence, intimidation or deceit and the fact that the security of migrants is the responsibility or habitual activity of the official concerned. The Government proposes to implement a State policy through an interagency commission comprising various State and civil society bodies.

40. Uruguay has also established the Committee to Eradicate Commercial and Non-commercial Sexual Exploitation of Children and Adolescents, comprising national and international governmental and non-governmental organizations, which in 2007 launched the ongoing Plan to Eradicate Commercial Sexual Exploitation. It is intended to elaborate a similar plan to eradicate non-commercial sexual exploitation. In 2007 and 2008, relevant awareness-raising campaigns were launched.

## **IV. ACHIEVEMENTS IN THE STRUGGLE FOR EQUALITY**

### **A. Action to combat poverty and social exclusion**

41. In 2005 the Government launched the National Social Emergency Plan (PANES) for Uruguayans in a situation of extreme poverty and destitution (approximately 10 per cent of the population).<sup>30</sup> Visits were carried out to 186,000 households, 68,000 of which, in 440 localities, were incorporated in the plan through food, health, educational and housing programmes and protected work schemes.<sup>31</sup> Policies for the stimulation of investment, tax reform<sup>32</sup> - which in 2007 led to the introduction of the personal income tax - encouragement of a system of collective negotiations in labour relations, creation of the Comprehensive National Health System and the Equality Plan - which refocused the social protection scheme on the younger generations - led to an increase in employment and income. Within five years, household income will recover the purchasing power lost in the 2002 crisis. Although remaining at unacceptable levels, poverty was reduced to 21.7 per cent and destitution to 1.7 per cent during the three-year period 2005-2008.

42. The Ministry of Social Development (MIDES)<sup>33</sup> was set up, structuring social policies and promoting their coordination. Through MIDES, programmes focusing on emergency care and social integration for socially excluded persons and groups were institutionalized.<sup>34</sup> In addition, the Social Task Force was established with the participation of the Ministers of Education, Health, Labour and Social Security, the Economy, Housing, Regional Planning and the Environment, Tourism and Sports, and Social Development. The Ministry of Social Development has devised a comprehensive system of social indicators through the Social Observatory.<sup>35</sup>

### **B. Right to education**

43. For a long time, the lack of investment and the decline in teachers' wages contributed to the deterioration of the quality of public education. The social and economic crisis also had an impact on the educational system: the worst educational performance occurs in schools and institutes situated in the poorest areas. Among the more worrying statistics is the fact that 3 of every 10 young people between the ages of 15 and 17 and 6 of every 10 young people aged 18 to 24 do not attend an educational institution. Of young people aged 15 to 20, 8.3 per cent do not study, work or seek employment and have not completed basic secondary education.

44. During this four-year period, the country increased public spending on public education to 4.5 per cent of gross domestic product (GDP). At the same time, special emphasis was placed on the social integration function of the educational system. Under the Equality Plan in progress since 2007, the Government pledged to: expand coverage and quality of educational care for infants up to the age of 3; universalize initial education for 4 and 5-year-olds; improve the quality of primary education, with emphasis on overcoming unequal performance, as expressed in repeat rates; and universalize basic secondary education, with special attention to the problem of dropping-out. The introduction of the community teacher programme led to an improvement in educational performance in primary schools in a critical social and cultural context, combating the problem of repeating and over-age pupils. The community classroom programme has operated as a mechanism for bringing young people back into secondary education.

45. In 2006 and 2007 a national debate on education culminated in a National Congress which produced significant contributions, published material and arguments for use in preparing the draft General Public Education Act. The Act,<sup>36</sup> which was adopted in December 2008, reaffirms the

principles that education should be secular, free of charge and compulsory, and sets the goal of quality education with fairness and relevance for all as an inalienable, life-long right. The Act introduces the cross-cutting aim of human rights education at all levels.

46. By the end of 2009, all pupils and teachers in public primary schools will have a portable personal computer under the CEIBAL Plan deriving from the One Laptop per Child project of the Massachusetts Institute of Technology (MIT). Uruguay will thus be the first country in the world to grant universal access to new information technologies for children of varying social status and geographical location.

47. Uruguay has created the National Research and Innovation Agency (ANII) to coordinate efforts by public and private actors involved in knowledge creation and use, facilitate synergies between them and boost Uruguay's long-term development. Through a national scholarship scheme, ANII promotes initiation to research, postgraduate studies at home and abroad, links with the productive sector and the return of Uruguayan scientists abroad. It also encourages the popularization of sciences, with an emphasis on social integration.

### **C. Right to health**

48. Although health-care spending in Uruguay accounted for some 9 per cent of GDP at the beginning of the twenty-first century, it did not meet minimum standards of quality of life for the majority of the population: it was inequitable and the cost of consultations, examinations and treatment posed a serious problem; it was also of low quality since it placed main emphasis on welfare benefits, neglecting primary and preventive health care; and it was unsustainable because of serious imbalances in economic terms and in its capacity to resolve health problems.

49. One of the most ambitious institutional and social policy reforms undertaken by the country in the recent past was the implementation, from 2008 on, of the Comprehensive National Health System (SNIS)<sup>37</sup> aimed at guaranteeing the right of all Uruguayans to health. To that end, health was defined as a social asset and essential human right for which the State is responsible.<sup>38</sup> The reform proposes a universal access model with emphasis on a strategy of primary health care, income-based contributions, and equal and comprehensive services of the same quality for all. This entails: contributions of the population according to income; right to immediate coverage for all persons under the age of 18 and all disabled persons without age-limit, and for non-active spouses from 2011 on; and a system of social security payments linked to users' age and gender.<sup>39</sup> Through the "Portal Amarillo", a national drug network information and referral centre, the Government promotes the recovery of addicts desiring treatment.

50. Act No. 18,335<sup>40</sup> on patients and users of health services stipulates that users are entitled to receive equal treatment and cannot be discriminated against on any ground. The Act provides for and regulates the rights to quality health care with respectful and dignified treatment, quality medicines and diagnostic examinations and studies, and access to the results of such examinations and studies at the patient's request. It reaffirms the right of patients to be given full information concerning their illness and to review their medical file and receive a copy thereof - free of charge, in the case of destitute persons.

51. In 2005, the National Women's Health and Gender Programme was established under the Ministry of Public Health with the aim of reducing gender inequality in health care. Protocols and clinical guidelines were drawn up for action by health teams of the sexual and reproductive health services, taking as a conceptual framework the recommendations of the platforms for action of the

international conferences on population and development, and on women. Also established in 2005 was the National Commission for the monitoring and reduction of women's deaths occurring in pregnancy, childbirth, Caesarean section, puerperium and abortion.

#### **D. Right to work**

52. During the past four years, more Uruguayans have been able to exercise their right to work. Between 2004 and 2008, the employment rate rose from 50.8 per cent to 57.6 per cent, while the unemployment rate declined from 13.1 per cent to 7 per cent. In addition to quantitative improvements, the country progressed in the protection of workers' rights. The Trade Union Rights Act<sup>41</sup> declares any action directed against trade unions to be totally null and void and provides for workers whose rights have been violated to be reinstated, as well as laying down other rights such as time off for union activities. The Entrepreneurial Decentralization Acts<sup>42</sup> oblige the public administration, in contracting for third-party services, to require that the company accredited should be up to date with social security contributions and industrial accident insurance. In the case of subcontracting in the private sphere, the Acts provide for the subsidiary responsibility of the company if it carries out the checks laid down by law, and its joint responsibility where those checks are omitted. The executive has submitted to the Parliament a bill on sexual harassment in the workplace and education.

53. The Domestic Service Act<sup>43</sup> provides for equality between domestic and other workers and is regarded as one of the most advanced texts in the region. An Act limiting rural workers' working day to eight hours<sup>44</sup> was adopted, as was an Act establishing the National Employment and Vocational Training Institute,<sup>45</sup> which comprises representatives of the State, employers and workers. Substantial progress has also been made in formalization of employment, and a "Decent Work" project is being carried out in secondary education with the cooperation of the International Labour Organization (ILO).

54. Uruguay has ratified most ILO Conventions, including those designed to protect motherhood, promote equal remuneration, protect workers against discrimination and promote equal opportunity for workers with family responsibilities. The overall unemployment rate has been reduced in Uruguay, although unemployment continues to be substantially higher among women than among men. The most flagrant inequalities are found in unremunerated work in the family context: 65 per cent of remunerated work time is accounted for by men, as against 35 per cent for women; 73.2 per cent of unremunerated work time corresponds to women, while 26.8 per cent corresponds to men. There are also persistent differences in income between men and women. Uruguay has regulations guaranteeing the right of pregnant women to work and enjoy maternity benefits, and progress has been made in the granting of paternity leave.<sup>46</sup> This is a step in the direction of shared responsibility for family care, enabling women to be better integrated in the employment market.

55. Uruguay has taken a number of legislative measures to expand the social security rights of workers, inter alia: reducing from 35 to 30 the number of years at work needed to qualify for a pension; granting easier access to disability and old-age allowances and pensions; accrediting years of service for women according to the number of children; expanding unemployment insurance coverage; establishing a redundancy fund for construction workers; recognizing employment and social security rights for artistes; doubling cash benefits for families (or "family allowances") for 300,000 beneficiaries in 2008 and 500,000 in 2009; and establishing an old-age allowance for persons of 65 to 70 years of age living in destitution or extreme poverty.

### **E. Right to adequate housing**

56. By reducing families' real income, the 2002 economic and financial crisis also impacted on the effective enjoyment of the right to adequate housing. Activities over the last four years have taken three main forms: creation of a public system, with the State directing public housing policies; improvement of quality, with a change from a product conceived as a minimum solution for poor segments of society without regard to location, to a product conceived as a response to family needs, with due regard to adequate siting in urban areas; and expansion of coverage and accessibility for medium- and low-income segments of the population.

57. By the end of 2008, public housing policy was reaching 22,525 families, and there are plans to raise this figure to 44,605 families over the period 2005-2009.<sup>47</sup> One serious problem in the housing sector is that of the irregular settlements where 6 per cent of Uruguay's total population live. Although action to integrate the settlements is a priority (over the four-year period, 27,612 residents in a total of 64 settlements throughout the country benefited directly), the measures taken to date are not yet sufficient to overcome the problem.

### **F. Right to a healthy environment**

58. In 2004, a constitutional amendment approved by popular initiative stipulated that "access to drinking water and sanitation are fundamental human rights", to be provided by the State.<sup>48</sup> In 2005 a National Water and Sanitation Department (DINASA) was established under the Ministry of Housing, Regional Planning and the Environment (MVOTMA), as was an Advisory Committee on Water and Sanitation (COASAS), with participation by public institutions and civil society, working together on a national plan in this area.

59. Although still inadequate, the supervisory capacity of the National Environment Department (DINAMA) within MVOTMA has been enhanced. In 2005 the Government reviewed the environmental impact evaluation procedure and introduced new environmental management instruments.<sup>49</sup> Also in 2005, regulations were adopted in pursuance of the Protected Areas Act, establishing a National System of Protected Areas (SNAP).<sup>50</sup> In 2008, the first of eight areas, known as Quebrada de los Cuervos, in the east of the country, was included in the scheme, and in the same year the Regional Planning and Sustainable Development Act<sup>51</sup> was adopted with a view to achieving environmentally sustainable development planning based on regional and local social equality, providing for mandatory citizen participation in the formulation of regional plans.

60. The adoption of the Non-Returnable Containers Act in 2004 opened the way for a new system of managing urban solid waste. The regulations approved<sup>52</sup> stressed the necessity for informal gatherers of such material to be socially included in the new forms of waste recovery for recycling based on clean circuits with separation by origin and selective waste collection.<sup>53</sup> This is important, since the sector is one of those with the highest incidence of situations of social exclusion and child labour in Uruguay.

### **G. Right to food**

61. In 2005, 4 per cent of the Uruguayan population were living in destitution, unable to cover the cost of a minimum-nutrition diet. Another segment of the population was living in extreme poverty, very close to this situation. As part of PANES, the National Food Plan introduced a new method of food allocation through a magnetic card, with 66,000 users. Parallel to this there remained the National Food Institute (INDA), a traditional food-basket scheme with 22,000 users. In 2008, coordinated inter-agency action enabled the scope of the programme to be expanded, with

beneficiaries of the Equity Card and INDA being merged under a single programme. In 2007 and 2008, faced with the inflationary pressures caused by high oil and raw material prices, the Government concluded voluntary agreements with businesses in various chains of production and marketing with a view to containing or reducing the prices of staples in the Uruguayan diet, a step which has had partial but positive results.

62. Also in 2008, the Government established the Inter-Agency Commission for Food Security with the aim of reviewing and adjusting existing rules and drawing up a new regulatory framework - to be converted into a law - for the establishment of a governing body on food security with the aim of reducing the number of procedures and offices with responsibilities in this area. In 2006, the Government suspended the use, production and marketing of genetically modified maize seed. It also ordered a moratorium on new developments in genetic modification until such time as a National Biosecurity Framework is devised.

### **H. Right to culture**

63. During this four-year period, the country made a commitment to cultural policy, tripling the annual budget of the National Culture Department (DNC) of the Ministry of Education and Culture. The aims of cultural policy have been cultural democratization, stimulation of cultural production, and recognition of artistes' rights. Among other initiatives, Culture Grant Funds were established, with financing being awarded to arts, heritage and cultural traditions projects, the Uruguayan Cinema and Audio-Visual Institute (ICAU) was set up<sup>54</sup> and the rights to work and to social security of artistes were provided for.<sup>55</sup> Public television, which is undergoing reform, introduced new technology and made a commitment regarding information content and quality programmes, both domestic and foreign.

64. After being put off for decades, the work of reconstructing the Sodre Auditorium - the largest in the country - was resumed and, in 2007, financial compensation was granted to the El Galpón theatre following the seizure of its premises during the civil-military dictatorship for use by this emblematic independent theatre to reconstruct its main hall, which has already been reopened.<sup>56</sup>

### **I. Rights of women**

65. From 2005 on, the gender institutions were redefined. During this period, there was a change from the National Institute for Family and Women's Affairs under the aegis of the Ministry of Education and Culture (MEC) to the National Women's Institute (INMUJERES), a national organ under the Ministry of Social Development (MIDES) supported by human and financial resources, with its institutional commitments being reformulated.<sup>57</sup> In 2006, a participatory process resulted in the first National Plan for Equality of Opportunity and Rights (2007-2011).<sup>58</sup> Gender mechanisms were created within most ministries at various institutional levels and each government organ is committed to activities for the realization of this plan.<sup>59</sup> In 2007, activities designed to achieve equality between men and women were declared to be in the general interest.<sup>60</sup>

66. As regards the political participation of women, measures were implemented with the aid of international cooperation such as the "Parlamentaria" project of the Bicameral Women's Caucus of the Uruguayan Parliament and the Political Science Institute (University of the Republic) with the aim of increasing the visibility and incidence of women in politics and promoting the inclusion of the gender agenda in the election platforms of the political parties at the next national elections. To this end, the "Mujeres Políticas" project has trained and empowered some 800 female political leaders throughout the country.

67. In 2004, Uruguay launched the first National Plan to Combat Domestic Violence.<sup>61</sup> The issue of domestic violence was also included in health policies. In 2006, it was made compulsory for public and private health institutions and personnel to attend to situations of domestic violence. Data are incorporated in the medical record of patients over the age of 15.

## **V. ACHIEVEMENTS IN THE STRUGGLE FOR THE RIGHTS OF VULNERABLE GROUPS**

### **A. Rights of children and adolescents**

68. During the period Uruguay introduced the Honorary National Advisory Board on the Rights of Children and Adolescents, set up by Act of 2004, with the aim of promoting the coordination and integration of sectoral policies for the care of children and adolescents. In the course of the period, the National Committee for the Eradication of Child Labour drew up a list of dangerous forms of work in compliance with ILO Convention No. 182. In 2004 legislation was passed imposing penalties of 2 to 12 years' imprisonment for commercial and non-commercial sexual violence against children, adolescents or legally incompetent persons.<sup>62</sup>

69. Children and adolescents have been the hardest hit by poverty in recent decades. Poverty rates are twice as high for this group as for Uruguayans as a whole. One of the focused public policies that has been maintained over time, irrespective of changes of Government, has been the CAIF (Comprehensive Child and Family Care Centres) Plan, channelling the efforts of the State and civil society. In 2008 there was nationwide coverage of 41,216 children in 319 centres. In constant prices, funding for this purpose increased by 175.85 per cent between 2007 and 2008.

70. The country is seeking to overhaul the care model for children and adolescents separated from their families, reducing institutionalization through alternatives such as family placement, family units (in which an adult couple supported by the Uruguayan Institute for Children and Adolescents (INAU) looks after as many as eight children) and speeding up of judicial procedures for adoption. One of the most visible problems is that of street children. Although the phenomenon has been reduced significantly, it continues to give cause for concern. State action is directed to reuniting street children with their families, schools and local communities or, when families are non-existent or not in a position to respond, to create placement opportunities.

71. The system of custodial measures for adolescents in conflict with the criminal law was the subject of complaints by the World Organization against Torture in 2003. High levels of violence and ill-treatment in inadequate institutions, poorly trained personnel, deficient health care and the lack of educational plans and projects were the focus of some of the comments made. The Government reacted to the situation by promoting the recruitment of qualified personnel, the dismissal and reassignment of officials, the upgrading of school facilities and the hiring of emergency mobile services for improved health care. The Programme of Non-custodial Measures was also strengthened. Recently the National Advisory Board on the Rights of Children and Adolescents set up an Observer Committee to monitor the situation of adolescents in conflict with the criminal law in respect both of detention and alternative measures. The issue continues to be a cause for special concern.

72. Together with these responses to children and adolescents in a situation of extreme vulnerability, the Government, on the basis of the Children, Adolescents and Family Programme, (INFAMILIA) promoted the formulation of the National Strategy for Children and Adolescents 2010-2030.<sup>63</sup> Through a broad process of dialogue, which also included individual consultations with more than 4,500 children and adolescents throughout the country, a set of principles, guidelines and proposals for a 20-year strategy was gathered and collated.

## **B. Rights of elderly persons**

73. With the introduction of the Equality Plan, Uruguay created an old-age allowance for persons between 65 and 70 years of age in a situation of extreme poverty who lack other social security benefits. In addition, it reintroduced the old-age grant for persons above the age of 70. In 2009, the minimum pension will be 150 per cent higher than its 2005 value. The Social Security Bank (BPS), the country's main social security institution, provides technical assistance in the form of professional advice, and funding for specific projects, especially old people's homes' infrastructure projects, associations of retirees and pensioners and senior citizens' clubs. The BPS grants retirees and pensioners with low incomes, the usufruct of properties which it owns.<sup>64</sup> Under the Comprehensive National Health System, retirees receive from health providers an allotment of free vouchers for consultations, medicines, analyses, x-rays and electrocardiograms.

## **C. Right to free sexual orientation and gender identity**

74. The adoption in 2003 of the amendment to article 149 of the Criminal Code penalizing public incitement to hatred, contempt and other forms of physical or moral violence by reason of skin colour, race, religion, national or ethnic origin or sexual orientation and/or identity was a vital step in the struggle against all forms of discrimination. It was followed, a year later, by the Act against Racism, Xenophobia and Discrimination,<sup>65</sup> which established the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination, comprising representatives of public institutions and social organizations, with authority to receive complaints. This put an end to the lack of specific structures for combating discrimination, but the Commission must further increase its capacity to take initiatives and engage in activities in order to perform at the level sought.

75. During the past four years, the country has made progress in recognizing and expanding the rights of gays, lesbians and transsexuals. Uruguay is the first Latin American country to have legislated for the union of same-sex couples. The Concubinary Union Act of 2007,<sup>66</sup> which also covers heterosexual couples, protects and regulates the rights of couples with five continuous years of cohabitation, independently of the sex of the partners.<sup>67</sup>

76. There is a bill pending adoption in Parliament (already approved by the Senate) recognizing the right of every person to the free development of his personality in accordance with his own gender identity without, in any circumstance, requiring sex-change surgery. This right includes the right to be identified in such a way that the person's gender can be fully recognized, and consistency between this identity and the name and sex given in the person's identification documents (Civil Registry entries and identity, electoral, travel and other documents). In the international arena, the country has been active in promoting and protecting the rights of sexual minorities.

## **D. Rights of persons of African descent**

77. Uruguay has introduced various instruments to combat racism in the context of the struggle against all forms of discrimination and intolerance. In the case of persons of African descent, the present Government has created institutional structures that were previously lacking.<sup>68</sup> One major step in institutional terms was the establishment of the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination, as already mentioned.

78. As regards public policies, the first step was to proceed with collecting basic information for policy design and implementation. To this end, the item "ethnic group/race" was included in the 2006 Ongoing Extended Household Survey of the National Statistical Institute (INE), a major

official source of information both for public and private actors. In the survey, 9.1 per cent of respondents identified themselves as being of African descent. The ethnic-racial variable was also incorporated in the gender information system of INMUJERES.

79. With regard to young people of African descent, the Government has promoted their inclusion in programmes of initial labour experience as well as their integration in the labour market by means of grants. Under its grants scheme, the Ministry of Education and Culture helps young people of African descent to complete their studies, while the University Solidarity Fund, through the Carlos Quijano scholarship programme, facilitates access by Afro-Uruguayan university students to postgraduate studies abroad. In Montevideo, a city with a high concentration of persons of African descent, citizens and government officials have been given training in detecting and responding to forms of racism and discrimination. In 2007, as a pilot project, the Higher Afro Training Institute was included in the training provided by the Artigas Foreign Service Institute for the training of diplomatic personnel.

80. In 2006, Parliament created National Candombe, Afro-Uruguayan Culture and Racial Equality Day,<sup>69</sup> in recognition of the contribution made by Uruguayans of African descent to the national culture, demanding equal treatment. In the capital, the national and departmental governments, together with women's cooperatives, are carrying out measures to compensate for the expulsion of the Afro-Uruguayan population from their traditional districts during the civil-military dictatorship.

#### **E. Rights of indigenous peoples**

81. In 2007, representatives of organizations of descendants of indigenous peoples were included in the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination. This in itself was one of the most important symbolic and political acknowledgements of the indigenous peoples' contribution to moulding our country's cultural identity, which previously had been historically and politically ignored. Parliament is currently debating a bill to establish 11 April as Day of Resistance of the Charrúa Nation and the Indigenous Identity. Their main current demands are that Uruguayans should know about and recognize their indigenous ancestry and respect the remains of their culture and burial places. In 2005, in a public recognition ceremony, the molar and bone remains of the Charrúa cacique Vaimaca Perú, previously on display at the Musée de l'Homme in Paris, were restored to the National Pantheon. Ratification of ILO Convention No. 169 is currently pending in Uruguay.

#### **F. Rights of persons deprived of liberty**

82. In 2005, the Government described the prison situation as being a "state of humanitarian emergency", inter alia because of the level of overcrowding in prisons throughout the country. For years, the lack of a public policy on crime, together with repressive legislation, produced a sustained increase in the imprisonment rate which is still continuing (there are currently 230 prisoners per 100,000 inhabitants).

83. In 2005, the Government introduced the special regime of early provisional release; it strengthened policies for the social reintegration of prisoners and released persons (for instance, reserving 5 per cent of jobs in public-works and competitive bidding projects); it introduced house arrest for persons above the age of 70 without a record of serious offences, pregnant women and seriously ill persons; and it introduced a system of remission of penalty by work or study at the rate of one day of imprisonment for two days of work or study.<sup>70</sup> By the end of 2008, 830 prisoners

nationwide had been released under this provision. The Government has invested substantially in expanding existing prisons and building new ones. Notwithstanding these measures, however, overcrowding remains at critical levels.

84. In March 2008, 1,888 of the 7,695 persons forming the country's prison population were under the regime of remission of penalty by work and 1,325 to remission of penalty by study, a marked increase in comparison with previous years. In response to an application for *amparo* submitted by such prisoners, a judge prescribed duties and laid down recommendations regarding the practical application of this regime. The establishment of the Comprehensive National Health System gave prisoners rights equal to those of other citizens with respect to quality universal health care.

85. In 2005, the post of Parliamentary Commissioner for the Prison System created by law two years earlier was filled.<sup>71</sup> In 2008, persons deprived of their liberty were authorized to constitute representative boards elected by secret ballot in all Uruguay's prison institutions, which submitted an application for *amparo* seeking the effective implementation of the legal norms. In practice, the right of unconvicted prisoners to vote in general elections is limited.

### **G. Rights of persons with disabilities**

86. In Uruguay, 7.6 per cent of the total resident household population in localities of 5,000 or more inhabitants (82 per cent of the overall population of the country) declared themselves to be disabled in some respect in response to the first National Survey of Persons with Disabilities conducted in 2004. The prevalence of disability in the female population is higher than in the male population: 8.2 per cent as against 7 per cent. When age is taken into account, however, the male population below the age of 30 has a greater incidence of disability than females in the same age group. The relationship between disability and poverty was revealed by the establishment of PANES, as already mentioned: among the population inhabiting irregular settlements and peripheral urban districts, the average is 23 per cent.

87. In 2005, the National Disability Programme (PRONADIS) was introduced to conduct activities in pursuance of the Convention on the Rights of Persons with Disabilities and the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities. The National Honorary Commission for the Disabled and PRONADIS are working to achieve integration in education, elimination of urban, architectural and transport barriers, and inclusion in the public labour force. In 2007, the executive adopted regulations giving effect to the Disability Act, requiring all public bodies to earmark 4 per cent of their vacancies for persons with disabilities, and these regulations are being duly complied with.<sup>72</sup>

### **H. Rights of migrants and refugees**

88. In 2008, Uruguay promulgated new rules on migration,<sup>73</sup> bringing its legislation into line with the relevant international instruments, facilitating admission and movement of persons into and out of Uruguayan territory, as well as easing conditions for the stay of foreigners in Uruguay, recognizing and ensuring the right of migration and guaranteeing migrants treatment equal to that of nationals. In addition, the return of Uruguayans from abroad was regulated, trafficking in persons was classified as an offence, and measures were introduced to guarantee the quality of travel documents and technical cooperation.<sup>74</sup> The Refugee Status Act<sup>75</sup> established principles and rights in respect of applicants for refugee status, and a Refugee Commission and a Permanent Secretariat were set up. Under an agreement with the Office of the United Nations High Commissioner for Refugees, (UNHCR), a programme has been created to resettle families of refugees from other countries in Uruguay from 2009 on.<sup>76</sup>

## VI. CHALLENGES AND COMMITMENTS

89. As can be seen from the graph appearing in the end notes,<sup>77</sup> Uruguay has increased public spending on human rights, while recognizing that far more progress needs to be made.

90. Over the last four years, Uruguay has tried to ensure timely compliance with its reporting obligations in respect of international human rights mechanisms, although this has not yet been achieved. The country undertakes to prepare and shortly submit the reports on racial discrimination, torture and migrant workers as well as those relating to the two Optional Protocols to the Convention on the Rights of the Child.

91. As regards civil and political rights, pending matters include: legislation to enable Uruguayan citizens residing abroad to vote; appropriate legislation on political parties and their financing; and updated legislation to regulate civil society organizations so as to provide for greater legal security and promote good accountability practices. With respect to the functioning of justice, our system of criminal law does not allow for victims to participate in the proceedings, and the country must make progress in this respect. It must also move to ensure that justice is rendered within a reasonable period, since this is a central challenge of any democratic society. As regards action to combat trafficking in persons, the Government pledges progress in the internal coordination of its institutions, as well as coordination with its representatives abroad and the authorities of the countries where situations of this kind occur. Our country intends to maintain progress in clarifying the truth concerning the fate of more than 200 compatriots who disappeared in Uruguay and other countries of the subregion, and in approving and implementing full compensation for all victims of State terrorism.

92. Notwithstanding the many institutional and economic efforts made, poverty continues to cause concern, and the ethically unacceptable extremes of destitution and social exclusion are strongly resistant to public action. Uruguay will continue to focus on eradicating poverty through targeted as well as universal social policies. Despite the growing investment in cultural policy, the country continues to fall a long way short in conserving its heritage, archives and museums.

93. With regard to the rights of vulnerable groups, Uruguay pledges progress in dealing with the situation of minors in conflict with the law. It also undertakes to address the disturbing situation of overcrowding in adult detention centres. Although the country has made progress in creating institutional structures for action in respect of groups such as persons of African descent or gays and lesbians, it recognizes that much remains to be done in terms of budgetary allocations, human resources and training. Over the next four years, Uruguay will draw up and implement a National Plan to Combat All Forms of Discrimination.

*Notes*

<sup>1</sup> El “Programa 1000 promotores de Derechos Humanos” capacitó 1.020 personas directamente y otras 5000 de forma indirecta.

<sup>2</sup> Los dos primeros han jugado un papel muy importante en la toma de decisiones colectivas en las dos últimas décadas. La Constitución fue reformada por iniciativa popular a través de plebiscito en 1989, 1994 y 2004. En 1996, se plebiscitó afirmativamente una reforma parcial de la Constitución, centrada en el sistema electoral, sancionada por el Parlamento. En 1989, 1992 y 2003, tres leyes fueron sometidas a referéndum.

<sup>3</sup> Art.72: “La enumeración de derechos, deberes y garantías hechas por la Constitución, no excluye los otros que son inherentes a la persona humana o se derivan de la fórmula republicana de gobierno”.

<sup>4</sup> Art. 332: “Los preceptos de la presente Constitución que reconocen derechos a los individuos, así como los que atribuyen facultades e imponen deberes a las autoridades públicas, no dejarán de aplicarse por falta de la reglamentación respectiva, sino que será suplida, recurriendo a los fundamentos de leyes análogas, a los principios generales del derechos y a las doctrinas generalmente admitidas”.

<sup>5</sup> Ley 17.930, de Presupuesto Nacional, del 19 de diciembre de 2005, artículo 229.

<sup>6</sup> Ley 18.446, de creación de la Institución Nacional de DDHH, del 24 de diciembre de 2008.

<sup>7</sup> Ley 17.163, de Fundaciones, del 10 de setiembre de 1999.

<sup>8</sup> Ley 17.885, de Voluntariado Social, del 20 de mayo de 2005.

<sup>9</sup> Ley 18.232, de Radiodifusión Comunitaria, del 22 de diciembre de 2007.

<sup>10</sup> Ley 17.838, de Protección de Datos Personales para ser utilizados en informes comerciales y Habeas Data, del 24 de setiembre de 2004.

<sup>11</sup> Ley 18.381, de Acceso a la Información Pública, del 17 de octubre de 2008.

<sup>12</sup> Ley 18.362, de Rendición de Cuentas 2007, artículo 302, del 6 de octubre de 2008.

<sup>13</sup> El Poder Judicial es ejercido por la Suprema Corte de Justicia y por los Tribunales y juzgados del país. Existen Juzgados – Letrados y de Paz - en todas las capitales de los diecinueve departamentos y en las ciudades importantes. Los Tribunales –segunda instancia- y la Suprema Corte de Justicia están ubicados en la Capital de la República. A nivel de Tribunales de Apelaciones hay especialización temática: Civil, Penal, de Familia y de Trabajo. A nivel de Juzgados Letrados, además, hay sedes especializadas en Adolescentes, Aduana, de Concursos, Familia Especializados (que tiene competencia en las situaciones de violencia doméstica) y de Crimen Organizado. Prácticamente no existen sedes judiciales en los centros poblados de menos de 5.000 habitantes. El Ministerio Público tiene por objetivos la defensa de la sociedad, la defensa y representación del Estado en el ámbito que las leyes le asignen, y el asesoramiento al Poder Ejecutivo y al Poder Judicial cuando le sea requerido. Constituye un cuerpo técnico-administrativo jerarquizado al Poder Ejecutivo por intermedio del Ministerio de Educación y Cultura, bajo la jefatura directa del Fiscal de Corte y Procurador General de la Nación. Se integra por éste, las Fiscalías Letradas Nacionales, la Fiscalía Adjunta de Corte, la Fiscalía Letrada Suplente, Fiscalías Letradas Departamentales y Fiscalías Letradas Adjuntas y es independiente técnicamente en el ejercicio de sus funciones. Las Fiscalías también tienen especialización respecto de los temas en los que interviene.

<sup>14</sup> Las Facultades de Derecho, en las ciudades en que tienen sede, otorgan patrocinio legal gratuito, como parte de su capacitación curricular. En Montevideo, los estudiantes de Abogacía de la Facultad de Derecho de la Universidad de la República lleva adelante el patrocinio legal a personas de bajos recursos -supervisados por sus docentes- en consultorios situados en las zonas más carenciadas.

<sup>15</sup> Ambas fueron creadas por la ley 17.897, de Libertad Provisional y Anticipada, del 14 de setiembre de 2005.

<sup>16</sup> Estos incluyen dos dictadores aún vivos, un ex Ministro de Relaciones Exteriores, y ocho jefes policiales y militares. En sentencia dictada por el Juez Luis Charles, en el caso por el que se procesó al General (R) Gregorio Álvarez, en diciembre de 2007, se estableció “la noción de crimen contra la humanidad no quedó congelada en el Estatuto de Núremberg, sino que evolucionó, se perfeccionó y logró autonomía, definió sus características esenciales (imprescriptibilidad, improcedencia de la amnistía, indulto, gracia, asilo político y refugio) y se materializó en los principios de derecho internacional general con rango de jus cogens, por lo cual el castigo a los autores de esos delitos devino un imperativo universal”.

<sup>17</sup> Ley 17.894, de Ausencia por Desaparición Forzada, del 14 de setiembre de 2005.

<sup>18</sup> Ley 18.026, de Cooperación con la Corte Penal Internacional en materia de Lucha Contra el Genocidio, los Crímenes de Guerra y de Lesa Humanidad, del 25 de setiembre de 2006.

<sup>19</sup> Ley 15.848, de Caducidad de la Pretensión Punitiva del Estado, del 22 de diciembre de 1986.

<sup>20</sup> Ley 18.435, del Archivo Nacional de la Memoria, del 12 de diciembre de 2008.

<sup>21</sup> Ley 18.220, del Sistema Nacional de Archivos, del 20 de diciembre de 2007.

<sup>22</sup> Ver notas 10 y 11.

<sup>23</sup> Ley 17.949, de Personal Destituido, Desvinculado, Dado de Baja, Pasado a Situación de Reforma o Similares, por Razones Políticas o Ideológicas, Modificación de los Derechos Jubilatorios, del 8 de enero de 2006.

<sup>24</sup> Ley 18.033, de Ciudadanos que No Pudieron Acceder al Trabajo por Razones Políticas o Sindicales entre el 9 de febrero de 1973 y el 28 de febrero de 1985, Recuperación de sus Derechos Jubilatorios y Pensionarios, del 13 de octubre de 2006.

<sup>25</sup> Ley 18.315, de Procedimiento Policial, Marco Normativo, del 5 de julio de 2008.

<sup>26</sup> Por el Decreto 145/005, del 2 de mayo de 2005, fueron derogadas las normas que facultaban al Ministerio del Interior para autorizar el ingreso de la fuerza pública en empresas, centros de enseñanza o salud, y organismos públicos ocupados por empleados, obreros, estudiantes o cualquier otra persona, cuando mediare solicitud expresa por parte del titular de la empresa respectiva o de las autoridades competentes de las instituciones en cuestión. Por el Decreto 109/005, del 14 de marzo de 2005, fueron derogadas las normas que autorizaban a la fuerza pública a utilizar medidas coercitivas a fin de conducir a eventuales implicados y testigos a locales policiales a los efectos de su interrogatorio.

<sup>27</sup> Ley 18.362, de Rendición de Cuentas 2007, artículo 115, del 6 de octubre de 2008.

<sup>28</sup> Los procedimientos realizados pasaron de 403 en 2004 a 817 en 2008 y las personas detenidas, en esos años, de 329 a 668, respectivamente.

<sup>29</sup> Ley 18.250, de Migración, del 6 de enero de 2008.

<sup>30</sup> En el Informe sobre los Objetivos de Milenio -como metas del país hacia 2015- se asumieron, “la erradicación de la pobreza extrema o indigencia, entendida ésta como la población cuyos ingresos son insuficientes para costear una canasta básica de alimentos” y “la reducción a la mitad de la totalidad de la población en situación de pobreza respecto a los niveles de 1990”. En 2005, y tras la crisis económica de 2002 -la peor desde la tercera década del siglo XX en Uruguay-, el nuevo gobierno adoptó como prioridad fundamental abatir la situación de pobreza e indigencia en la que se encontraban cientos de miles de uruguayos. La pobreza y la indigencia habían alcanzado guarismos desconocidos para Uruguay (30 por ciento y 4 por ciento, respectivamente), un país históricamente igualitario en América Latina, el continente más desigual del planeta.

<sup>31</sup> El PANES integró una diversidad de programas focalizados con diversos resultados. Se llevó adelante una campaña por el derecho a la identidad en la que se tramitaron 30.000 cédulas de identidad. Se detectaron más de 96.000 mayores de 15 años que no culminaron primaria y 11.052 que no concurrieron nunca a un centro educativo, por lo que se implementó el programa “En el país de Varela, yo sí puedo” por el que más de 4.000 protagonistas han realizado un curso de alfabetización. Se aseguró una transferencia mensual de dinero -a través de una tarjeta magnética- a 62.000 hogares con hijos menores de 18 años para la compra de alimentos y elementos de higiene en una red de 500 pequeños comercios en todo el país. Un total de 1.990 pacientes con problemas visuales viajaron a Cuba para operarse, en tanto, en Montevideo, 13.000 escolares pasaron por una revisión oftalmológica y para 2.000 de ellos se confeccionaron lentes. Más de 2.400 personas en situación de calle recibieron albergue, alimentación, ropa, atención de salud y apoyo social en la red de refugios. Se instrumentaron propuestas socio-educativas, laborales y productivas para el 25 por ciento de los hogares que participaron del PANES: 15.000 personas desarrollaron tareas de valor comunitario durante cinco meses en seis horas diarias de trabajo con cursos de capacitación obligatorios. Finalmente, 5.642 participantes de quienes participaron de esas actividades ingresaron en un programa de salud bucal.

<sup>32</sup> Ley 18.083, de Reforma del Sistema Fiscal, de 28 de diciembre de 2006.

<sup>33</sup> Ley 17.866, de Creación del Ministerio de Desarrollo Social, del 21 de marzo de 2005.

<sup>34</sup> Ejemplos de ello son los programas que atienden a las personas en situación de calle, el acompañamiento de emprendimientos socio-productivos de recicladores informales de residuos sólidos urbanos, la inclusión socio-cultural de personas privadas de libertad o el apoyo para garantizar a todas las personas sus documentos de identidad o su derecho a saber leer y escribir.

- <sup>35</sup> Observatorio Social del MIDES: <http://mides.redirectme.net/mides/portalMides/portalMides/portal.php>.
- <sup>36</sup> Ley 18.437, Ley de Educación, de 24 de diciembre de 2008.
- <sup>37</sup> Leyes 18.131, de creación del Fondo Nacional de Salud, de 18 de mayo de 2007, 18.161, de creación de los servicios de Salud del Estado, de 29 de julio de 2007 y 18.211 de implementación del Sistema Nacional de Salud, de 5 de diciembre de 2007.
- <sup>38</sup> La atención de la salud en este nuevo sistema está orientada por los principios de universalidad, continuidad, oportunidad, calidad, interdisciplinariedad y trabajo en equipo, centralización normativa y descentralización en la ejecución, eficiencia social y económica, atención humanitaria, gestión democrática, participación social, y derecho del usuario a la decisión informada sobre su situación.
- <sup>39</sup> Elementos adicionales son la rebaja de copagos (como los tickets en medicamentos para la población en general y para la población hipertensa en particular), la gratuidad de acceso para la población diabética, la gratuidad de exámenes para control de embarazo, la gratuidad de exámenes preventivos para mujeres, la gratuidad para los nueve controles preventivos de los menores hasta 14 meses, y la atención a drogodependientes menores de 18 años y el apoyo a sus familiares. La reforma de salud ha puesto en marcha un proceso que pone énfasis en el derecho humano de acceso a la salud a través del principio del aporte solidario que se materializa en una fuerte redistribución de los recursos entre sanos y enfermos, jóvenes y adultos mayores, ricos y pobres, y por regiones según su nivel de desarrollo. Ello ha posibilitado un acceso universal a la salud y una mayor justicia social en la carga financiera de la enfermedad. Hoy el 100 por ciento de los uruguayos están adscritos a un prestador integral de salud.
- <sup>40</sup> Ley 18.335, de los Derechos de los Pacientes, del 15 de agosto de 2008.
- <sup>41</sup> Ley 17.940, de Fuero Sindical, del 2 de enero de 2006.
- <sup>42</sup> Leyes 18.098, 18.099 y 18.215, de Descentralización Empresarial, sancionadas en 2006-2007.
- <sup>43</sup> Ley 18.065, de Trabajo Doméstico, del 27 de noviembre de 2006.
- <sup>44</sup> Ley 18.441, de Limitación del Horario del Trabajador Rural, de 24 de diciembre de 2008.
- <sup>45</sup> Ley 18.406, de Creación del Instituto Nacional de Empleo y Formación Profesional, del 24 de octubre de 2008.
- <sup>46</sup> Ley 18.345, Trabajadores de la Actividad Privada, Otorgamiento de Licencias Especiales para Determinados Casos, del 11 de setiembre de 2008.
- <sup>47</sup> En el cuatrienio se construyeron y entregaron 7.267 viviendas nuevas e iniciaron los procedimientos para la construcción de otras 11.424, todas ellas destinadas a los hogares con menores ingresos; se llegará a los 1.600 créditos para compra de vivienda usada a finales de 2009; se implementó el sistema de garantía de alquileres para trabajadores del ámbito privado y se otorgaron 1.068 garantías de alquiler en la capital -previéndose otorgar 987 garantías de alquileres en el interior urbano al cabo de este período de gobierno-; y, se otorgaron 9.600 créditos y subsidios para mejora y ampliación de vivienda.
- <sup>48</sup> El artículo número 47 de la Constitución de la República establece que: “el servicio público de saneamiento y el servicio público de abastecimiento de agua para el consumo humano serán prestados exclusiva y directamente por personas jurídicas estatales”. Por otra parte, en 1996, una reforma constitucional había otorgado rango constitucional a la protección del medio ambiente, a través de este artículo, estableciendo que: “La protección del medio ambiente es de interés general. Las personas deberán abstenerse de cualquier acto que cause depredación, destrucción o contaminación graves al medio ambiente. La ley reglamentará esta disposición y podrá prever sanciones para los transgresores.”
- <sup>49</sup> Decreto 349/05 que reglamenta la Ley 16.466 de 1994.
- <sup>50</sup> Ley 17.234, Declárese de Interés General la Creación y Gestión de un Sistema Nacional de Áreas Naturales Protegidas Como Instrumento de Aplicación de las Políticas y Planes Nacionales de Protección Ambiental, del 22 de febrero de 2000.
- <sup>51</sup> Ley 18.308, de Ordenamiento Territorial y Desarrollo Sostenible, Marco Regulador General, del 18 de junio de 2008.
- <sup>52</sup> Decreto 260/07.
- <sup>53</sup> La falta de capacidad coercitiva de la normativa aprobada y las dificultades constatadas en la negociación de la financiación - que por ley corresponde a los empresarios que introducen los envases no retornables al mercado- han pospuesto la implementación generalizada de la nueva modalidad de recuperación.

<sup>54</sup> Ley 18.284, de creación del Instituto del Cine y el Audiovisual del Uruguay, del 16 de mayo de 2008.

<sup>55</sup> Ley 18.384, Estatuto del Artista y Oficios Conexos, del 17 de octubre de 2008.

<sup>56</sup> Ley 18.238, Institución Teatral El Galpón, Se Autoriza al Poder Ejecutivo a Transferirle Determinada Suma, 26 de diciembre de 2007.

<sup>57</sup> Se definió como cometido: “ejercer, como ente rector de las políticas de género, las funciones de promoción, diseño, coordinación, articulación, así como el seguimiento y la evaluación de las políticas públicas; garantizando la igualdad de derechos y la equidad de oportunidades de mujeres y hombres, asegurando la participación en los ámbitos políticos, económicos, social, territorial e internacional”.

<sup>58</sup> Sancionado por decreto ministerial del 15 de mayo de 2007.

<sup>59</sup> En estos cuatro años se realizaron avances significativos en la transversalización de la perspectiva de género en las políticas públicas con: la aplicación de una política integral en violencia doméstica; la promoción de la participación política y social de las mujeres; la territorialización de las políticas desde esta perspectiva; y el fortalecimiento del mecanismo rector de las políticas de género en el plano internacional.

<sup>60</sup> Ley 18.104, de Declaración de Interés General de las actividades orientadas a la igualdad de derechos y oportunidades entre hombres y mujeres en la República, del 15 de marzo de 2007.

<sup>61</sup> Se realizaron, entre otras, las siguientes acciones: instalación de Comisiones Departamentales de lucha contra la violencia doméstica en diecisiete departamentos; capacitación y sensibilización en violencia doméstica a jueces, fiscales, defensores de oficio, profesionales auxiliares de justicia, de la salud, la educación, policiales; apertura de servicios públicos especializados en atención a mujeres que sufren Violencia Doméstica en diferentes departamentos; elaboración de Guías de Procedimientos para el abordaje de las situaciones de violencia doméstica para operadores del sector salud y policial; diseño de un Sistema Nacional de Información en violencia doméstica; coordinación y trabajo en red con instituciones públicas y organizaciones de la sociedad civil para la implementación de acciones de combate a la violencia doméstica.

<sup>62</sup> La ley 17.815 apunta a quien pagare o prometiére pagar o dar a cambio una ventaja económica o de otra naturaleza a persona menor de edad o incapaz de cualquier sexo, para que ejecute actos sexuales, así como a quien contribuyere a la prostitución, explotación o servidumbre sexual de menores de edad o incapaces, siendo agravantes que se produjere con abuso de las relaciones domésticas o de la autoridad, pública o privada, o la condición de funcionario policial del agente. Igual pena es establecida para quien de cualquier modo favorezca o facilite la entrada o salida del país de menores de edad o incapaces, para ser prostituidas o explotadas sexualmente. Es castigada también la fabricación, comercio y difusión de material pornográfico en que aparezcan menores de edad o incapaces.

<sup>63</sup> Programa aprobado y declarado prioritario por la Presidencia de la República en 2008.

<sup>64</sup> En 2008, éstas totalizaban 5.656.

<sup>65</sup> Ley 17.817, Lucha contra el Racismo, la Xenofobia y la Discriminación, del 6 de setiembre de 2004.

<sup>66</sup> Ley 18.246, de Unión Concubinaría, Regulación, del 18 de diciembre de 2007.

<sup>67</sup> Un proyecto de ley que habilita a ejercer el derecho a la adopción a las uniones concubinarias, en discusión en el Parlamento, ha sido aprobado en el Senado y está pendiente de aprobación en la Cámara de Diputados. En 2007, se incorporó la educación sexual a los programas educativos.

<sup>68</sup> Ellos son: la Asesoría Honoraria de la Presidencia de la República en Asuntos de Equidad Racial; el Área de Promoción y Coordinación de Políticas Públicas de Acciones Afirmativas para Afrodescendientes en la Dirección de Derechos Humanos del MEC (por Resolución Ministerial de Octubre 2006); la Secretaría para la Mujer Afro Descendiente en el Instituto Nacional de las Mujeres y la asesoría para temas y asuntos de los jóvenes afrodescendientes de la dirección del Instituto de la Juventud, ambas en el Ministerio de Desarrollo Social; y la Asesoría de Asuntos Afro en el Ministerio de Vivienda, Ordenamiento Territorial y Medio Ambiente.

<sup>69</sup> Ley 18.059, Día Nacional del Candombe, la Cultura Afrouruguaya y la Equidad Racial, del 20 de noviembre de 2006.

<sup>70</sup> Ver nota número 15.

<sup>71</sup> Ley 17.684, de Creación del Comisionado Parlamentario, del 29 de agosto de 2003.

<sup>72</sup> Ley 18.094, de Personas con Discapacidad, Se Modifican los Conceptos para Referirse a Ellas en los Textos Normativos y Se Dictan Normas para su Ingreso a la Función Pública, del 9 de enero de 2007.

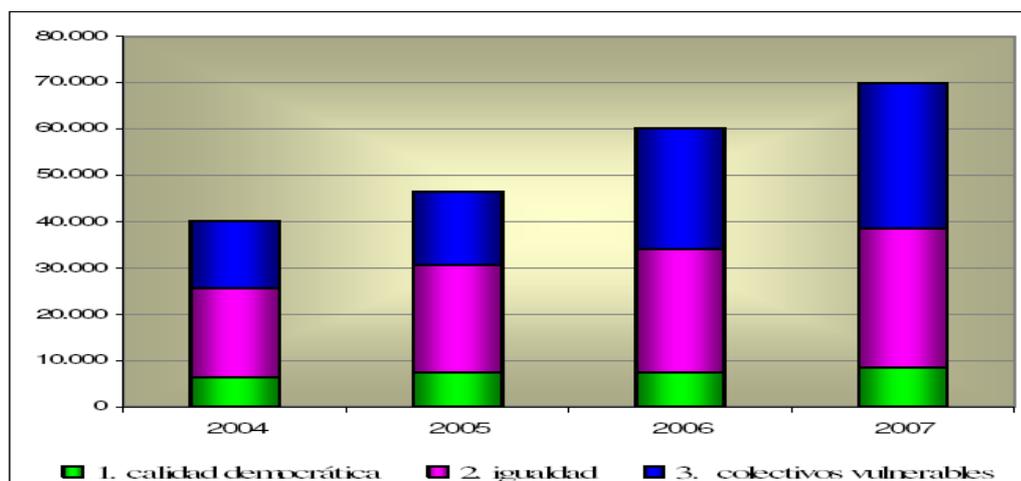
<sup>73</sup> Ver nota 29.

<sup>74</sup> Esta última decisión fue incorporada por nuestro país por la ley 18.349, de Acuerdo contra el Tráfico Ilícito de Migrantes entre los Estados Partes del MERCOSUR, del 15 de setiembre de 2008, y la ley 18.350, de Acuerdo contra el Tráfico Ilícito de Migrantes entre los Estados Partes del MERCOSUR, la República de Bolivia y la República de Chile, del 15 de setiembre de 2008.

<sup>75</sup> Ley 18.076, de Estatuto del Refugiado, del 19 de diciembre de 2006.

<sup>76</sup> Ley 18.382, de Convenio de Reasentamiento de Refugiados, del 7 de octubre de 2008.

<sup>77</sup> Gráfica que enseña la evolución del gasto público en derechos humanos por área (2004-2007) en millones de pesos constantes de 2003:



Fuente: Elaboración propia con datos de CGN, OPP y BPS.

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