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SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1*

Uruguay

The present report is a summary of five stakeholders’ submissions to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review.

* The present document was not edited before being sent to the United Nations translation services.
I. BACKGROUND AND FRAMEWORK

1. The Observatorio de Políticas Públicas de Derechos Humanos en el MERCOSUR (OPPDHM) (Human Rights Public Policy Monitoring Centre in MERCOSUR) says that it was not until November 2008 that it learned of the Uruguayan Government’s proposal to submit a report in accordance with Human Rights Council guidelines. It points out that, while interested organizations were invited to discuss the workplan put forward by the Human Rights Department of the Ministry of Education and Culture and the Human Rights and Humanitarian Law Department of the Ministry of Foreign Affairs, they were disappointed that there had not been more forward planning and discussion in the consultation process, which would have allowed civil society to participate more fully. The Latin American and Caribbean Committee for the Defence of Women’s Rights (CLADEM) also reports that the Government gave civil society organizations one week to submit comments they felt were relevant to the document. In CLADEM’s opinion, while that is a step forward in relation to previous Governments’ reports to United Nations treaty bodies, it does not fully meet the commitment the State party undertook on applying for membership of the Human Rights Council.

2. According to the Instituto de Estudios Legales y Sociales del Uruguay (IELSUR) (Institute for Legal and Social Studies of Uruguay), Uruguay is among the countries with the highest level of official commitment to the international human rights protection system, given that it has ratified almost all the relevant international instruments.


B. Constitutional and legislative framework

4. IELSUR notes that Uruguay recently brought its legislation into line with the Convention on the Rights of the Child in 2004, 14 years after ratifying that instrument. However, the legislative amendments have not resulted in any structural or practical changes.

5. CLADEM notes that there is no provision in the Constitution or any other specific legislation for the possibility of adopting temporary special measures, as required to fully implement the Convention on the Elimination of Discrimination against Women and other conventions.

C. Institutional and human rights infrastructure

6. According to OPPDHM, a bill is pending adoption to establish a national human rights institution with several members and a very broad mandate regarding its sphere of competence. Uruguay’s lack of a national human rights institution is also noted by CLADEM, which points out that the legislature has been discussing creating such a body for over two years. IELSUR considers that independent monitoring mechanisms, such as ombudsman’s offices for the protection of the rights of children and adolescents, are essential to guarantee children’s rights.
Instituciones Nacionales de Derechos Humanos del Continente Americano (Red) (Network of National Human Rights Institutions of the American Continent) requests that consideration be given to the importance of establishing a national human rights institution in Uruguay, bearing in mind that functioning national human rights institutions are a guarantee of an increasing culture of respect for human rights and, consequently, democracy.\(^\text{12}\)

7. OPPDHM states that, while the Convention on the Rights of Persons with Disabilities provides for a national mechanism, since the Convention received legislative approval only recently, discussions have not yet been held with the relevant groups, nor any appointment made to such a mechanism.\(^\text{13}\)

8. OPPDHM notes that the national preventive mechanism envisaged in the Optional Protocol to the Convention against Torture, to which Uruguay is a party, has not been established. No system of regular visits for all persons deprived of their liberty has been introduced, although there is now a Parliamentary Commissioner for the national prison system, whose mandate is limited to adults.\(^\text{14}\)

9. OPPDHM points out that, with the establishment of the Human Rights Department of the Ministry of Education and Culture, a government office is taking responsibility for managing human rights policy for the first time. This is a clear demonstration of the current Government’s commitment to human rights.\(^\text{15}\)

10. According to OPPDHM, the establishment of the Ministry of Social Development, with different institutes specializing in efforts to achieve social equality, is another significant institutional change introduced by the present Government.\(^\text{16}\)

11. CLADEM states that, while the body in charge of gender policies has been restructured, its budget is too small to guarantee the effective implementation of gender equality plans and policies. It adds that the situation is worse for the gender units that have or should have the task of implementing the Equality Plan in other areas of national and departmental government. According to CLADEM, for years now organized women’s groups have been calling for a ministry for women to be set up, or at least for the National Institute for Women (INAMU) to be given ministerial status and a budget consistent with the established objectives and plans.\(^\text{17}\)

12. JS1 reports that, while Uruguay’s National Institute for Youth (INJU) was set up in 1992 to plan, formulate, advise on, coordinate, monitor and implement public youth policies, Uruguay’s youth policies are new and still developing, particularly in the areas of sexual and reproductive health care and the promotion of sexual and reproductive rights.\(^\text{18}\) JS1 recommends that INJU should be strengthened and given a hierarchical structure in order to consolidate its position as the main coordinating body for promoting inclusion of the youth perspective in public policy. JS1 also recommends incorporating sexual and reproductive rights as a priority line of action of INJU with a view to ensuring the full realization of sexual and reproductive rights among young men and women.\(^\text{19}\)

**D. Policy measures**

13. CLADEM reports that several intergovernmental commissions have been set up to monitor the State’s implementation of its human rights commitments. While there is some NGO participation in these commissions, CLADEM considers the balance unsatisfactory and is concerned that they have been established for ministerial reasons rather than in response to national needs. This could result in total or partial duplication of the issues tackled by several of the commissions. CLADEM says that the majority of these commissions do not have clearly
established aims and procedures, which discourages real, constructive civil society participation. It also points out that the State’s relationship with civil society organizations is limited to that described above and to contracting these organizations’ services, which leaves them merely implementing social policy with no opportunity to participate in developing or evaluating it.\textsuperscript{20}

14. CLADEM states that large-scale gender-sensitive training is needed for civil servants.\textsuperscript{21}

15. IELSUR expresses concern that Uruguay, with its ageing population, has no machinery in place to guarantee children’s participation in different health and institutional structures in schools attended by under-18s.\textsuperscript{22}

16. IELSUR urges the Government to implement the Children and Adolescents Code and to provide sufficient human and material resources to give effect to children’s rights.\textsuperscript{23}

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

17. IELSUR says that the significant delay in submitting reports to the different United Nations treaty bodies prevents those bodies from monitoring Uruguay’s observance of the different human rights treaties and hinders public examination of the Government’s human rights policies.\textsuperscript{24}

B. Implementation of international human rights obligations

1. Equality and non-discrimination

18. CLADEM reports that the Constitution does not specifically recognize the principle of equality between women and men and that there is no domestic legislation defining discrimination against women in either the public or the private sphere.\textsuperscript{25} It calls for all codes, particularly the Criminal Code and the Code of Criminal Procedure, to be brought into line with the international norms ratified by Uruguay, inter alia by providing for the offence of sexual harassment and homicide in self-defence.\textsuperscript{26} According to CLADEM, the Criminal Code still upholds “honour and morality” in the context of sexual offences, establishing, for example, that all induced abortions are offences, with the possible mitigating circumstance of being committed to “defend the honour of oneself, one’s wife, or a close relative”. Similarly, in order to be characterized as an offence, incest must involve “public scandal”, while marital rape is not classed as an offence.\textsuperscript{27}

19. CLADEM points out that the judiciary has no enforcement unit or plans to eliminate gender discrimination within its sphere of competence. The judiciary does not apply the international standards Uruguay has ratified, which form part of domestic law. Gender discrimination is seldom mentioned in court judgements, and there is practically no case law on gender. Moreover, there is only one commission on gender and equality in one of the two houses of parliament, and even that has a temporary status and has to be reauthorized at each legislative session.\textsuperscript{28}

20. CLADEM states that women have only 11 per cent of seats in the legislature, only 31 per cent of Cabinet Ministers are female and there are no women in the Supreme Court of Justice. It adds that the two bills to introduce a quota system by gender in electoral lists have been unsuccessful, and that women are also underrepresented in business organizations and trade unions. It points out that, despite this, the Government has not implemented any temporary special measures to remedy the situation, in accordance with the international commitments it has undertaken.\textsuperscript{29}
21. CLADEM indicated that, in 2006, INAMU formulated the First National Plan on Equal Opportunities and Rights for Women, based on an interesting public consultation process. The Council of Ministers approved the Plan in May 2007, and the annual report to the legislature on the Plan’s progress is currently awaited. CLADEM also points out that there are other partial plans such as one on equality at work and one on action against domestic violence as well as some departmental plans, but their coordination with the First National Plan is not entirely clear.30

22. IELSUR says that situations occur in which women are discriminated against in effectively realizing their right to the enjoyment of the highest attainable standard of health, especially when it comes to the health needs of women belonging to vulnerable or disadvantaged groups.31

23. CLADEM points out that no temporary special measures have been implemented for women of African descent. This is regardless of the high school dropout rate among that group and the fact that many of these women work in unskilled jobs and earn less than other women.32

2. Right to life, liberty and security of the person

24. CLADEM states that the number of reports of domestic violence has risen significantly. This is doubtless owing to the fact that women, State agents and the general public increasingly have a better understanding of the right to live free from violence, as well as to the promising efforts made by the Ministry of the Interior to document reports of domestic violence. It is pointed out, however, that the judiciary does not have sufficient resources or training to ensure that the law on domestic violence is properly implemented. Precautionary measures are not complied with in an alarming number of cases, and there are no mechanisms or resources to enforce these measures. In addition, there are only four courts specialized in this area, all of them based in the capital city. CLADEM says that the judiciary’s application for resources to establish two more courts has been unsuccessful. Moreover, State services to care for victims are insufficient and the NGOs that deal with victims and alleged perpetrators receive no State grants and are overwhelmed by demand.33

3. Administration of justice, including impunity and the rule of law

25. IELSUR states that the situation regarding trials and investigations carried out to identify the perpetrators and compensate the victims of the human rights violations that took place during the civil-military dictatorship from 1973 to 1984 remains problematic from the human rights perspective.34

26. CLADEM believes that the greatest human rights challenge facing Uruguay is the existence of the Ley de Caducidad de la Pretensión Punitiva del Estado (Act on the Expiry of the Punitive Claims of the State) (Act No. 15,848), given that it has prevented the prosecution of individuals responsible for crimes against humanity committed during the dictatorship.35 IELSUR considers the existence of Act No. 15,848 to have been an insurmountable obstacle for all the Governments that have held office since the country returned to democracy, since it put a stop to the investigation, trial and punishment of the perpetrators of torture, disappearances, abduction of babies and actions organized between the Southern Cone countries under “Operation Condor”. IELSUR points out that, to date, efforts to reveal the truth about what happened have been conducted under the mandate of this Act which, conferring on the executive powers that belong to the judiciary, establishes the duty of the judge dealing with the complaints to request the executive’s opinion as to whether it considers the matter under investigation to be covered by article 1 of the Act. IELSUR urges the Government to use its powers to declare the Expiry Act unconstitutional on the grounds that it violates the international commitments undertaken by the country, and to investigate, prosecute and convict the perpetrators of crimes against humanity, as well as fully compensating the victims of
State terrorism. CLADEM also expresses the opinion that declaring Act No. 15,848 null and void, or repealing it, is an ethical, legal and political necessity, with thousands of direct victims of the former dictatorship still awaiting comprehensive compensation as provided for in the Rome Statute.

27. According to OPPDHM, no law has been enacted to grant comprehensive compensation for the serious human rights violations that took place between 1968 and 1985. Some laws have been passed, such as Act No. 18,033 (restoration of pension entitlements to individuals who, between 1973 and 1985, were denied employment on political grounds or because of their trade union affiliations), which is very important as an act of justice, but insufficient for the persons affected.

28. OPPDHM states that the Code of Criminal Procedure bill is in the final stages of drafting, but the text of the bill is not yet public knowledge.

29. According to IELSUR, the recently adopted Police Procedures Act, No. 18,315, legalizes abusive and arbitrary practices by police officers, thus reducing individual guarantees and granting a wide margin of discretion to police officers, who have to report to judges on their decisions and on the appropriateness of arrests, police custody, searches, etc., after the event. IELSUR says that the unconstitutional aspects of the Police Procedures Act should be repealed, including the power of the police to arrest people on suspicion, hold detainees incommunicado without any judicial oversight, and conduct searches without the presence of an adult. All rules pertaining to children that lower the existing domestic standards regarding guarantees and individual liberties should also be repealed.

30. IELSUR describes the situation in Uruguay’s prisons as critical. The high number of prisoners since the mid-1990s, when criminal legislation based on the logic of civil insecurity was introduced, has led the President to term the current situation a “humanitarian emergency in prisons”. IELSUR reports that current prison capacity is insufficient to accommodate the existing prison population, which is double the indicative capacity at the moment. The situation is compounded by overcrowding, health problems, the lack of proposed solutions, unequal access to work and education, dilapidated buildings, ill-treatment, and a profoundly corrupt system. CLADEM also highlights prison overcrowding, inadequate health care and insufficient food, adding that women’s right to conjugal visits is not respected and house arrest is not implemented for alleged female offenders who are in the final three months of pregnancy or the first three months of breastfeeding.

31. CLADEM states that a high percentage of male and female prisoners are pretrial detainees who have not been convicted. IELSUR also expresses concern at the situation of the 70 per cent or so of prisoners who have not been sentenced and are housed in prisons alongside convicted prisoners. It calls for an inquisitorial and written reform of the Code of Criminal Procedure, and for alternative sentencing programmes to be developed.

32. CLADEM regards the creation of the Parliamentary Commissioner for the prison system as a step forward, while considering that civil society organizations should publicize discrimination against women in prison.

33. IELSUR states that deprivation of liberty continues to be the penalty most commonly applied to minors, as opposed to non-custodial penalties. It also states that conditions in custodial institutions are not in line with international standards: 23 hours’ confinement, the lack of socio-educational facilities, compulsory psychiatric medication, ill-treatment and torture that is investigated too slowly, if at all.
4. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

34. IELSUR states that the current Government has made significant progress, such as adopting legislation on community broadcasting and the laws on habeas data and access to public information. In the opinion of IELSUR, the Access to Information Act will come up against a culture and practice of secrecy and scant transparency on the part of public bodies in providing public information. OPPDHM points out that the implementing regulations have not yet been drawn up for this Act, which enshrines the guarantee of habeas data, although the deadline for those regulations had not expired at the time of writing.

35. OPPDHM observes that the executive’s bill to amend the Press Act has not yet been approved by the Uruguayan Parliament. IELSUR notes that the law, yet to be adopted, would abolish the offences of contempt, defamation and insult in relation to civil servants or individuals who carry out activities of public interest. IELSUR adds that, under the existing legislation, a number of journalists have been prosecuted or convicted for acts that are currently considered offences, case law being highly ambiguous in such proceedings. Uruguay has been the subject of a petition to the Inter-American Commission on Human Rights based on a case of this type, and despite the Government’s stated intention to come to an amicable solution, IELSUR points out that the Government has not yet made any specific proposal, and is unduly delaying the process.

36. IELSUR states that the lack of a publicly known, transparent procedure on the allocation of official publicity is another serious problem, as there are no objective criteria and it encourages practices such as cronyism and political favouritism. It can also enable staff in the Government or other public institutions to use the allocation of publicity as a reward or punishment, which influences the freedom of information and opinion of the press. IELSUR also points out that commercial broadcasting is still regulated by a law dating back to the time of the dictatorship. This issue needs to be thoroughly reviewed and discussions need to be held on a new legal framework. IELSUR reports that the current Government has tentatively proposed discussions on new legislation, but there is no expectation that any such law will even be submitted to Parliament during the current legislative session.

5. Right to work and to just and favourable conditions of work

37. CLADEM welcomes the call for collective bargaining between employers and workers as a step forward, but points out that 85 per cent of the agreements reached do not include clauses on gender.

38. According to OPPDHM, the ILO Worst Forms of Child Labour Convention, No. 182, has not yet been incorporated into domestic legislation.

39. CLADEM points out that, despite the fact that it is over 30 years since Uruguayan women joined the labour market en masse, domestic work continues to be assigned to them and the State does not provide sufficient services to care for children or elderly persons. It also points out that, while the country is a signatory of ILO Convention No. 100, the wage gap persists, discrimination in the labour market is evidenced by many indicators, and the executive has made insufficient use of the mechanisms it has to protect women’s right to work.
6. Right to social security and to an adequate standard of living

40. IELSUR notes that Uruguay is in the middle-income group of countries, and a comparison shows its development indicators to be better than those of other countries in the region.footnote

41. According to IELSUR, children are the worst affected by the country’s poverty, with almost 45 per cent of children under the age of 5 born to poor households. It adds that children benefit least from Uruguay’s investment choices, since the country’s spending favours adults.footnote

42. CLADEM reports that the State does not comply with its obligations regarding sexual and reproductive rights; sexual education has still not been incorporated into the school curriculum; contraceptives are still not available throughout the country, and, since 1938, all abortions incur a penalty, despite many legislative initiatives and increasing public support, currently at 64 per cent, according numerous opinion polls. JS1 notes that the law treats abortion as an offence in all cases, with punishments for the woman and anyone who assists her.footnote

43. IELSUR states that the domestic legislation criminalizing abortion has not been amended; it does not know how many illegal abortions are performed, or their direct relation to the high maternal mortality rate.footnote According to CLADEM, in 2004, the exponential increase in the number of deaths due to abortions in dangerous conditions led to an ordinance of the Ministry of Public Health requiring health service staff to inform the public about safer abortion methods. Nonetheless, the Ministry subsequently adopted other provisions that impede access to Misoprostol. CLADEM points out that over four years after the ordinance entered into force, pre- and post-abortion counselling is still not provided by the majority of public services.footnote JS1 states that the ordinance is applied only in some health-care services in the metropolitan area (Montevideo-Canelones), not in private health-care centres or public health-care centres in the interior.footnote JS1 calls for the prompt consideration and approval of the bill to protect the right to sexual and reproductive health by the lower house of parliament. It also recommends implementing the necessary mechanisms to guarantee that the ministerial ordinance providing for compulsory and quality pre- and post-abortion care is also applied in private health-care centres and in public centres in the interior.footnote

44. JS1 points out that, despite the legal vacuum surrounding the issue, there is a wide range of decrees, standards and ministerial ordinances regulating the quality of care in sexual and reproductive health, highlighting several examples.footnote CLADEM states that the high rates of cervical cancer and breast cancer and the increase in HIV/AIDS infection rates and related opportunistic diseases among women require mass health promotion and disease prevention campaigns directed at the entire population.footnote JS1 highlights numerous State projects and services concerning sexual and reproductive rights and health (sexual and reproductive health counselling centres with a gender focus; the Children, Adolescents and Family Programme; the State Health Services Administration; the National Women and Gender Programme; the National Adolescent Health Programme; the Priority STDs and AIDS Programme; the National Commission on Sexual Education; the Human Rights Department, and different youth units or offices of varying nature and scope in government departments), which in many cases do valuable work. It draws attention to their achievements and makes specific recommendations for each of them.footnote JS1 recommends setting up a specific body on young people’s sexual and reproductive rights, in order to coordinate all actions in that area at the governmental level, and including reliable resources in the national budget to sustain the sexual and reproductive rights agenda.footnote JS1 also recommends setting up civil society organizations to work with young people on sexual and reproductive rights, as well as including a representative of INJU in the Advisory Committee on Sexual and Reproductive Health. This Committee acts as an
intergovernmental and intersocial body for advice on defining the sexual and reproductive health policies which Uruguay should promote at the various national, regional and intergovernmental forums and summits.  

45. According to JS1, the 2007 bill to protect the right to sexual and reproductive health, which includes the decriminalization of abortion, the incorporation of sexual education in formal education, and the guarantee of universal access to contraception, is expected to be approved.

7. Migrants, refugees and asylum-seekers

46. OPPDHM states that Act No. 18,250 on migration has not yet been regulated.

47. CLADEM indicates that Uruguay has no campaigns or major plans to combat trafficking in persons, although there are signs that international networks are operating in the country. The International Organization for Migration (IOM) reports that women are trafficked for the purpose of sexual exploitation, alternating between Uruguay and Europe in their respective summer months. OPPDHM points out that no national plan of action on trafficking in persons has been approved.

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

48. CLADEM emphasizes that it would be good practice to carry out more, and more in-depth, public hearings, as provided by law, so as to inform and consult the public before decisions are taken at government level.

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

N/A.

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

49. CLADEM states that Uruguay would benefit from technical assistance, including gender-sensitive specialists, to set up a project to bring domestic legislation into line with international human rights standards.

Notes

1 The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.)

Civil society

OPPDHM Observatorio de Políticas Públicas de Derechos Humanos en el MERCOSUR, Montevideo, Uruguay;
CLADEM Comité Latinoamericano para la Defensa de los Derechos de la Mujer, Montevideo, Uruguay;
IELSUR Instituto de Estudios Legales y Sociales del Uruguay, Montevideo, Uruguay;
JS1 Grupo EA-Uruguay y la Iniciativa por los Derechos Sexuales, Montevideo, Uruguay (Joint submission).

Regional intergovernmental organization

2 OPPDHM, p. 1.
3 CLADEM, p. 1.
4 IELSUR, p. 1.
5 JS1: Grupo EA (Uruguay); Iniciativa por los Derechos Sexuales; Action Canada for Population and Development; CREA-India; Mulabi-Espacio Latinoamericano de Sexualidades y Derechos; Polish Federation for Women and Family Planning, and others.
6 JS1, p. 1.
7 IELSUR, p. 3.
8 CLADEM, p. 2.
9 OPPDHM, p. 2.
10 CLADEM, p. 2.
11 IELSUR, p. 3.
13 OPPDHM, p. 2.
14 OPPDHM, p. 2.
15 OPPDHM, p. 1.
16 OPPDHM, p. 1.
17 CLADEM, p. 2, 3.
18 JS1, p. 3.
19 JS1, p. 3.
20 CLADEM, p. 1.
21 CLADEM, p. 3.
22 IELSUR, p. 3.
23 IELSUR, p. 3.
24 IELSUR, p. 1.
25 CLADEM, p. 2.
26 CLADEM, p. 2.
27 CLADEM, p. 2.
28 CLADEM, p. 3.
29 CLADEM, p. 3, 4.
30 CLADEM, p. 3.
31 IELSUR, p. 3.
32 CLADEM, p. 4.
33 CLADEM, p. 3.
34 IELSUR, p. 2.
35 CLADEM, p. 5.
36 IELSUR, p. 2.
37 CLADEM, p. 5.
38 OPPDHM, p. 2.