

## **Addendum to the Third and Fourth Periodic Reports, submitted in accordance with articles 16 and 16 of the Covenant**

### **URUGUAY (October 2010).**

#### **1. GENERAL INTRODUCTION**

This document aims at identifying some positive aspects as well as some difficulties that the Government of Uruguay must focus on so as to obtain better achievements in the fulfilment of the acquired obligations for the realization of the human rights of its population.

The objective is, thus, to get the advice of experts and the support of international cooperation so as to improve state actions, legislation and public policies on these issues. The various issues have been considered in the country report already submitted and have been further developed in the answers to the questions posed by the Committee of the Covenant on Economic, Social and Cultural Rights (ESCR Committee.)<sup>1</sup>

Common elements impacting on the enjoyment of economic, social and cultural rights underlie the various actions undertaken by the State to guarantee human rights in general (CESCR.) A common feature that has been reported in relation to the various rights refers to the normative issue.

The National Constitution in force is, in substance, the same text adopted in 1966. In view of the progressive development of Law, particularly the International Human Rights Law (and of the doctrine in the last decades), the Uruguayan political charter appears outmoded in relation to these advancements. Particularly, the Constitution does not expressly define the hierarchy of International Human Rights Law in the national legal order. However, it must be noted that the Supreme Court of Justice, the highest instance in the jurisdictional order acting as Constitutional and Cassation Court, has declared in a recent Judgement<sup>2</sup> that international human rights treaties have constitutional rank in the national legal order.

Undoubtedly, this is a highly important decision that will certainly unify jurisprudence, aligning it with the most modern human rights doctrines. Hopefully, this trend shall mean a step forward when judges apply international provisions within their jurisdictions.

During 2009 and 2010, considerable advancements have taken place in connection with the recognition and realization of human rights the inhabitants of Uruguay. However, there is still a way to go for the implementation of laws aiming at securing the enjoyment of human rights. This implementation depends partly on the degree of acquaintance and use of these tools by the various groups. Thus, information is a crucial element for the accomplishment of human rights. The enactment of Law 18.381, which rules on the access to public information, and its subsequent regulation through a decree of August 2010 is a mechanism tending to ensure that the population is really empowered to get access to public information.

During November 2010, the public budget proposal for the 2011-2015 period shall be in the process of approval by the Parliament. This is a fundamental tool for the implementation of measures aiming at guaranteeing human rights of the population.

The evolution of the Uruguayan economy has been very positive despite the international crisis that began in 2007. In June 2010, there was an increase of the Gross Domestic Product (9.6% measured over the last twelve months) and exports as consumption and investment continued to grow. Meanwhile, inflation has been under control. The expectation for the coming years is that the country will keep its pace of economic growth. This favourable scenario must be used so as to pursue in the efforts to widen the amount of available resources for securing respecting, protecting and guaranteeing the human rights of the population.

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<sup>1</sup> For further information see the Country report submitted by Uruguay to the Committee and the responses to the questionnaire elaborated by the Committee. Both documents available at <http://www2.ohchr.org/english/bodies/cescr/cescrs45.htm>

<sup>2</sup> Judgment Nr. 365, Supreme Court of Justice, Uruguay, 19th October 2009.

An important change recently experienced by the country is the enactment of Law 18.567 on Political Decentralization And Citizenship Participation which means a real shift in decision making at the local level. This Act establishes an institutional matrix for political decentralization through local councils whose members are elected through vote (municipal governments.)

The Government has imposed itself a specific challenge for its term – the generation of a National Human Rights Plan, as an inclusive and participative tool. This process has just been launched and it is expected to be supported by International cooperation.

To this end, all the recommendations and observations of this Committee shall be considered as a roadmap for the design of the Plan. In this way, the submission of a report means, the Uruguayan State, a precious opportunity for us to benefit from the advice of a group of international experts whose sound experience will provide substantial guidelines to move forward in the incorporation of a Human Rights approach in the various public policies and strategies, such as the Uruguay's National Human Rights Plan.

## **2. SELF-DETERMINATION**

The right to self-determination is intrinsically linked, among others, to the right of communities and peoples to participate in the development alternatives they wish to undertake. Presently, this is an important topic in Uruguay, involving matters of integration and inter-dependence of all human rights, both economic, social and cultural right and civil and political rights.

In a country with a high economic growth rate, amidst a favourable regional economic context, the conditions for development are a matter of State concern, particularly when the tools for wealth distribution depend on them. The emblematic case of the legal dispute submitted by Uruguay and Argentina to the International Court of Justice in The Hague<sup>3</sup> is a clear example of the discussion on sovereignty and development processes in the framework of sustainable development.

Although not all the development options have incorporated the human rights approach, this government understands that it is essential to generate resources so as to continue to grow and distribute, while fostering the participation of local actors. Conditions are being created through specific programs so that rural producers (micro, small and large-scale) can continue to live and earn their living through the modalities they have chosen, without having to undergo difficult or even degrading conditions. As a confirmation of this, since the Ceibal Plan was implemented in rural areas with its aim of “digital inclusion” for the children attending rural schools, Internet access in rural and sub-urban areas has notoriously increased,.

The enactment of Law number 18.831 enshrined the right of access to public information, and its regulation through a decree of August 2010 is a clear advancement in terms of the rule of law, which aligns public action and administrative law with the availability of public information without distinction or discrimination. As such, this reinforces and guarantees the enjoyment of self-determination as well as participation in development processes and, at the same time, deepens the capacity to have influence on decision making processes.

Another important feature regarding self-determination and participation in decision making is the implementation of the third governmental level, also known as “municipal government.” Through local governments, the territory and the local environment will be linked to development processes. There is now a formal mechanism for consultation and participation. It is important that local actors take ownership of that process and of the allocation of resources.

## ***ADEQUATE STANDARD OF LIVING***

In terms of trends, Uruguay shows basic human rights indicators that have made constant advancements during the last 27 years. In the Human Development Index ranking Uruguay is third in Latin America and number 50<sup>4</sup> among 183 countries and territories.<sup>5</sup>

<sup>3</sup> International Court of Justice, Pulp Mills on the River Uruguay, Argentina and Uruguay, Judgement 20 April 2010.

<sup>4</sup> UNDP, Human Development Report 2009: *Overcoming barriers: human mobility and development*.

The measures adopted by the Government of Uruguay based on the obligations of the Covenant in connection with an adequate standard of living for everyone, guaranteeing the enjoyment of a full and decent life in conditions that secure dignity for all the inhabitants have been, and continue to be, a priority.

Bearing in mind the complexity and inter-relationships involved in securing a life in dignity, where various dimensions of human rights merge, the State has decided to approach various lines of action:

- To generate development policies allowing access to resources and income in order to implement redistribution policies and improvement in the global income of the population;
- To generate measures for the protection and safety of socially and environmentally vulnerable populations;
- To generate plans and measures for particular groups aiming at securing minimal Essentials conditions for the enjoyment of their rights.

The enactment of Law 18.602, establishing the National Development Agency (ANDE), shall make it possible, among other things, to improve development plans and public enterprises in association with the private sector. Additionally, considering the situation of climate change, floods and other disasters related to natural events, Law 18.621 has been enacted to improve the living conditions of the most vulnerable populations. This instrument establishes a National Emergency System, a permanent public mechanism, whose aim is the protection of people, significant assets and the environment, in disaster-prone areas. This mechanism operates through the joint coordination of the State, with adequate use of public resources and with the participation of different public and non-governmental actors.

In connection with particular measures to dignify the living conditions of vulnerable groups, in 2010 the new national government reaffirmed the need to continue to foster a greater articulation of social policies and a better implementation thereof throughout the territory, particularly those designed within the Equity Plan. In 2010, poverty reached 20% and extreme poverty 1.5%. The priorities for the term fixed by the Government are: to eradicate extreme poverty, decrease poverty and universalise secondary education.

However, there are particular circumstantial elements hindering the enjoyment of human rights in certain groups. For instance:

- The living conditions of young people are, in fact, worse than those in adults. Concerning education, the detachment of adolescents from the secondary education represents one of the main concerns of the governments since long. As regards employment, people under 30 represent almost 60% of the unemployed and 18% of people between 15 and 29 neither study nor work. This phenomenon impacts a majority of young women who early in their life cycle undertake domestic work at home, therefore, not remunerated. This also worsens the difficulties of autonomy of young people and the possibility of leaving their home of origin. Affirmative measures are being implemented to allow young people to enjoy dignified living conditions, since in view of the social protection system in Uruguay to work or to study derives in level of social inclusion which are not easily attained by other means. For the time being these are priorities of the National Government which will be implemented through the National Youths Plan, with cross-sectoral impact (social, economic, political) in the decisional sphere of young people. This Plan is being built-up in a participative fashion.

- In respect of persons with disabilities, since March 2010, Law 18.651 regulates accessibility and aligns national legislation with the Convention on the Rights of Persons with Disabilities to which the country is a party. This law establishes a system of overall protection for people with disabilities and it rules on the elimination of all sort of physical and social barriers. It is important to mention that the actual implementation of this law is recent and actions at the national and provincial level are envisaged to enhance its application.

- Despite the advancements made in the field of legislation for the prevention, early detection, attention and

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<sup>5</sup> The Human Development Index is a synthetic measure of achievement in a society. It is a welfare indicator combining indicators of life expectancy, literacy, school enrolment and GIP per capita. It is not designed to measure evolution in short periods since some of its indicators do not react quickly to recent changes in public policies. Elaborated by UNDP based on 2007 data.

eradication of domestic violence through Law 17.514, this socio-cultural phenomenon continues to be a priority issue. Although there is an increase in social awareness, including relevant actors, the flagellum persists. Budgetary resources have been allocated but other measures must be implemented to secure an integrated approach, including the training of staff working with victims of domestic violence. The issue of violence has raised the concern of various international experts, such as the Special Rapporteur on Torture, Mr. Manfred Nowak<sup>6</sup>, and the recommendations and observations made by the Working Group on the Universal Periodic Review of Uruguay.<sup>7</sup>

- The living conditions of the persons subject to detention or imprisonment continue to be a matter of serious concern for Uruguayan society. The death of 12 male inmates during a fire in a prison in July 2010 revisited the issue of the living conditions inside prisons. The authorities have the information and diagnosis of the situation, both from the report of the visit of the Special Rapporteur Manfred Nowak, the work of the Parliamentary Commissioner for Prisons and other relevant actors. The diagnosis shows deficiencies in the use of the punitive approach of the judiciary and prison systems, the need to speed up the judicial proceedings, as well as problems in the living conditions of imprisoned persons throughout all age segments. In view of this situation, the Government is developing a series of projects, with the support of international cooperation and the United Nations System in Uruguay, aimed at improving the imprisonment conditions in order to align the situation and living conditions of inmates with international standards.

Among the measures to be implemented are actions to reach minimum sanitary and hygiene thresholds; to ensure that inmates can satisfy their basic needs and also be able to study, work, enjoy recreation and undertake rehabilitation; and to immediately solve the overcrowding of establishments as recommended by the Special Rapporteur and by the observations made by the Working Group on the Universal Periodic Review.

### 3- DISCRIMINATION

Uruguay has made considerable legal and regulatory advancements to guarantee the enjoyment of rights without discrimination. National plans have been established with the specific objective of overcoming discrimination based on the characteristics of people.<sup>8</sup>

Particularly, various public institutions that have implemented measures express the need to widen the dissemination of these rights, as well as the information on judicial resources for their protection. The country has adopted measures to eliminate discrimination based on gender, age, race/ethnicity, sexual orientation, disabilities, living with HIV/AIDS, among others. It is necessary to make reference to the inequality in the access to entitlements and information on rights, originated in the unequal geographic distribution of services and resources. This represents, in fact, another form of discrimination.

*Gender-based discrimination.* Stereotypes related to the role of women in family and society; sexual division of work and deeply rooted attitudes and behaviours based in the assumed superiority of male in the public and private sphere, persist in the Uruguayan society. Particularly, there exist inequalities in employment, both in access and in salaries. It is also necessary to sustain the actions to lower the indexes of domestic violence with women as victims. Two crucial instruments to move forward in this regard are Law 18.104 on the Promotion of Equal Rights and Opportunities between Men and Women (2007) and the First National Plan for Equal Opportunities and Rights (2007) whose initial results have been recently published.<sup>9</sup>

In other legislative areas though, there exist inadequacies which risk discriminatory interpretations. The

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<sup>6</sup> A/HRC/13/39/Add. 2, 21 de diciembre de 2009.

<sup>7</sup> A/HRC/WG. 6/5/URY/1, 24 de febrero de 2009.

<sup>8</sup> Ibidem note 1.

<sup>9</sup> *Rendición de cuentas de los avances en la ejecución del Primer Plan Nacional de Igualdad de Oportunidades y Derechos para presentar ante la Asamblea General* (Accountability in connection with the advancements in the execution of the First National Plan for Equal Opportunities and Rights to be submitted to the General Assembly). Period 2008. Available at [http://www.inmujeres.gub.uy/innovaportal/file/2357/1/Rendici%F3n%20Plan%202008\\_final.pdf](http://www.inmujeres.gub.uy/innovaportal/file/2357/1/Rendici%F3n%20Plan%202008_final.pdf)

Constitution does not expressly recognize the principle of equality between men and women and there is a lack of an internal provision defining discrimination against women. Both the Civil and Criminal Code contain texts that could be interpreted as favouring gender-based discrimination. This derives mainly from the old origin of the texts. Since it has not been possible to undertake a reform of those Codes, many discriminatory provisions persist. Therefore, it is fundamental that the country starts a process of review of its legislation, so as to align it with international human rights instruments, specially against discrimination.

Many women, such as those of African descent, rural women and those living in small communities, suffer multiple discriminations.

*Afro-descendants:* The surveys of the National Statistics Institute (INE) for 2006 show that the population self-identified as Afro-descendant population is about a 9%, while the self-identified as indigenous amount to 3%. Afro-descendants show a disfavoured situation in all educational and economic performance indicators. In Montevideo, the capital city, 75% of this population belongs to low and medium-low economic sectors. The poorest 10% of national population is composed by 20% of Afro-descendants; while in the richest 10%, the figure is only 2%. Early educational desertion in Afro-descendants (which is 16% in the 18 to 24 year-age segment) and the average of years in the school system (2 years less than the white population in people older than 35) are originated by the need to enter the labour market early in life, added to employment discrimination which makes years of study less relevant. Considering the geographical concentration of the Afro-descendant population in peripheral areas and irregular settlements, scarce educational offer and problems of urban mobility may be affecting access to education even more. In 2006 unemployment in the Afro-descendant population was 13-14% in comparison with 10% of white population. The concentration of labour in low-qualification jobs and a scarce or non-existent insertion in managerial or professional positions is also characteristic.

There is an ongoing process of design of the National Plan against Racism and Discrimination. The goal of this plan shall be to incorporate to public policies a cross-sectoral approach for the fight against racism and other forms of discrimination (age, ethnic groups, gender, sexual identity, national origin, disabilities, religion, inmates, HIV/AIDS affected, drug consumers) from a Human Rights-based approach and public policy, emphasizing the analysis and response to situations where various forms of discrimination coexist. The process for the elaboration of this Plan, entirely participative and nation-wide will result in a diagnosis of the practices and mechanisms of discrimination existent in our society and their effects in terms of violation of Rights; a picture projected to 2030 of Uruguay in connection with the discriminatory practices in all the studied areas, strategic guidelines, leading principles for action and participative schemes for follow-up and review; a first 2011-2015 Plan that identifies practices and mechanism of discrimination in all spheres and that puts forward actions and results to be expected by 2015; the advocacy and empowerment of the vulnerable groups as claiming Partners for the implementation of the Plan.

*“Trans-population” (transvestite, transgender, trans-sexual):* These persons are victims of everyday discrimination that prevents them from integrating to social, educational and health systems. This is caused by cultural patterns which society cannot overcome yet. The addition of causes leads to an exclusion from the labour market, starting generally in adolescence, when expressing a gender identity that does not match their biological sex, are expelled from the family and community space, which places them in a situation of high social vulnerability. In turn, the harassment from (peers and teachers) pushes them to desertion what reduces their future possibilities of quality employment even more and determines that many of them (above all “trans women”) must survive as sexual workers. Only a minority is able to get other Jobs (generally less qualified) in the context of social Networks and exceptionally “protective” environments (networks of peers equally discriminated, social organizations and some health and artistic niches). The law on the Right to gender identity, ruling on the change of name and sex in official records, but not yet implemented, will allow to raise one of the most important barriers for access to employment in this population. In the year 2010, departing from an initiative of a local organization (LGBT) supported by International cooperation, the Government endorsed and backed through the National Institute for Employment and Professional Training (INEFOP) the first pilot Project for training and association of “trans” people that ended in the establishment of two cooperatives devoted to hand-made packing. The INEFOP has taken the commitment to repeat the experience with its own resources through its program “Uruguay Emprende”.

*Inmates:* Although in recent years measures have been implemented to improve the living conditions of this

population, unfortunately they have proven insufficient. After the visit and report of the Special Rapporteur on Torture, Mr. Manfred Nowak, during March 2009, the State pursues to improve its efforts to overcome a conflictive situation in connection with the conditions of prisons. The situation is under constant attention and review so as to implement the necessary measures to improve the living conditions of inmates, and to speed up the results in the short term, since experience has shown that the impact of current actions can only be assessed after a certain period.

*Migrants:* Law 18.250, enacted in 2008, represents advancement in the recognition and guarantees of the economic and social rights of non-nationals. It is necessary to move forward in its implementation, and also in the dissemination of its scope. Additionally, there is a need to continue improving the information systems of the National Migration Directorate, so as to design, execute and assess public policies focused on migrants.

#### **4- EMPLOYMENT, SALARY AND TRADE UNIONS**

During the last administration, the country has significantly increased the number of jobs and reduced unemployment. In August 2010, the employment rate reached 60% and unemployment reduced to a historic minimum (6.2%). This favourable context must be used to continue moving forward in measures to foster employment, eradicate informality and precarious employment, as well as other obstacles connected to inequality in job access and labour rights enjoyment based on sex, ethnicity, age or geographical areas.

Structural problems in the labour market affecting an important number of people and concentrating in certain vulnerable groups still persist. Although in recent years many measures adopted were successful in reducing the number of workers not registered in social security, the number is still high.<sup>10</sup> Informality hinders access to the inclusion mechanisms contained in the social security system. Formal employment enables the enjoyment of labour and retirement rights and gives access to national health insurance for the worker and his or her family. Currently, more strategies are being designed for the inclusion of more workers in the social security system, such as modifications in the regime of individual contribution, subsidies to contribution, oversight to persistent evaders, information campaigns, and training and may draft laws tending to incorporate those tasks or occupations that have systematically been characterized by informality<sup>11</sup> into the social security system.

The real salary in Uruguay has shown progressive increases since 2005. In the last two years, the purchasing power of salaries has increased by 13%.<sup>12</sup> As noted in the Report to the ESCR Committee<sup>13</sup> this trend has been achieved by clear and effective policies implemented by the Government. One of the most successful measures implemented was the establishment of the Salary Negotiation Councils after 13 years of not having been convened which has led to an important recovery of the purchasing power of the salaries of public and private workers and also to other agreements not related to the salary.<sup>14</sup>

Women continue to be affected by gender inequality in access to employment (with unemployment rates higher than those for males and concentration in occupation of lower income and greater informality) and the maintenance of salary breaches. During the last administration, the State put in place various policies to overcome these structural problems (particularly based on the Equity and Opportunities Plan mentioned in the Report) and the impacts will become clear in the medium term.

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<sup>10</sup> According to official data the percentage of people who are employed but not registered in the social security mechanisms amounts to 30% which represents approximately 500.000 workers. INE, August 2010.

<sup>11</sup> In April 2010 an inter-institutional initiative called "Space for inclusion and employment formalization" was established. Its aim is to elaborate an analysis of the situation and to produce proposals aiming at reducing work informality. Three draft laws have been elaborated: creation of the MIDES social individual contribution; inclusion of the gardeners in the system of contribution from industry and trade (these workers contributed in the system of rural workers which hindered its formalization, and the draft law on the traceability of the garment industry, presently in parliamentary process. It is also envisaged that the individual contribution will be expanded to new activities such as car watchers, windshields cleaners, tourism guides, assistants in taxis stops, dog walkers, window cleaners and fishing workers, these last ones previously contributed as uni-personal enterprises). The proposals also include the signature of inter-institutional agreements among oversight agencies (Internal Revenue Directorate and National Employment Inspection Service). These institutions will proceed to perform joint inspections in areas spotted as of high informality).

<sup>12</sup> Figures July 2010, compared to July 2008.

<sup>13</sup> Ibidem Note 1.

<sup>14</sup> Ibidem note 1.

Youth and adolescents also face difficulties in the access to employment and higher indexes of informality than other age segments. More than 25% of young persons start labour life before being 18, which implies that this will be done outside social security mechanisms, since the work for people under 15 is forbidden, and between 15 and 17 years it is only allowed through the express authorization of the Institute for Children and Adolescents of Uruguay (INAU). In the design of the National Plan of Youth (with participation of public organisms, civil society organizations, young people and adolescents) all these issues are included as well as a new law on Youth Employment. These tools will facilitate the strengthening of the policies implemented in the previous administration and to establish new mechanisms, particularly in connection with training and access to decent work.<sup>15</sup>

Uruguay counts with a consolidated participation of actors representing both employees and employers, which makes tripartite dialogue, as well as the functioning of collective bargaining mechanisms incorporated to the Law, easier. As noted in the General Observation 18 of the ESCR Committee, collective bargaining is an instrument of crucial importance for the design of employment policies. To this end, Law 18.566 was enacted in 2009. It deals with the system of collective bargaining and regulates the scheme of dialogue and agreement in the relationships between employees and employers.<sup>16</sup>

There exist three levels of participation: the Higher Tripartite Council, the sectoral level (through Salary Negotiation Councils or bipartite negotiations) and the bipartite collective negotiation by Enterprise or employees and employers representative organizations. The Government in the Higher Tripartite Council and in the Salary Negotiation Councils with workers and employers. In this framework, the newly elected government submitted the new guidelines for collective bargaining starting during the second quarter of 2010 to the Higher Tripartite Council. Among those guidelines is a proposal to increase the national basic salary with three adjustments: in January 2001 (20%), 2012 (15%) and 2013 (15%)

Collective bargaining and the Salaries Councils have led to the improvement of employment conditions and have strengthened the role of unions (particularly those of workers.) Since 2008 there is an effort to have clauses dealing with discrimination be included in the agreements of the Salaries Councils.<sup>17</sup>

In spite of the advancements in the protection of working conditions in various activity sectors, there are difficulties in the effective dissemination and overseeing of the regulations issued by the Ministry of Labour and Social Security. In trying to address these problems, systems such as a “one window” for consultations and proceedings in different public entities for less inhabited places, as well as a larger provision of human and material resources for the General Inspection of Labour and Social Security are being implemented.

Concerning rural workers, in late 2008, Law 18.441 was enacted. It establishes limitation for working hours of rural workers to 8 hours a day and 48 hours a week, making uniform the conditions for all workers of the country. Prior this law, the uniformed application of rules introduced a serious discrimination between urban and rural workers. In turn, in the year 2009, the issuing of Decree 321/09 regulated the conditions of work and social security of agricultural and cattle raising activities. This decree implements the ILO International Labour Convention 184, ratified by Uruguay and it is the outcome of the work of a commission formed by rural entrepreneurial chambers, the workers federation and the General Inspection on Labour and Social

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<sup>15</sup> Ibidem note 1.

<sup>16</sup> Some articles were challenged before ILO by entrepreneurial chambers. The Organization has made recommendations which are being considered by the Government.

<sup>17</sup> Many agreements reached in the scope of the Salary Negotiation Councils during 2008 included a clause to promote, within collective bargaining in fulfilment of Law 16.045, International Labour Conventions 103, 100, 111 and 156 ratified by Uruguay and the Social and Employment Declaration of MERCOSUR. There is also a clear promotion of the reaffirmation of respect for the principle of equality of opportunities, treatment and work, without distinction or exclusion based on sex, race/ethnic Group, sexual orientation, belief or other forms of discrimination, in conformity with the legal order in force. This clause was recommended by the Tripartite Commission for the Equality of treatment and Opportunities in Employment to the Higher Tripartite Council for collective bargaining. In the convening of the Council salaries launched during July 2010, the Labour and Social Security Ministry, through its National Labour Directorate (DINATRA) promotes the negotiation of a thematic agenda including the incorporation of non-discriminatory criteria for sexual religious or political option. It aims at foster non-discriminatory practices through their incorporation into agreements reached at the Salary Negotiation Councils or directly in the collective bilateral agreement.

Security. The effort was technically assisted by ILO. However, difficulties have been detected in the implementation of the Law, and there is a need to enhance dissemination of information on these provisions among employees and employers, and also to increase the overseeing capacity of the Ministry of Labour and Social Security in this particular activity sector.<sup>18</sup>

## 5. SOCIAL SECURITY

The country has made a set of important reforms in its social protection matrix, particularly involving the social security mechanisms to offer contributory and non-contributory entitlements. The contributions from workers and employers and the public expenditure allocated to social security allow the system to proceed to a distribution and transfer of resources, so as to secure the realization of rights and the reduction of inequalities and risks of discrimination.

A Dialogue on Social Security<sup>19</sup> was held during the last administration. It resulted in the enactment of laws and the adoption of other measures which significantly improved the entitlements and reduced inequalities in the access to social security of various groups of employees, employers and particularly of women.<sup>20</sup> The enactment of Law 18.395 on Flexible arrangements for the access to retirement constitutes a landmark, since it launches a progressive strategy for the recognition of retirement rights, particularly for women. Another relevant instrument is Law 18.399, which makes access to unemployment insurance more flexible, introduces improvements in its duration and in connection with the amounts received, depending on the situation of the worker.<sup>21</sup>

During April 2010, the new administration reinstated the National Council on Social Policies, formed by the Ministries of Social Development; Economy and Finance; Education and Culture; Labour and Social Security; Public Health; Tourism and Sports; Housing, Land Management and Environment; the Office for Planning and Budgeting; the National Administration for Public Education, the Social Welfare Bank; the Congress of Provincial Governors; the Institute for Children and Adolescents and the National Statistics Institute. The Council intends to monitor the implementation of the Equity Plan and continue with its objectives through new actions.

Among the priorities of the Council, and as a result both of the Dialogue on Social Security and other instances of wide participation (civil society, the Academy and the Government), the need to work for a national integrated cares system (SNIC) has been acknowledged. The SNIC will be a response to the deficit of care to depending persons or persons in situation of dependency (elder, children and persons with disabilities not able to manage by themselves) covering the obligation of the State to offer care and appropriate attention to the people along their life cycle.

The increase in the demand for care matches the family transformations and the growing participation of women in the labour market, since it is mostly them who take responsibility for these social reproductive activities, carrying out non remunerated work in the domestic environment and suffering severe limitation in the exercise of their rights. The SNIC will allow for a re-negotiation of the care responsibilities involving the public sector and will guarantee the rights of people in charge of providing care (mainly women), and the right to enjoy free time to get access to employment, to study or to participate in public environments both social and political, as well as time for recreation. The present administration defined the design and implementation of SNIC as a priority and, to this end, formed an inter-sectoral working group (Ministries of Public Health, Economy and Finance, Labour and Social Security and Social Development and other

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<sup>18</sup> Claims have been received both from workers and members of Parliament in connection with the breach of these provisions by rural employers

<sup>19</sup> Ibidem Note 1.

<sup>20</sup> Female workers are recognized a year or more of work for each child (with a maximum of 5 years), flexibility is granted to disability retirement eliminating the requirement for 6 previous months in the record and up to 2 years after separation for the entitlement, new causes of advanced age are introduced as of February 2009; a subsidy for unemployed with 58 years of age and 28 of service is incorporated and there is a reduction to 30 years of service as of July 2009.

<sup>21</sup> The period of unemployment insurance was extended for people older than 50, granting facilities for the access to seasonal and temporary workers as well as the possibility of receiving the entitlement even in the event of having another job, under certain conditions; the minimum amount to earn is raised as well as the monthly higher sums at the start of the insurance and the obligation to attend available courses for training and re-insertion is established.

relevant actors) for the design of the system.

Other legislative and administrative actions having facilitated the access to social security rights for various communities are:

- The Law 18.246 which generates the right to social security entitlements to persons living in common-law marriage (for instance pensions in case of decease of the partner). Some entitlements incorporated to the law are still pending of implementation.
- The Law 18.033 aimed at providing reparation to those persons suffering persecutions during the dictatorship, imprisoned and exiled, in connection with special reparatory pensions.
- Regulations dealing with the frontier document in the border with Brazil, valid for rights and obligations of social security and other entitlements (implementing Law 17. 659).<sup>22</sup>

In relation to non-contributory entitlements, family benefits have been an important mechanism for monetary transfer to facilitate access to the enjoyment of the rights of children, adolescents and young people living in homes with greater vulnerability due to socio-economic conditions, as well as those in charge of them. The Law 18.227 incorporated new entitlements to the present regime since January 2009 and the amount was also raised. As it happens with other rights, it is essential to move forward in the dissemination of information on their contents, as well as in the access when there is a need for a prior record to get the entitlement. Public awareness campaigns have been implemented yet, they are not permanent for all the cases. Efforts have been made for the alignment and simplification of proceedings with the installation of integrated offices. But this process is incipient both in terms of the type of proceedings and in connection with geographical coverage.

## **6. FAMILY**

In terms of family, advancements have been made in the legislative area. The new Law 18.246 (civil union law) protects and rules the rights of those couples, both hetero and homosexuals, living in common-law marriage for at least five years. However, in connection with homosexual couples, they do not yet have access to the institution of marriage with the automatic generation of rights as the rest of the populations. Notwithstanding this discussion is incorporated to society and a change has been promoted in cultural patterns on diversity, there are not still conditions of total equality.

Another fundamental advancement as regards the right of families is the enactment of Law 18.535 which modifies the conditions for the adoption of minors. Priority is given to the right of the children to become part of a family beyond the specific modalities of the family arrangements or the sex of adoptive parents. Anyway, there continues to be a high institutionalization of the care for children without a family.

Owing to the nature of changes brought by laws, some resistance has been observed in the debate generated thereby. It is necessary to pursue in the efforts to implement mechanisms for their information and dissemination to reach various publics and target groups.

The enjoyment of rights within the family is hindered by the fact that some of its members may be victims of violence, either physical or psychological, by other members of the same family. The complaints in connection with domestic violence increase in a daily basis. The State has advanced in the generation of indicators about this serious problem and in the dissemination of information on the subject and on the rights of the women victims of violence. Police and judiciary instances have been multiplied for the submission of grievances but it is necessary to implement an effective support network for the rest of the process. It is acknowledged that, after the grievance, women face police and judiciary systems not sufficiently prepared; there is a lack of psychological support, of shelters, and assistance networks to host them. Precautionary measures are not always a solution. After the relationship ends, many victims still suffer violence and fear. The majority of aggressors of the 25 women murdered during 2010 had restraining orders so as not to come close to their former partners. Similarly, it is fundamental that the physical and psychological health of the

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<sup>22</sup> In November 2010 Uruguay and Brazil signed an additional agreement to the residence, study and work permission, for Uruguayan and Brazilian nationals living in the border, adding rights to health entitlements. Since December 2008, the social protection system admits the frontier document, which, among other things, enables Brazilian citizens working in Uruguay to make the contributions related to social security. Since September 2009 persons living in poverty conditions can obtain the frontier document without cost).

aggressor is also taken care of. The lack of initiatives at the national level for the attention and rehabilitation of the aggressor has been noted too.

The promotion of socio-cultural and structural changes to transform behavioural patterns and perceptions on domestic violence require time and resources. There are ongoing discussions on the allocation of resources to implement the Law 17.514 on domestic violence and on how to generate an awareness and education campaign for citizens in general, especially for public servants, judicial and health staff, and also on the elaboration of a protocol for follow-up and evaluation of cases. In connection with legislation in force, there is a continuous process for its alignment with the ratified international provisions.

The Uruguayan State, through its various ministries and organisms, is particularly devoted to the effective realization of the rights of children, adolescents and young people. There is an incipient inter-institutional coordination between the State and the civil society for the design, implementation and monitoring of public policies based on a human rights approach. This implies to think jointly about the design of specific mechanisms for the participation of those groups in the building up and discussion of plans to that end. Referring to the participation of children, adolescents and young people there are initial strategies being implemented. It must be noted that adolescents are represented in the Directorate of the INAU, which is the institution responsible for the policies aimed at promoting, protecting or restoring the rights of children and adolescents. Since 2009 the directive board of INAU counts on an Advisory and Consultative Council, integrated by adolescents of the 19 provinces of the country, whose recommendations must be taken into account by the Directorate.

## **7- RIGHT TO ADEQUATE FOOD**

According to FAO, Uruguay shows a level of sub-nutrition lower than 2.5%. Both the proportion and number of under-nourished people has decreased between the 1990-1992<sup>23</sup> and 2002-2004 periods (latest available data.) Notwithstanding it is necessary to focus on a wider strategy for food security and social welfare.

In the implementation of measures for reversing the poverty situations, responses have been provided to the basic demands and needs of the population, namely in what refers to food and health. The attention to people in situation of higher vulnerability, undernourished and lacking sanitary conditions (people living in extreme poverty, in slums or in the streets) has given raise to the implementation of particular strategies both in integrated assistance and in prevention.

Within the organisms and platforms available in the country for the implementation of food policies focused on vulnerable groups (National System of Refectories; Feeding Programs; etc.) it is worth mentioning the Feeding Plan of the Equity Card. This plan as it is explained in the country report<sup>24</sup> was welcomed by the population segment to which it was addressed. It involves freedom of election of food and places to buy it; it has not additional distribution expenses or time consuming arrangements (generally undertaken by women) and does not determine which kind of nourishment a family selects (as it happens with pre-established food baskets). On the other hand this system allows for the promotion of small local shops where the population usually buys food. The mechanism forbids the purchase of alcohol, fancy beverages, tobacco and cigarettes.

Similarly, a series of measures aimed at improving and increasing the consumption of healthy food at reasonable prices has been adopted. A System of Price Information to the Consumer was set in coordination with the Ministry of Economy and Finance<sup>25</sup> and it promotes greater transparency in prices. Also a Nutritional Manual for the Uruguayan families has been prepared by an inter-institutional team formed by ENYD, INDA, AUDYN, CUA CEIP, OPS, MIDES. The Manual promotes de consumption of essential nutrients to favour health, and offers a resource to defend the right to adequate and culturally acceptable food.<sup>26</sup>

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<sup>23</sup> Base period for the World Food Summit and the Millennium Declaration.

<sup>24</sup> Ibidem note 1.

<sup>25</sup> Further information available at: <http://www.dgc-mef.gub.uy/consultas/>

<sup>26</sup> Further information available at://www.inda.gub.uy/images/stories/pdf/recetario\_final%202.pdf

It is relevant to highlight the need to count on information when assessing the impact of policies, so as to adopt measures, generate changes or counterbalance unforeseen effects in the actions. To this end, the State and the international cooperation have launched a project entitled “Support to the policies for social integration and food security” through the pilot experience “Delivering as one” linked to the UN Reform.<sup>27</sup> The National System of Information on Food and Nutritional Security serves as a basis to prioritize interventions, develop an adequate policy focus and carry out a follow up on the impact of the measures adopted in connection with food security. As part of this project, the Observatory on Food and Nutritional Security was implemented, so as to provide precise information through a multidisciplinary work, integrating agricultural information, markets, nutrition, and health among others. It also develops indicators matrices at the national and regional level (taking into account the specificity of demands) elaborated through participative and multidisciplinary workshops.

As stated by the ESCR Committee, the right to an adequate food is intrinsically linked to the inherent dignity of the human beings and it is indispensable for the enjoyment of other human rights.<sup>28</sup> Consequently, there exists a close connection between living conditions, poverty and the fulfilment of the right to adequate food. The above mentioned Observatory is of vital importance for the evaluation and follow-up of the actions linked to various public policies and its articulation in food security matters.

Undoubtedly, Uruguay is experiencing the world-trend phenomenon of impoverishment of the quality of food, mainly in children and adolescents. As UNICEF points out, there is malnutrition rate of 11.3% and an obesity rate of 8.5%.<sup>29</sup> As such, guaranteeing food of quality through educational centres has shown great impact: the School Care Plan has taken care and supplemented the food of 53% of the children attending public schools and 92% of the schools have some sort of supplementary feeding.

## **8. RIGHT TO A HEALTHY ENVIRONMENT AND RIGHT TO HOUSING**

Through the last years, Uruguay has deepened its knowledge and awareness about the importance of the protection of natural resources and the responsible production so as to secure the quality of life in the short, medium and long run. However, the world economic context has not made it possible to avoid the global large scale production trends of replacement of traditional crops by export soy and the massive use of chemicals for fertilizing and plague control. The country has also suffered the changes in soil conditions, certain degrees of erosion and alterations in the situation of water courses. In this context, there is a discussion within the Uruguayan society between growth and development on one side and the protection of the environment on the other.

A social and productive consensus on these subjects has not been reached. However, measures have been taken to reverse environmentally harmful processes and to regulate them, so that Uruguay aligns its internal policies with the internationally acquired commitments. A series of laws and other provisions have been enacted, progressively recognizing the right of the inhabitants to the enjoyment of a healthy and sustainable environment; the incorporation of public hearings prior to the granting of authorization to certain categories of industrial projects and the establishment of various management mechanisms that involve the community in the decision-making process.

In 2008 the enactment of Law 18.308 of Land Management and Sustainable Development, establishes a starting point for locating these provisions into the territory and generates an advanced legal framework for territorial development, incorporating territorial rights and binding instances of citizen participation. This legislation incorporates instruments for land management, the recognition of the social function of private property and thus, limits certain property rights, and above all, aims at ruling over the territory in a planned and orderly manner, so as to give legal certainty and diminish arbitrariness. Although this law is in the process of being regulated, it has already produced very positive experiences, implemented by local and provincial governments. These experiences involve innovative measures for guaranteeing the access to land

<sup>27</sup> Implemented by the Government of Uruguay and the United Nations System in Uruguay, further information available at <http://www.opp.gub.uy/unaonu/> y <http://onu-uy.org/>

<sup>28</sup> General Observation 12, The right to adequate food (art. 11) 1999.

<sup>29</sup> Based on information provided by UNICEF at the occasion of the elaboration of the Universal Periodic Report for Uruguay, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRUYUNContributionsS5.aspx>

and housing for the inhabitants in vulnerable conditions and also to put a halt process of real estate speculation.

Another development in connection with the environment is the ongoing implementation of the National System of Protected Areas (SNAP) aimed at biodiversity conservation, giving opportunities to local communities to undertake ecotourism activities. In 2009, new regions were incorporated to the System, which now counts with 7 areas and many others are in the process of analysis for incorporation.<sup>30</sup> The primary objective for the next years is to strengthen the SNAP with a long-term vision which will impact in the biodiversity conservation strategy of the country, properly resourced, with sound participation mechanisms in a decentralized fashion contributing to a national environmental system.

Mention must be made of the agreements reached by the country in this field with the international cooperation and the specialized UN agencies. There are projects currently being executed with the United Nations System within the “Delivering as One” Framework where the project on environmental sustainability and vulnerability in the territory is being implemented.<sup>31</sup>

### *Housing*

In Uruguay, the issue of access and permanence in a dwelling is a relevant one. It must be noted that there has been a shift in the way in which housing policies are conceived through the abandonment of the pattern of houses without appropriate location or services which emphasized the construction as a mere economic push to the local market. At the same time we are now a long way forward in connection with the understanding of the right to adequate housing both at the national and provincial level. A special focus of attention are people living in irregular settlements<sup>32</sup> and those people living in dwellings without security of tenure, in poor habitability conditions or far from services, without access to electricity or drinking water.

The tensions between the right to property and the social function of housing have generated legal barriers and have hindered the fulfilment of state obligations in connection with the respect, protection and guarantee of the right to housing for all inhabitants. An important obstacle is the number of unoccupied or abandoned dwellings within urban zones that have not been used for social purposes so far. To this end, the enactment of Law 18.308 of Land Management and Sustainable Development, represents an alignment with the contents of right to adequate housing and foresees the use of innovative instruments to guarantee the access to and stay in the dwelling, such as the possibility of expropriating empty dwellings, the allocation of charges and benefits in speculative entrepreneurship.

The various tenure options that guarantee the access and permanence in the dwelling are still an issue under discussion. Although Uruguay has a long history of cooperative housing (collective tenure) which continues to be a strong trend, the promotion of individual property of the dwelling and land is the most required alternative. To reverse this phenomenon, the Ministry of Housing, Land Management and Environment has developed programs to generate systems of rent guarantees, loans and subsidies for the construction of cooperative housing (either through support to self-building or through third parties), whilst loans for the purchase of second-hand housing continue to be granted.

Uruguay is not exempted from suffering the process of price rising due to real estate and financial speculation, and therefore loans that are granted often prove insufficient to cover the total value of the dwelling, thus requiring the support of additional resources. Young families with children are a group with special difficulties in this regard for which measures have been designed. In the case of rents, long-dated policies for housing purchase, supported by deep-rooted preferences to become an owner, have turned house renting into a transitional and non-satisfactory option. This is also due to the fact that rent rates are not

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<sup>30</sup> These areas are: Quebrada de los Cuervos, in the Province of Treinta y Tres; Esteros de Farrapos National Park and Islands in the River Uruguay, Province of Rio Negro; Protected landscape of Lunarejo Valley, in the Province of Rivera; Cabo Polonio National Park, San Miguel National Park and Protected Landscape in the Rocha Lagoon, Province of Rocha and Chamanga Cave Paintings Site, Province of Flores. Other four areas are in the process of incorporation: Santa Lucia Wetlands, among the Provinces of Canelones, Montevideo and San Jose; Cerro Verde and Coronilla Islands in the Province of Rocha; Laureles-Cañas in the Provinces of Tacuarembó and Rivera and finally, Montes del Queguay in the Province of Paysandu

<sup>31</sup> Further information available at : <http://www.opp.gub.uy/unaonu/k.html>

<sup>32</sup> Ibidem Note 1.

regulated and respond to market trends, with two or three-year rent contracts having no guarantee of stay after expiration.<sup>33</sup>

Housing is a priority for the current Government and significantly the concept of dignified housing and the components of the right to adequate housing have been integrated in the discussion of public policies referring to habitat. Similarly, conditions of providing land and public services have been integrated into the approaches. The inclusion perspective is presently an important dimension for decision making on the subject.

The new Quinquennial Plan (2010-2014) and all the measures related thereto, tend to reverse urban fragmentation through five strategic lines to foster social cohesion for the generation of a social tissue. It is foreseen that relocations, rehabilitations and urban housing consolidation will take place, together with new urbanizations, a national policy for habitats of social interest (with vulnerable groups as targets), as well as improvement of rural habitat and that in small locations.

An example of this paradigm change is the so called “Program for the Integration of Irregular Settlements” (PIAI) which is jointly implemented by the Uruguayan Government and the Inter-American Development Bank (IADB.) When this program went through its third financing agreements, it established within its general objectives “to improve the quality of life of the dwellers of irregular settlements in Uruguay, promoting their physical and social integration with its urban environment.” The program also aims at articulating actions with the public sector and civil society organizations, fostering the organization at the neighbourhood level and the social integration of communities. Thus, it turned from the work focused in the settlements to the quest for the improvement of the conditions of the habitat in which the settlement is located, in order to address to the needs of the vulnerable populations (who may not necessarily be living inside the settlement) and to regenerate the social tissue and community links.

#### *Access to water and sanitation*

One of the matters being taken care of by the current administration is the detection of those legal or administrative aspects that have become obstacles for the real enjoyment of the rights related to water.

The recognition of water as a constitutional right has created important awareness in the population about the use of water resources. The energy crisis originated in the lack of rain (Uruguay counts on a large percentage of energy generated from hydraulic energy), its connection with the responsible use of water, and the creation of consciousness of the impacts generated by water scarcity, have revealed an incipient change in collective behaviour in relation to the use of water resources.

The establishment of the Nation Directorate of Water and Drainage, part of the Ministry of Housing, Land Management and Environment; is an important step towards the sustainable development of water resources in the country. Its mandate includes the formulation of national policies on the subject, aiming at improving the quality of life of the population and securing that the use of resources allows for the participation of the various actors involved and the coordination with the rest of the public policies.

In connection with sanitation, drainage nets in big cities increasingly and more frequently being widened and feature a high percentage of coverage. However, people that cannot afford the costs of access to the network and the corresponding works (with appropriate financing arrangements), regardless of the availability of infrastructure, are not included in the system so far. A draft law has recently been submitted to Parliament, establishing the obligation to be connected to the drainage system including the possibility of the public entity in charge (OSE) to provide installation subsidies for those unable to afford the cost. This is based on a concern for health and environmental conditions of the population and also for the realization of the right to adequate housing.

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<sup>33</sup> The short term of the contracts and the increase in the price of renting, has caused the tenants to use the possibility of contracts extension to a maximum leading to evictions in many occasions. These evictions generally are neither massive nor imply the use of force and are carried out with the guarantees of due process. For many families these are unwanted moves since they have roots in the area and will not have access to similar housing conditions and they do not qualify for the state subsidies or support from the Government.

## 9. HEALTH

The health reform in process aims at universal coverage and access, and is being implemented with the participation of all health actors<sup>34</sup> through various legislative and administrative steps. Particularly, in 2007 the National Health Fund (FONASA) was established through Law 18.131 together with the National Integrated Health System (SNIS) through Law 18.211.

To meet these objectives, one of the aimed changes was to modify the way in which society uses the resources allocated to health. The SNIS aims at organizing and regulating the public and private health services incorporated thereto with greater surveillance than in the past, optimizing resources and ensuring quality services for all users of the system. On the other hand, the fees for medical appointments, exams and medications have been reduced, though difficulties persist in the access to health services. For certain groups of risk and circumstances, free access to medical appointments, studies and medicines has been secured.

In turn, the medium-term goal is that the population has access to SNIS through the National Health Insurance, which is managed by the FONASA and gets contributions from the social security system. The SNS is a social insurance mechanism aiming at acquiring a better contributing justice, where the insured contributes according to their income, the companies contribute for their dependents and there is also a contribution of the public budget. At the same time, FONASA redistributes the resources obtained with the objective of achieving more sanitary and economic efficiency. Those already incorporated to the system include: private workers contributing to social security, their children under 18 and people with disabilities for whom the workers are responsible; public employees, the retirees with lower income and those having retired after the creation of SNS.

This insurance will not yet cover every sector of the population, such as those using the public services or the private ones (basically through prior affiliation.) The public services are basically used by informal workers and their families, by those unemployed and those inactive not covered by the SNS of any employed member of its family.

According to the schedule, between 2010 and 2012 the universalization of the system will be progressively achieved, and the following groups shall be incorporated: non-contributing spouses of contributors to social security; free lance workers and employees of provincial governments. The present discussion refers to the timing and the foreseen resources to the universalization of access of the retirees not presently entitled to SNS (retired before the creation of SNS that do not belong to the lower segment of pensions).

A structural problem which remains unsolved relates to the physical and territorial accessibility. There is a strong imbalance in the extension of the sanitary network and the distribution of human resources among the various geographical areas of the country. Historically, public services (ASSE) prevail outside Montevideo. Presently, work is being done through agreements between private institutions and ASSE to supplement services in various locations. But this is an incipient process and difficulties persist for the coverage of demands timely and permanently, above all in small locations and the rural area. ASSE has been allocated more resources and the salary scale of technical and non technical staff has been improved so as to secure services of quality. The expense by user increased importantly though it is still lower than in the private institutions of the SNIS.

The control over the health system and the quality of services of SNIS is under the National Health Board, which is integrated by the health system users. This has introduced considerable improvements in the overseeing of quality of the services provided by the providers within the system, establishing attention goals and compulsory regulations with economic sanctions.

Law 18.335, enacted in August 2008, establishes the general framework of users' entitlements and obligations and the right to an integrated attention, high quality services and access to information. It also establishes the right to election of the assistance institution by all users, and the right to confidentiality of information. There is a special concern for generating and publicly disseminating indicators on the quality of

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<sup>34</sup> Ibidem Note 1.

services as well as the accomplishment of the assistance goals which were set, as the users are also part of the managing and monitoring system.

### *Sexual and reproductive health*

Within the social debate on public health the subject of sexual and reproductive health represents a relevant issue. In the past legislative period, Law 18.426 was enacted and recently implemented. Through this regulation, all medical services within the SNIS are obliged to offer integrated services of sexual and reproductive health, with a basic referent team to provide specific services. The first level of care is prioritized as well as the dissemination of information and promotion of sexual and reproductive rights as well as healthy habits for the enjoyment of these rights. The institutions must convey education and guidance for the responsible and pleasant enjoyment of sexuality. They are also obliged to facilitate universal access to safe and reliable contraceptive methods, early detection of pregnancy, and creation of conditions for the humanization of delivery and promotion of the participation of partners or other company during delivery. The implementation of Law 18.426 foresees advice and adoption of protective measures for women suffering of a provoked abortion in risky conditions. The instrument also recognizes the right to an inclusive, universal, friendly, equal (respecting diversity), integrated (bio-psycho-social dimensions), ethical (promoting autonomy of people) qualified and confidential.

### *Mental health*

Currently, there is a process of discussion and elaboration of a pre-project of a law incorporating fundamental elements about the rights of persons in connection with their mental health. This proposal overcomes the limitations of the present Law 9.581 that is in force since 1936. Also, a National Plan of Mental Health has been implemented.

There are still inequalities in the economic access to mental care institutions, since for most people the incorporation to a private institution is not affordable while, public institutions - albeit having proved an important investment process -, do not reach still the conditions of infrastructure, human and material resources and quality of services of the private ones. A matter of special concern is the health situation of minor offenders living in some premises of the INAU, as well as imprisoned adults, circumstances that were observed by the Special Rapporteur Mr. Manfred Nowak. In both cases the Government is implementing measures to attain the expected levels of attention.

## **10- EDUCATION**

When analysing the situation of the right to education in Uruguay, it is possible to identify achievements in terms of progressive realization and particularly in connection with measures that have been effective to acquire more equity vis-à-vis vulnerability situations. However, it is also in relation with the right to education where some of the greatest challenges for the realization of human rights appear and where one can identify various problems and crucial keys for the systematic reproduction of inequality.

There have been advancements in connection with initial education and universal coverage for primary education has been achieved. However, the level of pupils' detachment from formal education in the secondary level is still alarming (usually called "desertion from the formal education"). The detachment from secondary education is strongly marked by a deep inequality by which the poorest sectors are the most affected, turning thus in the most vulnerable group, on which exclusion mechanism of different nature impact deeply. Bearing in mind the strong coverage for primary education, it is shown that approximately 2 in three Uruguayan young people cannot credit high secondary education. In the year 2008 the rate of graduation for high secondary education slightly surpassed the records of 16 years ago, but comparing to neighbouring countries the achievements of the country have been very modest.

To improve the quality and access of relevant policies it is crucial to count on information. In the educational field, there is not always enough information to analyze the relevant subjects and it has been a real challenge to be able to generate information, such as on gender and on ethnic groups and, recently on disability. The analysis of information, of the sex variable, leads to the identification of some causes. In the case of early abandonment of formal education, it is clear that male are the more affected. While 72.7% of women had

ended the basic cycle in 2008, only 63.3% of male had. In relation with the higher cycle of secondary education 41.8% of women had finished it while only 32% of men had. This overrepresentation of women in the educational levels attained is deepened in connection with third cycle and university education.<sup>35</sup> When analyzing this variable associated with income situations of particular vulnerability of the poorest young, owing to the early undertaking of adults roles, dealing with the care of kids in the case of women and the incorporation to the labour market in the case of men.<sup>36</sup>

In connection with the variable race/ethnic group, the afro-descendants show a particularly serious situation. While 82.7% of non afro-descendants adolescents between 13 and 17 years-old attend some educational institution, 77.4% of afro-descendants of the same ages does and in the segment between 18 to 24, 40.8% of non afro-descendants attends while only 25.2% of afro-descendants does.<sup>37</sup> In turn, the First National Survey of Persons with Disabilities shows that while 20.5% of people without disabilities had in the year 2005 not completed the secondary level, and 32% had completed it or a higher level, the percentages for people with disabilities were much lower.<sup>38</sup> These data do not reflect the effects of the measures adopted in the recent years and the lack of differentiation among kinds of disabilities makes it hard to identify to which extent structural conditions that could be modified by the effect of politics, impact. There is no statistical information allowing to assess discrimination for sexual option, cultural identity, religious options, physical characteristics or other motives of discrimination harming access to education.

The National Survey on Adolescents and Youth for 2008 shows the educational paths of young people between 20 and 29 years old. The analysis of such trends allows to identify that 2.5% does not complete primary education and 16% finishes it with delay. Despite the obligation to fulfil the right to secondary education incorporated to the 1966 Constitution, and explicitly the high secondary education since the General Law of Education 2008, the levels of accomplishment continue to be very low (one in ten young people do not enrol in secondary education and half of the young people do not end this education cycle) and there is presently stagnation in enrolment. When analysing the quality of the learning processes the situation is also worrying. Uruguay obtained good general results in the PISA 2006 tests however, they were the most unequal in the region and those differences were related to the socioeconomic level of the students.

In view of the relationship between the low levels of education, the precarious conditions of many jobs, the low salaries and the establishment of new households in situation of poverty, the State has adopted responses to the problem, although there is still lack of an integrated plan. The main instruments have been the special courses with reinforcement tutorials so as to articulate the training with the permanent insertion or re-insertion in the educational system; the programs aimed at particularly vulnerable groups such as persons with disabilities or in mates the tutorial and scholarships programs, the programs to certify “knowledge” and the programs for basic professional training.

One factor that has influenced the field of education is the availability of resources. Public expenditure on education has been low compared to other Latin American countries. In spite of the fact that Uruguay has always had a large percentage of social expenditure in relation to total public expenditure, a significant part being spent on social security and particularly a retirement income. This responds to the particular demographic features of our country which has a large elder population. Expenditure required for funding the social system, have hampered investment in areas like education or health, placing them at levels below of those of countries in the region.

The efforts undertaken by the State during the last years in connection with the increase of public expenditure for education have been significant. Between 2007 and 2008 the public expenditure in education increased in 18.6% and the accumulated since 2004 amounts to 62.3%. It presently represents 4.5 of the IGP and it is projected in that level for the next years.<sup>39</sup>

An example of the investment done by the country so as to increase equitable distribution of educational resources is the Ceibal Plan already expanded to secondary education. In October 2010, 100,000 personal

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<sup>35</sup> Education Statistical Yearbook 2008, Ministry of Education and Culture, 2009.

<sup>36</sup> National Survey of Adolescents and Youth- 2008, MIDES 2009.

<sup>37</sup> *La población afrodescendiente en Uruguay desde una perspectiva de género* (The afro-descendant population of Uruguay from a gender perspective), National Institute of Women, 2010.

<sup>38</sup> National Survey of Persons with Disabilities, INE, 2004.

<sup>39</sup> Ibidem note 34.

computers were purchased to be distributed in the short term between teachers and students of the public secondary education. The authorities understand that the enlargement of this Plan challenges the educational system in multiple dimensions and it is a tool for democratization. It is similarly aligned with the challenges faced by the country for the improvement of the quality of education and the narrowing of the digital breach.