



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**Consideration of reports submitted by States parties under  
article 18 of the Convention on the Elimination of All Forms  
of Discrimination against Women**

**Combined fourth, fifth, sixth and seventh periodic reports of  
States parties**

**Uruguay\***

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\* The present document is being issued without formal editing.

For the initial report submitted by the Government of Uruguay, see CEDAW/C/5/Add.27 which was considered by the Committee at its seventh session. For the combined second and third periodic report submitted by Uruguay, see CEDAW/C/URY/2-3 which was considered by the Committee at its twenty-sixth session.



## Contents

	<i>Page</i>
Presentation .....	3
Some notes on the context .....	4
Part I (Articles 1 to 6) .....	6
Article 1 .....	6
Article 2 .....	7
Article 3 .....	23
Article 4 .....	24
Article 5 .....	24
Article 6 .....	25
Part II (Articles 7, 8 and 9) .....	27
Article 7 .....	27
Article 8 .....	32
Article 9 .....	34
Part III (Articles 10 to 14) .....	34
Article 10 .....	34
Article 11 .....	38
Article 12 .....	55
Article 13 .....	74
Article 14 .....	75
Part IV (Articles 15 and 16) .....	79
Article 15 .....	79
Article 16 .....	79

## Presentation

This document contains the combined fourth, fifth, sixth and seventh reports of Uruguay on the application of the United Nations Convention on the Elimination of All Forms of Discrimination against Women. It covers the seven years from January 2000 to December 2006.

The report was prepared by the National Women's Institute of the Ministry of Public Health, pursuant to Law 17, 930, Article 377 of which gives it the responsibility to "see to the fulfillment of the international commitments that the country has signed in gender matters and, within its financial possibilities, to negotiate and implement international cooperation agreements relating to that fulfillment."

The institute worked in close cooperation with the Ministry of Foreign Affairs through the Ad Hoc Commission on Gender Issues, which monitors the commitments assumed by the State in relation to the various human rights treaties and international committees. That commission comprises governmental and nongovernmental organizations involved in activities and programmes to promote gender equity and non-discrimination.

A participatory method was established for preparing the country report. It involved the following working stages:

- A public invitation to civil society organizations specialized in international law, human rights and gender matters, to provide technical assistance and expertise for preparing the country report to CEDAW.<sup>1</sup> The World Bank provided financial support for contracting the services through its project on strengthening gender justice institutions to promote equitable development, managed by the National Women's Institute.
- A letter was sent to public institutions announcing the preparation of the report and attaching a set of survey guidelines on "gender-focused actions against discrimination" covering the years 2000 to 2006, in accordance with CEDAW rules. The responses received from organizations of the three branches of government were systematized and included in the report.
- Discussion of the preliminary country report in the Ad Hoc Intergovernmental Commission on Gender Issues, with a view to including all contributions from its members.
- Preparation of the report by the National Women's Institute, presenting the responses to the Committee, for the various Articles of the Convention.

As a result of this process, the Uruguayan government is able to report on the domestic situation with respect to equality of rights and opportunities between men and women in political, civil, economic, social and cultural affairs and in family life, as well as the measures taken to fulfill its obligations.

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<sup>1</sup> The institutions that provided technical advice to the National Women's Institute were The Third World Institute (ITEM), Women and Health in Uruguay (MYSU), and the Interdisciplinary Centre for Development Studies Uruguay (CIEDUR), under the coordination of ITEM.

## **Some notes on the context**

Since the presentation in January 2002 of the Combined Second and Third Reports of the Uruguayan Government, there have been some important changes in the situation and the status of women in the country, and in the area of legal reform and policies, programmes and actions.

In 2002 and 2003 Uruguay faced an economic, social and institutional crisis of dimensions unprecedented in its modern history. The sharp internal repercussions of the regional crises of the last years of the previous decade, together with an economic recession that dragged on for more than four years, led to the abrupt abandonment of the exchange system, with a sudden surge in the dollar and a financial crisis that came on top of the existing economic and social crisis. As a result, rates of poverty and indigence doubled, and unemployment reached the highest level in the country's history. Recovery since 2004 has been especially vigorous, however, and in 2006 output exceeded its pre-recession level. Nevertheless, the country is still far from reversing the tremendous social impacts noted above.

In March 2005, for the first time in Uruguay's history, the leftist Frente Amplio party took over the government under the presidency of Dr. Tabaré Vázquez. The government's priorities include the Social Emergency Plan (PANES) designed to end the social exclusion of thousands of Uruguayans, to restore collective bargaining mechanisms, to move forward on a broad front in the human rights area through investigation of crimes committed by the last military dictatorship, and to make women's human rights an issue on the political agenda. On this last point, the President of the Republic inaugurated International Women's Day on 8 March 2005, declaring that "the consolidation and expansion of women's rights has a preponderant place on the government's agenda. Genuine gender equity and authentic equality of opportunity are key elements for moving along the path to the sustainable productive development that we propose as a responsible and realistic project for the country."

The following paragraphs summarize recent developments, using as a guide the outline of the Final Observations of the Committee on the last report of Uruguay:

### **2001**

- Approval of the Optional Protocol to the CEDAW (Law 17,338).

### **2002**

- Approval of Law 17,514 on Domestic Violence.
- Creation and implementation of the First Departmental Plan for Equal Opportunities and Rights for the City of Montevideo

### **2004**

- Preparation by the Advisory Council against Domestic Violence, and approval by the Executive Branch, of the National Plan against Domestic Violence.
- Preparation of the First National Employment Equity Plan by the Tripartite Commission on Equal Opportunity and Treatment in Employment.

- Creation of the National Advisory Commission on Sexual and Reproductive Health within the Ministry of Public Health.
- Creation of the Ad Hoc Intergovernmental Commission on Gender Issues.
- Creation of the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination.
- Creation of the National Committee to eradicate commercial and non-commercial sexual exploitation of children and juveniles.

## 2005

- Creation of the National Women's Institute, as the senior gender policy body within the Ministry of Social Development, and its endowment with financial and human resources.
- Creation of the Office for Women of African Descent within the National Women's Institute.
- Creation of municipal gender equity mechanisms in the departments of Canelones and Maldonado.

## 2006

- Preparation of the Country Report pursuant to the Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará).
- Participatory construction of the First National Plan for Equality of Opportunities and Rights.
- Creation of municipal gender equity mechanisms in the departments of Paysandú and Rocha.
- Approval of the Domestic Service Act (Law 18,065).

Finally, it should be noted that while this report covers the period from 2000 to 2006, it includes information on Law 18,104 on equality of opportunities and rights between men and women, approved on 6 March 2007, which establishes a legal framework for gender policies.

We are pleased to provide information on actions by the Uruguayan government to fulfill the mandates of the United Nations Convention on the Elimination of All Forms of Discrimination against Women, which we recognize as the most important international instrument for women's human rights. Moreover, the preparation of this report has allowed us to hold fruitful discussions with a great variety of public agencies.

We are also grateful for the opportunity to disseminate this report, on the understanding that in this way we are promoting access to public information as a mechanism for overseeing government actions. We also believe that this report will contribute to building the kind of citizenship that insists on women's human rights.

## **Part I (Articles 1 to 6)**

### **Article 1**

For the purposes of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

The Committee on the Elimination of Discrimination against Women, CEDAW, has recommended that the definition of “discrimination against women” should be introduced into domestic legislation. With the approval of Law 17,817 of August 2004 on combating racism, xenophobia and discrimination, Uruguayan legislation now defines the concept of “discrimination” in the following terms:

“For purposes of this law, discrimination is understood to mean any distinction, exclusion, restriction, preference, or exercise of physical and mental violence, based on reasons of race, skin colour, religion, national or ethnic origin, disability, aesthetic aspect, gender, or sexual orientation and identity, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life” (Article 2).

This provision includes, among other things, discrimination based on sex as well as on sexual orientation or identity. It applies to the political, social, cultural or “any other field of public life”. While this provision does not include the fields of private life, this gap is partially offset by the definition of domestic violence in Law 17,514 of 2 July 2002, in which discrimination against women in the domestic realm is considered an unlawful form of violence:

Article 2: “Any act or omission that directly or indirectly, in any way whatsoever, impairs, by illegally restricting, the free exercise or enjoyment of a person’s human rights and that is brought about by a person with whom he or she is or was engaged, or has or has had an affective relationship based on living together as a relative, spouse or partner in a de facto union” constitutes domestic violence.

Law 17,817, cited above, created the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination, comprising representatives of the following: Ministry of Education and Culture (which chairs the commission), Ministry of the Interior, Ministry of Foreign Relations, Governing Board of the National Public Education Administration (ANEP) and three representatives appointed by the President of the Republic from persons proposed by nongovernmental organizations, with recognized experience in combating racism, xenophobia, and all other forms of discrimination.

The work of this commission is governed by Executive Decree 152/06 of May 2006, according to which it conducts its activities within the human rights area of the Ministry of Education and Culture (Human Rights Division).

## Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

### **The principle of equality between men and women**

Article 8 of the Constitution of the Republic guarantees the right to equality before the law for all persons. The language used there does not specifically mention women and males, simply referring to the beneficiaries of this right as “persons”. Thus, Article 8 provides: “All persons are equal before the law, no other distinctions being recognized among them save those of talent and virtue”.

As well, Article 72 of the Constitution provides that “the enumeration of rights, duties and guarantees made in this Constitution does not exclude others which are inherent in human beings or which are derived from a republican form of government”.

On this basis, it is recognized in national doctrine<sup>2</sup> that, while treaties and conventions are formally approved by law, to the extent their content refers to the fundamental rights of persons, all the human rights standards emerging from international human rights instruments have constitutional rank.

In a complementary manner, Article 332 of the Constitution provides: “The provisions of the present Constitution which recognize individual rights, as well as those which confer powers and impose duties on public authorities, shall not be without effect by reason of the lack of corresponding regulations, but such

<sup>2</sup> With the support of the majority doctrine in the country: Cassinelli Muñoz, FCU 1999; Cajaraville, Juan Pablo, *Principios Generales del Derecho en la Constitución Uruguaya*, FCU; Gross Espiell, *Los tratados de derechos humanos y el derecho interno*, Revista Uruguaya de Derecho Procesal, FCU 1987/2

regulations shall be supplied on the basis of analogous laws, general principles of justice and generally accepted doctrines”.

Consequently, following the same line of doctrine, human rights do not cease to be applicable for lack of laws or decrees regulating the more specifically. Any gaps must be filled by resort to analogous laws, the general principles of law, and generally accepted doctrine, which means that international human rights instruments are the basic and unavoidable standards for these purposes. Nevertheless, it should be noted that, in the Constitution of the Republic, there is still a provision indicating the woman as the person who must be involved in social policies for dealing with juvenile offenders. Article 43: “The law shall provide that juvenile delinquency is subject to a special regime in which the woman will be involved”. Far from constituting a rule that promotes affirmative action for women’s participation, this Article reflects the position assigned to women by the framers of the Constitution, restricting their participation in public life to the traditional role of caring for children and juveniles.

The recent approval of Law 18,104 on “equality of rights and opportunities between men and women in the Republic” represents significant progress. The draft bill prepared by the National Women’s Institute (INAMU) and submitted to the executive branch by the Ministry of Social Development was presented to parliament in September 2005 and approved in March 2007. Following are the key provisions of the law:

Article 1. “Activities to achieve equality of rights and opportunities between men and women in the Republic of Uruguay are in the general interest.”

Article 2. “The State shall take all steps necessary for the design, preparation, execution and monitoring of policies that incorporate the gender perspective, guided by the general framework of the law.”

Article 3. “The National Women’s Institute (Article 377 of Law 17,930 of 19 December 2005) is charged with designing the National Plan for Equality of Opportunities and Rights to fulfill the commitments accepted by the country internationally upon ratifying or signing instruments of the United Nations, the Organization of American States and the Southern Common Market, relating to non-discrimination for reasons of gender.”

As well, Chapter II provides for a National Coordinating Council for Gender Equality Policies to be established within the Ministry of Social Development and chaired by a representative of the National Women’s Institute. It is to comprise a representative of each ministry, appointed by the respected minister, a justice or delegate of the Supreme Court, two members or appointees of the Congress of Mayors (*Intendentes*), four representatives of civil society, two persons appointed by women’s organizations, one by the national labour federation, one by the chambers of commerce, and a representative of the University of the Republic. The rule of highest seniority will be observed in all appointments (Article 10.8).

### **Prohibition of discrimination against women in legal provisions**

Following are the provisions of legal rank that explicitly prohibit discrimination against women:



- Law 16,045 of June 1989 on discrimination in the workplace.
- Article 321 bis of the Penal Code, introduced by Law 16,707 of July 1995, making domestic violence a distinct offence.
- Law 17,514 of June 2002 on the prevention, early detection and eradication of domestic violence.
- Law 17,823 of 8 September 2004, on the Juvenile Code, Article 9 of which recognizes the right of juveniles to be treated under conditions of equality regardless of their sex, religion, ethnic origin or social condition.
- Law 17,817 of August 2004 on combating racism, xenophobia and all forms of discrimination.
- Law 18,104 of March 2005 on promoting equality of rights and opportunities between men and women in Uruguay.

By means of Law 16,048 of June 1989, two crimes were added to the Penal Code, relating to incitement to or commission of acts of hatred, contempt or violence against specified persons (Article 149 bis and ter), but they do not include sex, sexual identity, sexual orientation or gender as constituent elements of the crime:

Article 149 bis. (Incitement to hatred, contempt or violence against specified persons). “Any person who publicly or by any public means incites to hatred, contempt or any form of mental or physical violence against one or more persons by reason of the colour of their skin, their race, religion or national or ethnic origin shall be punished by 3 to 18 months in prison”.

Article 149 ter. (Commission of acts of hatred, contempt or violence against specified persons). “Any person who commits acts of mental or physical violence, of hatred or contempt against one or more persons by reason of the colour of their skin, their race, religion or national or ethnic origin shall be punished by 6 to 24 months in prison”.

### **Domestic violence**

The most important step taken for the prevention, early detection, attention and eradication of domestic violence was the preparation and subsequent approval of Law 17,514 on domestic violence of 2 July 2002, which declares activities for the prevention, early detection, attention and eradication of domestic violence to be in the general interest. Domestic violence is one of the most widespread forms of discrimination against women: every nine days a woman or girl dies of domestic violence (National Directorate for Crime Prevention, Ministry of the Interior, 2001). Each year some 6000 complaints of domestic violence are received at police stations, and 86% of the victims are women.<sup>3</sup>

This law gives priority to measures for preventing domestic violence and protecting victims and it authorizes precautionary measures through the civil courts. It also calls for the creation of forums for articulating and coordinating policies for the prevention and eradication of domestic violence.

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<sup>3</sup> National Observatory on Violence and Crime, Ministry of the Interior, 2006.

The law has led to various actions:

1. Creation of four specialized courts in the Department of Montevideo.
2. Night courts throughout the country to deal with emergency situations.
3. Creation of the National Advisory Council against Domestic Violence, comprising a representative of the Ministry of Social Development, the National Women's Institute (chair), the judiciary, the Ministry of the Interior, the Ministry of Public Health, the Ministry of Education and Culture, the Institute for Children and Juveniles, the National Public Education Administration, the Congress of Mayors, and three representatives of civil society from the Uruguayan Network against Domestic and Sexual Violence.
4. Preparation by the National Advisory Council against Domestic Violence of a National Plan to Combat Domestic Violence 2004-2010, approved by executive decree of 10 June 2004, which is now being implemented with training for operators of the public system, assistance to victims, and mainstreaming the gender focus in government departments.
5. Establishment of departmental commissions for combating domestic violence in 11 municipal governments; the remaining eight will be installed in the course of 2007.
6. Training for operators of the public system, with an emphasis on the judicial, police and health systems, headed by the National Women's Institute through the project for "strengthening justice institutions in relation to gender for equitable development".
7. The National Programme for Women's Health and Gender (PNSMG) of the Ministry of Public Health (MSP) is coordinating efforts to have health authorities, institutions and personnel address domestic violence as a public health problem, using a participatory methodology to develop a protocol for the health teams in dealing with domestic violence. Some of these steps have been taken in coordination with the National Women's Institute.
8. The MSP has published a manual of procedures for providing first aid to victims of domestic violence.
9. The MSP is conducting awareness and training activities with health authorities and personnel on dealing with situations of domestic violence against women.
10. Regulations to the law on domestic violence against women have been issued for the health sector by presidential decree (2006) making it mandatory for health institutions to include services for female victims of domestic violence, consistent with the guidelines in the manual of procedures. With entry into force of that decree, a special form is now used, with questions on the possible existence of domestic violence and guidelines for health personnel, which the health teams are required to apply, adding data to the clinical history of females over the age of 15.
11. The MSP is providing support and advice to health institutions for implementing legislation on domestic violence.

12. A plan has been designed for disseminating and implementing legislation through the PNSMG of the MSP. This initiative includes public and private institutions providing health services.
13. The Ministry of the Interior and the National Women's Institute are coordinating efforts to have police officers deal more effectively with situations of domestic violence and to make this issue a priority in public safety policies. Activities have included a special session on "public safety and domestic violence" involving chiefs and deputies from all the police stations of Montevideo, a survey of the status of specialized units for dealing with domestic violence throughout the country, with priority to recognizing their position within the departmental structure, premises, equipment, number of officers assigned, officer training, regional workshops for managers of the specialized units with the participation of police officers and departmental chiefs, substantial progress in recording statistics on domestic violence from the "Crime Observatory".

The following points have still not been satisfactorily resolved in legislation:

- a. Responses from the penal system. The Penal Code of Uruguay needs a thorough overhaul, particularly in relation to sexual abuse and violence. Uruguay has no laws to guarantee protection and care for victims during the judicial process, and the few cases that reach the criminal courts are seldom resolved satisfactorily.
- b. Girls. Female children and adolescents (and males too, in these age brackets) who are victims of domestic violence face discriminatory treatment in comparison to other victims of violence. Now that the Domestic Violence Act has been joined by the new Juvenile Code ("Code of Children and Adolescents"), the courts have given priority to the latter, which does not contain guarantees of due process equivalent to those of the Act for dealing with rights violations.

With specific reference to sexual abuse and mistreatment, the Juvenile Code is limited to establishing a reporting obligation on the part of the competent authorities, and the guiding principle of no secondary victimization.

These gaps are being addressed by a draft bill that would amend the Juvenile Code with respect to judicial intervention in situations of sexual mistreatment or abuse, to include the guarantees provided by international instruments for all victims of abuse of power and to handle such cases through the process stipulated in the Domestic Violence Act. This bill has already been approved by the Senate.<sup>4</sup>

### **Protection mechanisms**

#### **A. Institutionalizing gender**

##### **Creation of the National Women's Institute**

With the advent of the new government in 2005, the concluding comments of the CEDAW Committee are beginning to be addressed as they relate to the National Institute for Family and Women's Affairs (INFM), under the Ministry of Education

<sup>4</sup> Report of the Bicameral Women's Caucus (*Bancada Bicameral Femenina*), November 2006.

and Culture, which has been converted into the National Women's Institute (INAMU), and has been placed in the Ministry of Social Development created by Law 17,866 of 21 March 2005.

The objectives are indicated in Law 17,930 (Article 337):

- As the governing body for gender policy, to exercise the functions of promotion, design, coordination, articulation, execution, monitoring and evaluation of public policies.
- To guarantee respect for the human rights of women, integrating equality of opportunities and rights into political, economic, social and cultural rights.
- To promote full citizenship, guaranteeing the social, political, economic and cultural inclusion of women, as well as their active participation in the national development process.
- To see to the fulfillment of the international commitments that the country has signed in gender matters and, within its financial possibilities, to negotiate and implement international cooperation agreements relating to that fulfillment.
- To promote women's access to resources, opportunities and public services so as to help eradicate poverty, strengthening their productive capacity through access to employment, credit, land, technology and information.
- To guarantee full access and participation for women in the structures of power and the taking of decisions.

INAMU has defined the following programmes:

*Mainstreaming the gender perspective in public policies:*

The strategic objective is to incorporate the gender perspective into the design, preparation, monitoring and evaluation of public policies.

*Gender-based violence*

The strategic objective is to promote, implement and ensure enforcement of comprehensive public policies for dealing with gender-based violence, especially through implementation of the National Plan against Domestic Violence.

*Women's political and social participation, citizenship and leadership*

The strategic objective is to guarantee equitable access for women and men to all structures of public power and to promote areas of participation and promotion of citizens' rights that will strengthen women. In addition, it seeks to develop female leadership through mechanisms and activities that will permit women's full exercise of citizenship and effective participation in development processes.

*Office for Women of African Descent*

The strategic objective is to promote efforts to overcome the exclusion of women of African descent, who have been especially affected by discrimination.

Following are highlights of the activities of the National Women's Institute:<sup>5</sup>

## 2005

- Preparation of strategic guidelines for the National Women's Institute, establishing programmatic priorities for the next five years.
- Invitation to ministers to commit themselves publicly to gender equity actions on the 8 March.
- Preparation of the draft law on Equality of Opportunities and Rights between Men and Women; this draft was submitted to the executive branch in September 2005.
- Actions to mainstream gender in the following governmental organizations: Ministry of the Interior, Ministry of Public Health, Ministry of Economy and Finance, Ministry of Foreign Relations, Planning and Budget Office, National Statistics Institute, municipal governments.
- Establishment of departmental commissions against domestic violence in five departments.
- Strengthening of the domestic violence unit of the National Women's Institute, which provides legal advice, psychological care and referral to other specialized services for female victims of domestic violence.
- Training in domestic violence for judges, prosecutors, public defenders, justice officials, health and education workers, and others, in order to improve the operational capacity of institutions involved with family violence.
- Distribution of publications from the National Plan against Domestic Violence and educational materials targeted particularly at people living in situations of social emergency.
- Public awareness activities related to domestic violence.
- Creation of spaces for dialogue and the building of joint agendas with agencies of the three branches of government, political parties, and civil society.
- Interagency agreement: "12 measures to promote the production of traditional foods", conducted as part of the project for "Promoting Gender Policies in the Metropolitan Area", which has resulted in greater interchange, coordination and articulation with the gender areas of Canelones and Montevideo; the Development Units of Florida and San José and the Metropolitan Area.
- Representation of Uruguay and active participation in the Specialized Meeting of Women of MERCOSUR (REM), 49th session of the Social and Juridical Committee of Women (Beijing +10), meetings of the Governing Board of the Regional Conference on Women in Latin America and the Caribbean (ECLAC-UN) and meetings of the Inter-American Commission of Women (OAS-CIM).

Budget: Allocation of a significantly larger budget than was provided in previous years, raising the amount from 1,162,000 pesos, pursuant to Law 17, 296, Article 306 of 2001, to 12 million pesos annually. The budget for the five-year period is broken down as follows:

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<sup>5</sup> Annual Report 2005, National Women's Institute, Ministry of Social Development.

Expenditures: 4,000,000 pesos;

Investments: 1,800,000 pesos;

Balance: 6,200,000 pesos.

There has also been significant progress in international cooperation, through which an important portion of the INAMU's programmes has been financed.<sup>6</sup>

### **2006<sup>7</sup>**

The year 2006 saw the participatory construction of the First National Plan for Equality of Opportunities and Rights. That process was initiated with a working document prepared by the National Women's Institute, which was put to public discussion at 19 departmental assemblies and 14 rounds of sectoral consultations and strategic alliances involving more than 3,000 participants, mainly women. At the same time, consultation mechanisms for the Plan were established with various agencies of the executive, and key persons in government, to work out potential actions with technical and policy staff of national and departmental government agencies for incorporation in the Plan.

The departmental assemblies were held throughout the country with representatives of civil society, the departmental government, and decentralized ministerial offices. As well, consultation rounds to discuss the structure and process of the Plan were held with female parliamentarians, feminists, the women's movement, the movement of African descendents, rural women, political women, sexual diversity activists, the National Women's Monitoring Commission (CNS Mujeres), the gender and equity department, and the Governing Board of the National Labour Confederation (PIT-CNT), the business and cooperative sectors, and the communications media.

As well, a series of seminars and workshops were held on various issues with participation by government and civil society, in which inputs and proposals were gathered for preparing this first Plan. Finally, contributions were received by e-mail, and each consultation body set up letterboxes for receiving comments, criticisms and suggestions.

At the same time, the following actions were pursued:

- Public presentation on 8 March of actions taken by governmental agencies to promote gender equity during 2005.
- Participation in the following intergovernmental mechanisms: Advisory Commission on Sexual and Reproductive Health (MSP), Interagency Commission on Gender Issues (INAMU-MRREE), Tripartite Commission on Equality of Opportunities and Treatment in Employment (MTSS), and the Advisory Council against Domestic Violence (INAMU-MIDES).

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<sup>6</sup> The international agencies involved are: United Nations System (UNDP, UNFPA, UNIFEM), the Spanish International Cooperation Agency (AECI), the World Bank, the Friedrich Ebert Foundation (FESUR), and the Catalanian Agency for Cooperation and Development.

<sup>7</sup> INAMU: Survey of Mechanisms and Public Policies in Uruguay for women's equality and gender equity, 2006.

- Promotion of new gender mechanisms in government agencies: Ministry of the Interior, Ministry of Housing, Land Use Planning and Environment, Electrical Plants and Transmissions (UTE).
- Actions to mainstream gender in the following governmental agencies: Ministry of the Interior, Ministry of Public Health (and particularly the National Women's Health and Gender Programme), Ministry of Economy and Finance, Ministry of Foreign Affairs, Planning and Budget Office, National Statistics Institute, municipal governments.
- Construction of a strategic legal agenda on the human rights of women, in consultation with representatives of the legislative branch.
- Representation of Uruguay and active participation at the 15th and 16th Specialized Meeting of Women of MERCOSUR (REM in Argentina and Chile), meeting of the 31st Governing Board of the Regional Conference on Women of Latin America and the Caribbean (ECLAC, Mexico), and meeting of the 33rd Assembly of Delegates of the Inter-American Commission of Women (OAS-CIM).
- Presentation of the First Report from Uruguay on Implementation of the Provisions of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention in Belém do Pará). During preparation, contributions were received from members of the Ad Hoc Commission for International Gender Issues.
- Promotion of municipal offices for gender equity.
- Strengthening of spaces for dialogue and construction of joint agendas with agencies of the three branches of government, political parties and civil society.

Actions taken under the National Plan to Combat Domestic Violence include the following:

- Training and awareness about domestic violence for officials of the Ministry of the Interior responsible for the "police stations for women" (*comisariás de la mujer*), judges, prosecutors, public defenders, justice officials, health professionals, education, social workers, police officers, forensic specialists and members of civil society. Public campaign on International Day for the Elimination of Violence against Women.
- Opening of three public services specialized in dealing with family violence (Departments of Canelones, Artigas and Cerro Largo) and plans for another three in other departments of the country.

## **B. Institutionalizing human rights**

By means of National Budget Law 17,930 of December 2005, the current government instituted the Human Rights Division of the Ministry of Education and Culture, and provided funding for the specially appointed position of Human Rights Director. The Director has the following responsibilities: to promote broader observance of human rights, to develop a national human rights plan, to promote awareness, knowledge and education about those rights throughout the public and

private education system, both formal and informal, to prepare guidelines for bringing national legislation into line with international obligations, to implement a programme to promote recognition and respect for human rights in government and among public servants, to pursue efforts to eliminate all forms of discrimination by reason of ethnic, racial, gender or religious considerations, sexual option, different capacities, age or physical aspect, to propose institutional frameworks for citizen participation that will offer guarantees against violations of the rights of inhabitants and authorize monitoring and evaluation of the public service, and to propose and coordinate human rights issues in the region. This office has negotiated cooperative and working arrangements with:

- The Ministry of Labour and Social Security and the National Public Education Administration.
- The Departmental Government of Maldonado, signed on 22 November 2006, intended to: 1) coordinate national human rights policies with those of the municipality, so as to make them consistent and more effective; 2) collaborate and coordinate with the municipality to create a human rights area within the municipal government; 3) support municipal efforts to manage projects and to implement programmes in a coordinated manner within areas of its own responsibility, or in cooperation with other institutions; 4) to exchange relevant information among the parties.
- Government of Colonia, signed on 12 September 2005, the objectives of which are strictly similar to those indicated above for the Department of Maldonado.
- Joint participation with the Ministry of Foreign Affairs in discussing the country report on DESCs, with broad participation by civil society and with a crosscutting gender focus.

The internal structure of the division includes the following areas: Education, Memory, Racial Equity, Coordination and promotion of policies for people of African descent, human rights, gender and labour, human rights policies for older people, human rights policies for persons with different abilities, meeting of senior human rights authorities and foreign ministries of MERCOSUR and Associated States, citizen participation, archives and library.

The promotion of gender equity and the modification of social and cultural patterns is a key theme of the division's work programmes.

Also in 2006, the Human Rights, Gender and Labour Unit was created; it has organized and pursued the following activities:

It has created a database for the various institutions of government at the national and departmental level, as well as NGOs working on gender issues.

It is cooperating with public and private institutions, including the University of the Republic (graduate course in "Gender, Development and Democracy"), Ministry of Labour and Social Security (participation in discussions of child labour, amendments to Chapter XII of the Juvenile Code, discussion session on harassment in the workplace), Ministry of Foreign Relations (participation in preparing the country report on economic, social and cultural rights), the Ministry of Social Development (public hearing on the social emergency and human rights), International Organization for Migrations (discussion forum on "The hidden face of



migrations: 21st century slavery?”, with a focus on trafficking in women and human trafficking in general).

The last two years have also seen creation of human rights commissions in Parliament and in the departmental councils. In the Department of Montevideo, the departmental Council has created the “neighbourhood defender”, similar to an ombudsman (Decree 30,592 of December 2003). The position was only filled in November 2006, and no further information is yet available, except that contained in the departmental decree establishing it.

### **C. The courts**

In Uruguay, only the Department of Montevideo has a specialized court for dealing with domestic violence. In the country’s interior, the courts distribute their responsibilities between civil (including labour, family, and civil law matters) and criminal matters. On the criminal side, there is no specialized jurisdiction for dealing with crimes of domestic violence or sexual crimes in any department of the country.

With respect to domestic violence, four specialized family courts were created in Montevideo at the end of 2004 to deal with cases involving charges under the Domestic Violence Act or violations of the rights of juveniles.

The response capacity of these courts has been overwhelmed by the aggregation of family violence cases with those relating to the protection of juveniles. After precautionary measures have been adopted, cases are referred to the family courts which must also deal with divorces, successions, custody, visits and other matters relating to family law.

The four specialized family violence courts of Montevideo handled 6,187 cases in 2005, 50.9% of which related to the Domestic Violence Act and 41% to the protection of juveniles (including family violence). In that year these four courts held 3,409 hearings for precautionary measures, and 1,403 hearings of evaluation.<sup>8</sup>

The law requires these cases to be referred subsequently to the criminal courts. However, those courts become involved in only a very small percentage of cases. The most recent detailed data are for 2004 (at which time the specialized domestic violence courts were not yet operating). In that year, 133 persons stood trial for domestic violence,<sup>9</sup> whereas the Ministry of the Interior recorded 3,923 cases of family violence for Montevideo alone.

### **D. National Labour Directorate**

The National Labour Directorate is charged with developing, coordinating and implementing labour policies throughout the country. The Individual Negotiations Division, part of that directorate, is supposed to prevent and mediate individual labour disputes, and is responsible for:

<sup>8</sup> 2005 Statistical Yearbook, Judiciary: [www.poderjudicial.gub.uy](http://www.poderjudicial.gub.uy).

<sup>9</sup> Report by the Judicial Branch, March 2006.

- Administrative conciliation of individual labour disputes prior to the labour hearing (Article 57 (2) of the Constitution and Law 14,188, Article 10), responding to consultations and holding conciliation hearings.
- Intervention in voluntary agreements between the parties to an individual labour relationship, following intervention by the Consultations Division.

The total number of complaints was relatively stable in 2002 and 2003, as a result of the country's economic and financial crisis. The number of complaints received from men tends to be greater than that for women. When data are missing from the records, this is because the form for submitting the complaint was not properly completed.

In all the years covered by this report, the number of complaints relating to maternity, maternity allowances, discrimination and breast-feeding time was insignificant. The figure for special leave includes pregnancy leave, but there is no specific information on this point.

#### **Complaints of discrimination as a result of mental and sexual harassment**

The General Inspectorate of Labour and Social Security is the agency responsible for the legal protection of workers, and in general for enforcing conditions relating to hygiene, security and environment in the workplace. It has been keeping a record of complaints of mental and sexual harassment since the middle of 2004.

#### **Reported cases of mental harassment**

2004. A male employee of a wholesale distributing firm suffered harassment. The firm was fined for violating the rights protected by Articles 7.10 (53 and 54) of the Constitution.

2005. Twelve complaints of mental harassment were submitted. In none of these cases was the firm punished. With the exception of one case that involved harassment among peers, all the others involved a relationship of subordination, mainly in the middle ranks. Roughly half of these cases involved a reassignment of duties, and following intervention by the inspectorate the situation re-appeared. The other cases resulted in the departure of the plaintiff or the accused. Half of the complaints related to the commercial sector.

2006. To this date, 11 complaints have been presented, 8 of them relating to harassment by superiors, and 3 to harassment by peers.

#### **Reported cases of sexual harassment:**

2004. There were no complaints recorded.

2005. Three complaints of sexual harassment were processed; in two of these cases the plaintiffs were women.

With respect to sexual harassment against women by sector of employment, one of the complaints was filed by a woman in the food industry, and another by a woman in domestic service; the case involving the man was in the maritime sector. None of these cases resulted in penalties, for lack of evidence.

2006. To date, two complaints have been processed involving female workers in the services and trade sectors.

### **Discrimination related to pregnancy and maternity**

In one industrial firm it was found that probationary contracts for women provided that, if the worker should leave during the probationary period, there would be no compensation even in case of pregnancy. The firm was ordered to regularize the contracts and bring them into line with existing legislation. The firm challenged that ruling, which was upheld by the TCA. A subsequent inspection of the firm found that labour contracts still retain this clause. By resolution 5.6.2006 the firm was fined for violating Laws 10,751, 10,489, and 16,045, Labour Code Article 111, and Decree 37/92.

## **E. Police headquarters and police stations**

When the current administration took office on 1 March 2005 it launched a joint initiative with the National Women's Institute to incorporate a gender perspective into the work of the Ministry of the Interior (mentioned earlier). One of the first measures implemented by the Ministry of the Interior on 8 March 2005 was to eliminate the "female police" budget item which discriminated against subordinate personnel when it came to filling executive positions. As a result, female police officers now enjoy the same career conditions as men. This move has facilitated mobility for women within the police force, and they are no longer restricted in their rights to promotion and transfer. This Article is also reflected in the open competitions for junior executive positions, where women now outnumber men. In the police headquarters of Florida, Maldonado, Paysandú, Rio Negro, Rocha, Salto and Tacuarembó women account for more than 50% of recruits, and 100% in the case of Artigas. Although the percentages of female recruits are high, it is true that men account for most of the management staff in each police headquarters: the percentage of females is below 13%, except in Maldonado where it is 16.9%; at the other extreme is the Rivera police headquarters, with only 4.2%. As to future projections, assuming that each unit will have on average 50 management vacancies to fill, even if most of these were to be filled by women the average ratio of women to men would be only 20 or 25%, and the situation would not change significantly. In the strictly operational units, where the primary task is prevention and public safety, such as the police headquarters, males predominate. On the other hand, in the support units engaged primarily in processing documents or providing technical services, women account for more than 50%, and this figure rises to 62.3% in the National Police Health Directorate.

Of the 19 police headquarters, only three are headed by women, and there are no women in the position of deputy chief.

Of the ministry's 11 national directorates only three have female national directors, and there are two female deputy directors. It should be noted that these appointments reflect the gender equity policy pursued by the current administration.

Since 2005 the following steps have been taken to promote gender equity:

1. Equitable recruitment, selection and promotion.
2. Equity in training conditions for men and women.
3. Consideration and support for the exercise of maternity and paternity.
4. Allocation of tasks by competence, aptitude and aspiration.

5. Eradication of sexual and mental harassment.
6. Prevention and punishment of discrimination.
7. Respectful and equal treatment.
8. An information system on gender issues.
9. An institutional policy that incorporates the gender issue, especially the redefined policy for dealing with domestic violence and the definition of working strategies for the National Plan for Equality of Opportunities and Rights.

### **Penal provisions that discriminate against women**

#### **Criminalization of abortion**

Law 9,763 of 1938, which makes voluntary abortion a crime, has yet to be repealed despite the steady insistence of many social and political organizations.<sup>10</sup>

Recent estimates place the number of secret abortions at no less than 33,000 in 2003 (in a country with approximately 49,000 live births each year) (Sanseviero, 2004).

During the years the law has been in force it has been found ineffective: the conditions authorizing access to abortion services within the established grounds were never implemented because, among other things, abortion is described as a simple crime, and there is ambiguity in the extenuating or exculpatory circumstances, which make it impossible to enforce (Dufau, G. 1989). If it were to be implemented, it would be necessary to revise the law to eliminate the grounds of “family honour”, which must be considered inadmissible. To ease the abortion penalty in order to safeguard family honour is just as objectionable as the rule that excused a rapist who married his victim. The law has also proven itself ineffective in terms of suppressing and condemning the practice, as there have been very few prosecutions for the crime of abortion, and the interruption of pregnancy continues as a widespread practice in the country.<sup>11</sup> Prosecutions to date have related almost exclusively to situations where the woman died. This punitive law has merely served to promote secret abortions, which usually involve high risk to the health and life of the woman.

The Forensic Medical Institute has provided the following data:

2001: 21 prosecutions, 7 men and 14 women, 7 without imprisonment and 14 with imprisonment, 15 first-time offenders and 6 repeat offenders.

2004: 16 prosecutions, 4 men and 12 women, 7 without imprisonment and 9 with imprisonment, 14 first-time offenders and 2 repeat offenders.

2003: 16 prosecutions, 3 men and 13 women, 7 without imprisonment and 14 with imprisonment, 15 first-time offenders and 6 repeat offenders.

2004: 1 prosecution, a woman, with imprisonment, first-time offender.

There are no data available for the years 2000 and 2005, and in no case are there any figures on convictions.

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<sup>10</sup> 63% in favour of the Reproductive Health Act, May 2004.

<sup>11</sup> Available estimates from 1974, and recent estimates for 2003 range from 33,000 abortions (Sanseviero 2003) to 150,000 (Hermógenes Alvarez 1974).

During the previous legislature there was debate on the draft Law for the Protection of Reproductive Health (2002-2004), which was approved by majority vote of the House of Representatives on 10 December 2002 but was rejected by the Senate on 4 May 2004. That was the only bill to date to achieve a majority in one of the houses.

That draft law, in its first three articles, confirmed the responsibility of the State as the protector and guarantor of sexual and reproductive rights, and proposed measures to prevent unwanted pregnancies and to promote desired maternity and paternity: sexual education and universal access to contraception services. Article 4 recognized the right of every woman to terminate pregnancy voluntarily during the first 12 weeks of gestation. It considered abortion as a non-pecuniary medical act and authorized abortion after 12 weeks in specific circumstances. It also established special considerations for adolescents and persons with intellectual or mental disabilities.

In the current legislature, the Senate Health Committee is considering a new bill (Draft Law on Sexual and Reproductive Health), the contents of which are similar to the previous one.

### **Sexual offences**

Most victims of sexual offences are women, according to police and court records. Consequently, the way in which legislation deals with this crime is of direct concern to women.

Title X of the Penal Code, which includes sexual offences, remains in force. It is called “Crimes against good customs and the family order”, reflecting the dominant ideological conception of the beginning of the past century. That conception not only remains in the name of the Title and the crimes defined, but is also apparent in the description of the specific offences, which include such notions as modesty, honesty, and public scandal.

Rape (violación) is described as “carnal union through violence”, which doctrine deems to be only anal or vaginal, disregarding the oral route. “Violent affront to modesty” embraces conduct that does not include anal or vaginal penetration. 12 years is set as the age below which there is an absolute presumption of violence in rape and the violent affront to modesty. Between 12 years and 15 years of age, evidence is admitted in contradiction.

Incest is included in the crimes of rape and violent affront to modesty, and the abuse of domestic relations is considered an aggravating factor. Incest with public scandal is treated as a specific crime.

With respect to abduction (rapto), the law is discriminatory in distinguishing between “honest maidens”, married women or allegedly “immodest” women (Articles 266 – 271 of the Penal Code).

The crime of corruption is described in terms of the victim, since it is committed for purposes of “corrupting her”. This offence has been supplanted by offences relating to the commercial sexual exploitation of boys, girls and adolescents.

**Progress in legislation on sexual offences****Repeal of marriage with the victim as grounds for remission**

The principal legislative advance since the last country report (2000) with respect to non-commercial sexual crimes has been the approval of Law 17,938 of January 2006, repealing Article 116 of the Penal Code and Article 23 of the Code of Penal Procedure, according to which the crimes of rape, violent affront to modesty, statutory rape and abduction are extinguished if the aggressor contracts matrimony with the victim.

**Sexual offences prosecutable ex officio**

As well, Law 18,039 incorporated new circumstances that authorize ex officio action against sexual offences:

- A relationship of labour dependency of the victim vis-à-vis the offender.
- The condition of the offender as responsible for the education or health of the victim.

**Crimes of commercial sexual exploitation of juveniles and persons lacking legal capacity**

Law 17,815 of September 2004 introduced specific offences in this area, as examined below in the paragraph on combating trafficking sexual and exploitation of women.

**Gaps and shortcomings in penal legislation with respect to sexual offences**

Grounds for acquittal: passion provoked by adultery. Article 36 of the Penal Code is a gross contravention of the recommendations of the Committee (Recommendation 19), and should be amended. It includes as grounds for acquittal the “passion provoked by adultery.” According to that rule, the judge may issue a judicial pardon if the murder is provoked by the so-called “passion provoked by adultery”.

Article 36: “Passion provoked by adultery. The passion provoked by adultery enables the judge to excuse the defendant from punishment for the crimes of murder and wounding, provided the following requirements are met:

1. That the crime is committed by the spouse who has surprised the other spouse *in flagrante*, and the crime is committed against that person or the lover.
2. That the perpetrator has a good record and the opportunity to commit the crime was not provoked or simply facilitated by previous knowledge of conjugal infidelity.”

This provision legitimates forms of family violence, and places the blame on the victim of the crime, reflecting a discriminatory cultural view of women.

**Women victims of domestic violence who are convicted of homicide against the aggressor**

In Uruguay, women are convicted and imprisoned for murder, aggravated by the relationship, for having killed their partner or another close acquaintance in circumstances of extreme mental and emotional turmoil provoked by chronic family violence at the hands of the alleged victim. In these cases the courts have failed to

consider that such a situation constituted a completely or at least partially legitimate defence.<sup>12</sup>

### **Draft reform of the Penal Code with respect to sexual offences and trafficking in persons**

In the previous legislature a bill was submitted to reform Title X of the Penal Code, but it was not approved. In 2005 it was reintroduced into the Chamber of Deputies but it was not considered. Currently, it has been supplemented with other provisions and is under study in the Senate.

Highlights of that bill:

- The title devoted to sexual offences (Title X bis) is called “Offences against sexual freedom and integrity”.
- The description of sexual abuse includes descriptive elements from the annex to the Rome Statute (Elements of Crimes).
- The age of absolute presumed consent to sexual intercourse is raised to 15 years, except in the case of persons between whom there is an age difference of no more than three years.
- The crime of sexual harassment is included.
- It includes, among the potential perpetrators of the crime of contributing to child sexual exploitation, persons in the media responsible for disseminating offers to this end.
- It includes the crime of child sexual tourism (used as an alternative to trafficking in juveniles for purposes of commercial sexual exploitation, where the person who travels is the client).
- It incorporates the crime of “trafficking in persons”, following the definition of Article 3 of the protocol and the international recommendations with respect to the definition of this crime (Article 280) and conspiracy to traffic in persons (Article 280 A) relating to the specific actions of transporting persons for trafficking.
- It replaces “passion provoked by adultery” as grounds for acquittal (Article 36 of the Penal Code) by the state of intense turmoil provoked by family violence.

### **Article 3**

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

A start is being made in addressing these issues, particularly through the National Women’s Institute (INAMU) and the Municipal Government of Montevideo (IMM) through the Equal Opportunities Plan. The Municipal Government of Montevideo<sup>13</sup>

<sup>12</sup> Such cases exist but there are no quantitative data on them.

<sup>13</sup> Report presented by the Municipal Government of Montevideo, 2006.

instituted its first Plan for Equality of Opportunities and Rights (hereafter PIOD) for the period 2002-2005, and in 2005 it began the process of preparing a second Plan.

The first PIOD was a pioneering initiative at the departmental level and at the national level. It relied primarily for its development and horizontal implementation on the Gender Equity Commission as the body responsible for designing and implementing it. That commission is chaired by the Women's Bureau and comprises professionals from various municipal offices: the Public Spaces Division, Lands and Housing Service, Health and Social Programmes Division, Culture Department, Commission for Children, Contracts Unit, Sports Commission, Youth Commission, Management Unit, Occupational Health and Women's Bureau/Commission.

This first plan incorporated a set of specific objectives and 150 measures organized into 10 chapters arranged according to citizens' rights and selected municipal areas. It was presented as a policy and strategic planning instrument for promoting and developing equality of rights between women and men living in Montevideo.

Work has also begun on configuring two other departmental plans for equality of opportunities and rights (Departments of Canelones and Maldonado). Thus there are now 11 municipal gender mechanisms in the departments of Montevideo, Canelones, Maldonado, Treinta y Tres, Rocha, Salto, Paysandú, Artigas, Rivera, Lavalleja and Colonia.

#### **Article 4**

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

In the context of adopting provisional measures of positive discrimination in the area of women's political participation, a draft law was submitted to the Senate to regulate the process of establishing electoral lists for political parties in Uruguay. That draft was presented to the previous legislature following an exchange between legislators of the Women's Caucus, male legislators of different parties, and academic experts. While the bill generated much discussion within political parties and in the legislature, it was not approved, and it is now being redesigned for presentation to the current legislature, in an effort to achieve greater consensus among legislators.<sup>14</sup>

#### **Article 5**

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other

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<sup>14</sup> Article 7 revives the draft law on quotas and reinforces its contents.



practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

See information included in the response to the Article.

### **Article 6**

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

## **A. Provisions governing sex workers in Uruguay**

Prostitution is not penalized in Uruguay in law, but is regulated and controlled. Law 17,515 of 2002 recognizes this activity as a trade, and workers are eligible for the corresponding social benefits.

Sex work is considered legal for women older than 18 years who are registered with and have a permit from the National Registry of Sex Workers, operated jointly by the Ministry of Public Health (MSP) and the Ministry of the Interior.

Health control is compulsory and is done by the Ministry of Public Health through offices in each of the country's departments. Sex workers are subject to monthly inspection as a condition of the permit authorizing them to engage in prostitution. The permit card shows that sex workers have been inspected, but it does not reveal whether they are healthy or not (Resolution 340 MSP, 2/12/04). Prostitution may be exercised only in authorized brothels. Within the MSP there is the Honorary Commission for the Protection of Sex Workers.

There are approximately 7,000 sex workers registered in Uruguay (3,000 of them in Montevideo). It is estimated that more than double this number are not registered. In the case of registered transvestites, the number does not exceed 2,000. Of those working in the interior of the country, 90% come from Montevideo.<sup>15</sup>

Under Decree 480/03 of 20/11/03, all sex workers are required to report any change of locality (Articles 7 and 8). In practice, this means that a sex worker who wants to be registered in a new department must first be de-registered in the previous department of activity, and this provides a useful measure of control for the police.

## **B. Sexual procuring**

Sexual procuring is covered by Law 8080 of 1927. That law punishes anyone who exploits the prostitution of another person for gain, even if the victim has given consent (Article 1). This crime requires that the perpetrator "has contributed in some manner", and case law and prevailing doctrine have interpreted this to mean that the

<sup>15</sup> González, D. Tuana, A. *Invisibles y Silenciadas. Aportes y Reflexiones sobre la trata con fines de explotación sexual comercial en Uruguay*. Montevideo, 2006.

crime is committed only through contribution to prostitution and not to exploitation, thus restricting the application of this offence. The offence is deemed aggravated if the victim is less than 18 years of age.

### **C. Penalization of commercial sexual exploitation of juveniles**

Law 17,815 of 2004 introduces specific offences relating to the commercial sexual exploitation of juveniles. It specifically punishes the client of child sexual exploitation as well as pornography using juveniles. In an indirect manner it addresses the issue of trafficking, focusing on the crossing of national borders for purposes of commercial sexual exploitation, but it does not cover other stages of trafficking such as capture, recruitment and lodging, which continue to be governed by general law.

The criminalization of all forms of sexual exploitation of juveniles as conduct that violates human rights has represented a significant step toward filling the legal gaps in the Penal Code, which was interpreted as “tolerant” of the commercial exploitation of young bodies.

### **D. Trafficking in women for purposes of commercial sexual exploitation**

As noted in a recent study on the issue,<sup>16</sup> Uruguay’s regional and national context makes it vulnerable to trafficking in persons for purposes of sexual exploitation. A number of investigations have revealed the existence of internal and international trafficking routes, and have identified organized crime networks operating in various countries.

Poverty, discrimination, migrations in response to economic crises, weak border controls, the unemployment that affects mainly women, the situation of children living in poverty or in the street, child labour, and high indices of sexual violence and abuse of women all highlight this domestic vulnerability.

The phenomenon relates largely to the trafficking of women and adolescents, but it is not possible to assess the magnitude of the problem in the country because there are no official records or statistics, and there has been no research to measure the dimension of the problem.

International trafficking routes have been identified leading to Spain and Italy, and others coming from Argentina to Punta del Este and from Argentina to Brazil passing through the departments of Paysandú, Tacuarembó, Rivera and on to São Paulo. With respect to internal trafficking, the routes for smuggling adolescents run from the borders to tourist destinations (Colonia, Costa de Oro, Maldonado, Rocha, the thermal zone and rural tourism areas).

Access to justice for victims is complicated by prevailing stigmas and indeed they are often further victimized by the system, which means that many of them give up in the pursuit of this route.

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<sup>16</sup> Ibid.

Trafficking in persons is not defined as a specific crime in the Penal Code. The code imposes criminal punishment on certain stages and types of trafficking: the one that comes closest to the definition of trafficking as given by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, is the one defined in Article 280 of the Penal Code, on “procurement, transfer and trading of slaves and the reduction of other men to slavery”.

The Penal Code also criminalizes deprivation of liberty for gain in order to coerce services from the victim (Articles 281 and 282 (3)). The Law on Procuring, Law 8080 of 1927, is the legislation most widely used to punish trafficking in persons for purposes of commercial sexual exploitation.

The Citizen Security Act, Law 16,707 of June 1995, adds a second paragraph to Article 1 of Law 8080, whereby any person who, for the purpose of profit, induces or compels another to engage in prostitution in the country or abroad thereby commits a crime, whereas previously such conduct was considered ancillary to the crime. The final portion of that paragraph mentions expressly the possibility that persons may have been transported across borders for exploitation, but this is not deemed an aggravating circumstance.

In other words, the international character of the crime has no impact on the applicable penalty. Instead, the purpose of this provision is to apply domestic jurisdiction to situations in which the sexual exploitation itself occurs outside the national territory. The draft reform to the Penal Code relating to sexual crimes, indicated earlier in this report, addresses specific issues of trafficking and commercial sexual exploitation.

As a result of this situation, the National Women’s Institute has launched, together with the International Organization for Migration (IOM), a programme for the assisted return of irregular migrants that includes clinical care and coaching to help women who have been victims of trafficking to reinsert themselves in the community.

As well, in the context of the Specialized Meeting of the Women of MERCOSUR (REM), the National Women’s Institute is promoting, together with other member countries, an information and prevention campaign on the crime of trafficking in persons, with support from the IOM.<sup>17</sup>

## **Part II**

### **Article 7**

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

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<sup>17</sup> MERCOSUR/XVREM/P.DECN/06.

(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

(c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

While Uruguay has been in the vanguard of efforts to modernize, democratize and legislate with respect to the rights of its citizens, male and female,<sup>18</sup> those efforts have lacked continuity, and today it cannot be said that there is gender equity in political representation. Indeed, there exists a gap between formal equality and real equality of access to political life.

**(i) In the national legislature**

In the makeup of the parliament resulting from the October 2004 elections, it will be noted that only 14 of the 130 seats, or 10.8%, are held by women. Of even greater concern is the fact that this figure represents backsliding from the previous legislature, where women held 15 seats in the two chambers, accounting for 11.5% of the General Assembly.

When the new government took office in March 2005, several deputies and senators were called upon to join the executive branch, which led to some movements in parliament between elected and appointed legislators. Consequently, as 1 March 2005, the number of female senators rose from three to four, and female deputies from 11 to 12. In general terms, this increased the percentage of female legislators in the two chambers, from 10.8% to 12.3%.

Over the last four years parliament has been debating a draft bill on affirmative action measures,<sup>19</sup> which would require that candidates of either sex may not account for more than two-thirds of the voting lists. While the 2000-2004 Legislature did not approve this bill, it has sparked debate in certain sectors of the political parties.

According to the statement of reasons submitted together with the draft bill on political participation, the legislators who supported the bill argued that “the electoral and party system reinforces and consolidates the discrimination that has its origins in other aspects of social life ... paradoxically this has happened in a country that makes much of its commitment to freedom and equality”. That statement called for innovative and dynamic strategies to awaken the country so as to overcome the “democratic deficit” and lend greater quality, depth and legitimacy to Uruguayan democracy.

The draft bill underwent some amendments and was presented in the present legislature (2005-2009) in the Senate. It is currently on the agenda of the Senate

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<sup>18</sup> Although Uruguay gave women the right to vote on 16 December 1932, and was one of the first Latin American countries to do so, this right was enshrined in the Constitution only two years later, in 1934. The actual exercise of the franchise and the possibility to stand for election was made effective in the national elections of March 1938.

<sup>19</sup> Affirmative action is understood to mean measures intended to achieve real equality through formulas of normative inequality that seek to eliminate the unfavourable consequences deriving from the existence of de facto differences. This concept was taken from a paper presented by the sociologist Sonia Montañó at an international seminar on gender parity and political participation in Latin America and the Caribbean, held in Santiago, Chile, in October 2006.

Committee on the Constitution and Legislation. The bill has five articles, one of which declares that “it is in the general interest to promote equitable participation by persons of both sexes in the leadership bodies of the parties and in the makeup of the legislative branch, of the departmental councils, and of the local councils...” (Article 1).

The second article requires that the lists presented for elections to those bodies “must include persons of both sexes, with at least one-third of candidates corresponding to the same sex” (Article 2).

The third article calls for enforcement of the rule so that at least every third candidate will be of a different sex (Article 3). The fourth article urges amendment of the charters of the political parties to ensure that the membership of their permanent governing bodies reflects the gender distribution of party membership in the corresponding electoral district (Article 4).

Finally, the fifth article requires that the electoral bodies enforce the law, and that they reject the registration of voting lists that do not conform to the previous articles (Article 5).

The exchange of ideas among legislators, parties, organizations and women’s movements that produced the draft law persuaded some political groupings to apply the 30% female quota in their candidate lists for the October 2004 elections. Yet despite this debate and the ad hoc measures taken by some political groupings, it will not be possible to achieve a significant improvement in the representation of women in parliament and in the departmental councils unless there is a general rule in place, and unless the quota system is made the standard for all candidate lists in national and departmental elections.

The percentage of women in the Uruguayan parliament, at 10.8%, is far below the average for the Americas (18.9%), and places the country in slot 13 on the list of 19 Latin American countries.<sup>20</sup> Internationally, Uruguay ranks 81 among the 186 countries included in the worldwide rating for women in parliament produced by the Interparliamentary Union (ITU).<sup>21</sup>

#### **(ii) The Women’s Caucus**

For more than seven years now, female parliamentarians have constituted the so-called Bicameral Women’s Caucus. While this body is not a formal legislative committee, it has acquired shape and legitimacy as a forum for coordination and exchange between female legislators of the various political parties. It meets monthly to formulate common positions, to consider strategies for defending common interests, and for having their parties take parliamentary women’s concerns into account.

According to female parliamentarians, this forum has turned out to be highly useful in legislative work, and has demonstrated the capacity that women have acquired in recent years to debate and generate interparty agreements. It should be noted that one of the sitting Uruguayan female legislators was the first in Latin America to chair the Interparliamentary Union’s Coordinating Committee of Women Parliamentarians.<sup>22</sup>

<sup>20</sup> Johnson Niki, “*La política de la ausencia: las elecciones uruguayas 2004-2005, las mujeres y la equidad de género*”- Montevideo, CNS Mujeres -2005, p. 94.

<sup>21</sup> <http://www.ipu.org/wmn-e/classif.htm>, 31 August 2005.

<sup>22</sup> Senator Monica Xavier.

**(iii) Departmental Governments and Councils**

In the current departmental legislature of Montevideo,<sup>23</sup> 7 of the 31 seats (22.5%) are held by women, while during the period of the preceding government (2000-2005) there were 9, representing 29.0% of the total.

As to the departmental councils in the interior of the country, the municipal elections of 8 May 2005 for the government period 2005-2010 produced the greatest number of female councillors in Flores and Treinta y Tres, at 10 each, representing 32.2% of the 31 council seats. (See annexes to part II).

Taking the 19 departmental councils as a whole, with a total of 589 seats, 104 or 17.6% are held by women.

In the final plenary session of the 23rd National Congress of Councillors, a woman was elected to chair the Standing Committee for the next year. This is the first time that this body has been chaired by a woman.

**(iv) Autonomous bodies and decentralized services**

The Uruguayan State generates, administers and distributes basic services such as water, electricity and telecommunications. The most important of these State services and enterprises are the National Fuels, Alcohol and Portland Administration (ANCAP), the National Telecommunications Administration (ANTEL), the electricity plants and transmission board (UTE) and the national airline, Primeras Líneas Uruguayas de Navegación Aérea (PLUNA).

Of the eight State enterprises, only two (ANTEL and the National Postal Administration) have female presidents or vice presidents.

**(v) State banks**

In the five State banks involved in various areas of the financial sector (Social Security, housing, insurance etc.) there is not one female president: all 10 presidents and vice presidents are men.

**(vi) Public education institutions**

In public institutions that have participatory election mechanisms for their authorities, as does the University of the Republic (UDELAR), an autonomous co-governed body, no woman has held a senior position in their governing organs despite the high proportion of females in both the student and the teaching bodies. Since 1849 there has never been a female rector of the University of the Republic.

The co-governing board of the UDELAR comprises representatives of three groups: teachers, alumni and students. Each of these groups elects three representatives to the Central Governing Board. At the present time, there is one woman among the teachers' representatives, and two for the students.

In the current makeup of the university's government, only three of the 15 deans on the Central Governing Council are women. They head the faculties of law, nursing and psychology. Of the eight directors of university services, four are women, responsible for the university hospital, the hygiene institute, the food engineering school, and the biotechnology school.

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<sup>23</sup> For the term 2005-2010.

The senior body in the National Public Education Administration (ANEP) is the Central Governing Council (CODICEN), which has four members: the chair and vice chair are both men, while one of the two other members is a woman. There are three councils for each of the education areas. The primary and secondary education directorates are headed by women, while a man is in charge of the vocational education section.

The Uruguayan Institute for Children and Adolescents (INAU) also has educational functions, although it is an independent service and does not fall under the ANEP. It is headed by a man, although the director of one of its three divisions is a woman.

**(vii) At the national and departmental executive level**

The female presence in the executive branch has historically been very low. There has never been a female President or Vice President, and when female candidates were put forward they were members of lists or parties that had little prospect of winning the election.

In the 2004 Women's Agenda, the National Monitoring Commission of Women for Democracy, Equity and Citizenship, "CNS Mujeres", argues that the Uruguayan government has lacked the political will to make any profound changes in terms of women's political representation, and that "Uruguay's political institutions are backward when it comes to recognizing and overcoming the obstacles to egalitarian representation in decision-making positions. We need to establish affirmative action rules to convert formally equality into real equality". It declares further that "the inability to integrate one half of our citizens into our representative democracy is one of the clearest contradictions of democracy".<sup>24</sup>

Another organization with a history of involvement in women's issues at the executive and departmental levels is the *Unidad Temática de Derechos de las Ciudadanas del Encuentro Progresista – Frente Amplio*.<sup>25</sup>

During the government term 2000-2004 no woman was appointed either as minister or as undersecretary for any portfolio.<sup>26</sup> This period represented a retreat in terms of the female presence in the executive branch—since democracy was restored in 1985, there had always been at least one female minister or undersecretary in each administration.

From the beginning of the new government in 2005, 3 of the 13 ministries have been headed by women: Ministry of Public Health, Ministry of Social Development, and Ministry of National Defence. There are also three women serving as undersecretaries with ministerial portfolios, in the Ministry of Foreign Relations, the Ministry of Tourism and Sports, and the Ministry of Social Development, representing a 23% female share of ministerial and undersecretary positions.

In addition to these senior political positions in the portfolio ministries, there is another important category of positions within the government organization chart, which are the "positions of trust" ("Q-scale"). The combined female share of this

<sup>24</sup> CNS Mujeres. *Agenda. Una propuesta política de las mujeres*. Montevideo, 2004.

<sup>25</sup> Unidad Temática de Derechos de las Ciudadanas: "*Las Mujeres hacemos una propuesta para construir la igualdad*," 2004.

<sup>26</sup> Excluding very brief mandates during the presidential transition.

category and the political appointments mentioned above is 21.3%<sup>27</sup> in the current government.

In the departmental governments there is not a single female mayor, although there were two instances where women held this position on an interim basis as acting mayors. There were several cases where women stood as candidates for this position, but without much prospect of being elected.

#### **(viii) The Justice System**

Within the judicial branch, the Supreme Court of Justice, the highest court of the land, has five members, one of whom serves as president for the year. These members are appointed by the General Assembly (the legislative branch) within 90 days after a vacancy occurs. At the end of that time, if no appointment has been made, the longest-serving member of the Court of Appeals automatically assumes the position, and if there are two persons with equal length of service in the Court of Appeals, the appointment goes to the one who has served longest on the judiciary or as a prosecutor in the Attorney General's Office (Article 236 of the Constitution). At this time, four of the five Supreme Court justices are men, and one is a woman. One of the four men is the current president of the court.

#### **Participation of women's organizations in Uruguay**

In Uruguay there are many forums for debate and construction of the political agenda. These include:

- The labour movement, through the Commission on Equity and Gender of the PIT-CNT.
- The Uruguayan Conference of Cooperatives (Cudecoop), the umbrella organization of Uruguayan cooperatives in which the Gender Commission was installed in 1990.
- Rural women's associations belonging to the Association of Rural Women and the Rural Women's Network.
- The National Monitoring Commission (CNS) Women for Democracy, Equity and Citizenship, which coordinates 54 women's organizations and groups throughout the country.

There are also five inter-institutional governmental mechanisms in which feminist and women's organizations participate: the Inter-Institutional Commission for Gender Questions, the National Advisory Commission on Sexual and Reproductive Health, the Tripartite Commission on Equality of Opportunities and Treatment in Employment, and the National Advisory Council on Domestic Violence.

#### **Article 8**

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

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<sup>27</sup> Pérez, Verónica. *No son suficientes. 2006 A un año de gobierno progresista*. CNS Mujeres. Montevideo, 2006.



Since the Committee was instituted in 1981, Uruguay has had difficulty in giving effect to this provision, and women continue to suffer discrimination when it comes to opportunities to represent the government abroad, especially in the senior positions of the foreign service, which have been occupied almost exclusively by men.

While the competitive examination system has governed entry to the foreign service for several decades, thereby guaranteeing equal access for men and women to positions at the level of third secretary, this equality is not reflected subsequently in more senior positions such as that of ambassador.

The current administration has moved to implement all the conventions on the rights of women at the national level, and an incipient shift in the historical tendency is now becoming apparent. The table in the Annex illustrates two important facts:

For varying reasons, primarily sociological, women seeking recognition now tend to specialize in areas that were historically reserved for men, and are finding a place in various fields of activity, including the diplomatic service.

This progress in bringing women into the international relations field can be seen in the percentages of recent female entrants to the career. In the last round of annual foreign service entry competitions, 10 women and one man were recruited. There are currently 26 women and 4 men with the rank of third secretary.

As noted earlier, the entry competition is an example of the equal opportunities open to men and women.

Nevertheless, the fact remains that as officers move up the occupational pyramid women are still less likely to be appointed to senior positions of responsibility. For example, while the first female ambassador was named in 1984, there is still only one woman among the 22 current ambassadors.

The current administration is seeking a better gender balance in all its departments and work teams. Thus, one undersecretary, one general director and several directors are women, although these numbers are still inadequate.

This issue demands further attention and concrete measures on the part of the administration with respect to the day-to-day functioning of the service, recognizing that, according to the statistics, there will be an increasing percentage of females in intermediate and senior positions over the medium term.

The promotion and protection of human rights is one of the pillars of Uruguay's foreign policy, and in this context the promotion and protection of women's rights is a priority on the agenda of the Foreign Ministry.

With respect to the six diplomatic missions to international agencies where Uruguay has a permanent delegate or representative, five of these are headed by men (UNESCO, FAO, United Nations Geneva, United Nations New York, ALADI) and the remaining one (OAS) by a woman.

Uruguay participates actively in all multilateral forums that deal with discrimination against women and related aspects such as poverty, education, sexual and reproductive health, the rights of migrant girls, and human trafficking.

Uruguay continues to insist that all the special proceedings of the Human Rights Council, as well as any initiative taken within the United Nations, must have a strong gender perspective.

For example, in the current process of structuring the Human Rights Council, Uruguay has been working with a group of more than 50 countries to ensure that the issue of women's rights is adequately reflected in the substantive agenda of the new body. Uruguay sees here a possibility for qualitative and tangible progress in combating discrimination against women.

It should also be noted that in 2006 Uruguay supported the initiative presented by the United Nations High Commissioner for Human Rights to transfer the CEDAW Secretariat to Geneva, as a means of centralizing all the treaty bodies in the UNHCR.

The National Women's Institute, the national mechanism for gender equity, represents Uruguay in the following regional and international forums: the Specialized Meeting of Women of MERCOSUR (REM), the Inter-American Commission of Women of the Organization of American States (OAS-CIM) the Commission on the Juridical and Social Status of Women and the Governing Board of the Regional Conference on Women of Latin America and the Caribbean (UN). The current director of the National Women's Institute was elected unanimously to the CIM Executive Committee (El Salvador, December 2006).

#### **Article 9**

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men with respect to the nationality of their children

In citizenship affairs there is no distinction between men and women: anyone who is born within Uruguayan territory or is the child of a Uruguayan father or mother has the right to citizenship. A Uruguayan citizen who marries a foreigner or who holds another citizenship does not thereby lose his or her Uruguayan citizenship.

### **Part III**

#### **Article 10**

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

(d) The same opportunities to benefit from scholarships and other study grants;

(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

(f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

(g) The same Opportunities to participate actively in sports and physical education;

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

The publication “*Uruguay: indicadores de género 2001-2004*” of the National Statistics Institute and the National Women’s Institute reveals the following:

1. There is no significant gender difference in the population 15 years and older with little or no education. The biggest gap occurred in 2001, when 7.8% of women and 8.5% of men (for urban areas only) were in this situation.
2. It is interesting to see that, over the period surveyed, there were more females than males among people between 14 and 15 years of age who had completed six years of schooling. In 2001, the figures were 93.2% of men and 94.2% of women, while for 2004 the percentage was 92.4% for men and 95.8% for women (for urban areas only).
3. Women also outnumber men in the population 20 and 21 years old having completed 12 years of school. In 2001, this figure was 28.1% for men and 39.8% for women, while the respective figures for 2004 were 32.4% and 42.7% (for urban areas only).
4. School attendance by age group according to sex begins to show discrepancies after 15 years of age. In 2004, 77.7% of males aged 15 to 17 years were attending school, compared to 84.6% of females, and in the 18 to 25 years age group the respective percentages are 36.8% and 44.6% (for urban areas only).
5. In 2001, 10.29% of males were enrolled in postsecondary education, compared to 15.41% of females; the comparable figures for 2004 were 11.04% and 17.98% (for urban areas only).
6. The percentage of women with 13 or more years of education was 17.9% in 2001, 18.1% in 2002 and 20.5% in 2004. The percentage of men in the same

situation was 15.6% in 2001, 15.9% in 2002, and 17.4% in 2004 (for urban areas only).

According to the Ministry of Education and Culture, 43,060 boys and 43,552 girls were registered in public pre-school education in 2004 in the country as a whole. In private pre-school education there were 10,428 boys and 10,175 girls registered in the same year.

In public primary education, there were 208,592 boys and 195,923 girls registered in 2004 for the country as a whole, while in private primary education in the same year there were 22,382 boys and 21,836 girls registered.

In secondary education, the Ministry of Education and Culture (NEC) does not have registration data disaggregated by sex.

At the university level the gender divide is greater. In 2004 there were nearly twice as many women registered as men: 11,490 women entered the University of the Republic, compared to 6,245 men. The only courses of study in which men outnumbered women were agronomy, engineering and communication sciences. Admissions to the UDELAR campuses in the interior of the country show a similar pattern.

In the country's two private universities (Universidad ORT and Universidad Católica del Uruguay) with the largest student enrolments the differences in the number of admissions, registrations and graduations are smaller: men continue to be in the majority in engineering, business sciences and economics, while women predominate in the social sciences and health studies (Table A-6 in the annexes).

### **Teachers**

The MEC does not keep data disaggregated by sex on teachers in the UDELAR. In the two private universities covered by this survey, male teachers outnumbered females by more than two to one, even in disciplines where most of the graduates are female.

### **Sex education in the public schools**

Sex education in public school is an issue that has been pending since the country was restored to democracy in 1985.

In 1999, when a new administration took office, the Ministry of Public Health and in particular the National AIDS Programme, together with the National Public Education Administration (ANEP), collaborated in preparing a book for teenagers in the third year of the basic cycle. The book, entitled ¡Escucha, Aprende, Vive! ("Listen, Learn, Live!"), was published in 2000 and its distribution in the schools sparked public outrage among certain social, religious and political groups opposed to the inclusion of sex education in the official curriculum. As a result, the initial plan to distribute 40,000 copies to the schools had to be abandoned.

In 2002 a new initiative was launched to revive the national sex education plan. This time it was led by the National Institute for Minors (INAME), now the National Institute for Children and Adolescents in Uruguay (INAU). To this end, the Inter-Institutional Commission for the Analysis of Sex Education in Uruguay was established in 2002, comprising ANEP-CODICEN, the Primary Education Board, the Secondary Education Board, the Vocational Education Board, the National Institute of Minors, the National Youth Institute, the Ministry of Education and

Culture and the Ministry of Public Health. This commission prepared a consensus document that received little publicity or debate with other stakeholders. The suggestions flowing from that document were not implemented.

In 2005, when the new national government took office, a new process was launched to incorporate sex education into the official curriculum, as part of the education reform sponsored by the new authorities.

By means of Resolution 4, Act 35 of 14 December 2005, the CODICEN created the Sex Education Commission, which was formally established on 17 March 2006. The Commission consists of representatives of the primary, secondary and vocational education boards, the teacher training and professional development institutes, the Health Education Directorate of the Central Governing Council and the General Directorate of Health of the MSP (the education and health authorities).

The mandate of the Commission is to prepare a “programmatic project for incorporating sex education into the comprehensive education process for students, based on an approach to development, health and rights that will foster the building of citizenship in the democratic, secular and pluralistic setting that the national Constitution has defined”.<sup>28</sup>

In the context of public debate over the education reform, the inclusion of sex education was one of the proposals put forward by the regional assemblies as well as by various public and nongovernmental organizations.

These proposals were compiled in the documents prepared for debate and deliberation in the National Congress on Education. They include the Report to the National Congress on Education, Part I, Contributions from the Regional Assemblies, CODE (Commission for Organizing the Education Debate), November 2006, and the Report to the National Congress on Education. See Annex Part II, Documentary Contributions, CODE (Commission for Organizing the Education Debate).

The document prepared by the Ministry of Education and Culture, Education Directorate: “Challenges in Uruguay in Education, Questions for the education debate,” published in December 2005, also incorporated references to the inclusion of sex education.<sup>29</sup>

In short, Uruguay once again has a sex education programme that is planned for introduction in 2007 at all levels of education.

### **Physical education**

In the public education system, girls have the same opportunities as boys for physical education, since this constitutes part of the curriculum in both primary and secondary school. Since 2006 physical education has been compulsory in primary school.

<sup>28</sup> Presentation by Dr. Stella Cerutti, Coordinator of the Commission, to the Roundtable on Education Policies, “Discussion from a Perspective of Gender, Generations and Rights”, organized by the “Gender and Family Network” and the UDELAR Faculty of Social Sciences, with support from UNFPA, August 2006 (PowerPoint presentation).

<sup>29</sup> These documents are available in PDF format at the official website on the National Education Debate: [www.debateducativo.edu.uy](http://www.debateducativo.edu.uy).

## Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
- (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

- (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
- (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;
- (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this Article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

The following article of the Uruguayan Constitution declares equality before the law for all persons and recognizes the right to work as an inalienable right.

Article 7: “The inhabitants of the Republic have the right of protection in the enjoyment of life, honour, liberty, security, labour and property. No one may be deprived of these rights except in conformity with laws which may be enacted for reasons of general interest”.

The most important provisions of the Constitution referring to work, applicable to all workers, male and female, are: the right to choose one's employment freely (Article 36), the right to fair remuneration, limitation of the working day, a weekly day of rest, and physical and moral health (Article 54); and the right to organize trade unions and the right to strike (Article 57).

The second paragraph of Article 54 provides that "the labour of women and of minors under 18 years of age shall be specially regulated and limited", a provision that in relation to women (while it cannot be interpreted in contradiction of Article 8 of the Constitution) has been understood as susceptible to amendment to reflect international standards of equality ratified by Uruguay.<sup>30</sup>

Article 1 of Law 16,045 prohibits any discrimination that violates the principle of equal treatment and opportunities for both sexes in any sector or branch of labour activity. The Ministry of Labour and Social Security (MTSS), through the Office of the General Inspector of Labour and Social Security (IGTSS) is responsible for enforcing existing national and international standards on the status of women and on non-discrimination, using the available domestic legal sanctions against any type of discrimination in employment. It is also responsible for handling complaints of sexual harassment.

**(i) Tripartite Commission on Equality of Opportunities and Treatment in Employment**

The Tripartite Commission on Equality of Opportunities and Treatment in Employment was established in 1997 and reconstituted in 1999. It now comprises the Ministry of Labour and Social Security (MTSS), the Ministry of Social Development (MIDES), the Confederation of Workers (PIT-CNT) and business associations.

The principal objectives are:

- To contribute to labour market balance through strategies to achieve employment equality.
- To promote an active policy for equal employment opportunities, through government and jointly with social players.
- To help incorporate a gender vision into the three substantive programmes of the MTSS.
- To support equal opportunity initiatives by the social players involved.
- To create coordination forums to reinforce government and nongovernmental initiatives for equality.
- To provide technical advice on equality initiatives presented to Parliament.
- To pursue outreach strategies to promote equality of opportunity and information on labour legislation

Since its creation the Commission has pursued activities in the following fields:

- Awareness and information on the importance of the gender perspective in national labour policies.

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<sup>30</sup> Márquez, M. *Uruguay, negociación colectiva y equidad de género*. In América Latina: Negociación Colectiva y Equidad de Género, Capítulo VII. ILO (2005).

- Advice on gender issues to the Ministry of Labour and Social Security and other institutions that so request.
- Support and advice to female workers when submitting complaints over employment discrimination.
- Contact and exchange of experience with other governmental and nongovernmental bodies involved in gender issues.
- Strengthening the institutional commitment of the member bodies of the Commission itself.
- Sponsoring studies and research on the national situation of women in the labour market.
- Maintaining relations with the national and international organizations that promote equity and sponsor projects with a gender focus.
- Supporting the design and implementation of the “Programme to Promote Equality of Opportunities for Women in Employment and Vocational Training” (PROIMUJER). That training programme, financed by the National Employment Board, was the first domestic experiment in facilitating labour market entry for women.
- Generating coordination strategies with the municipal governments for mainstreaming the gender focus in local employment policies, and promoting the establishment of tripartite commissions in other departments.
- Promoting the inclusion of specific clauses and commitments on non-discrimination and equal opportunity between men and women at the regional level, in the various social and labour bodies of MERCOSUR.
- Preparing, discussing and adopting a National Plan for Equality in Employment, of which the first draft, prepared with cooperation from Spain and the ILO, has been submitted for public consideration.

The proposal to adopt a National Plan for Equality of Treatment and Opportunities in Employment (2004) reflects the need for effective compliance with the international commitments assumed by our country, and represents a contribution that the Tripartite Commission has placed at the service of society as a whole.

The proposed document is not a definitive plan and it has not been officially approved for application, but it is recognized as issuing from a respected tripartite forum of social dialogue. It has now been incorporated as a strategic line in the First National Plan for Equality of Opportunities and Rights 2007-2011 sponsored by the National Women’s Institute of the MIDES.

Under the National Plan for Equality of Opportunities and Treatment in Employment the Commission pursued activities at several levels in 2005 and 2006:

#### *Regional*

Organization of the Regional Tripartite Seminar on “negotiation and social dialogue: basic tools for promoting equality”, sponsored by the ILO with participation by the tripartite commissions of Argentina, Brazil, Paraguay, Chile and Uruguay, plus Ecuador, on 23 May 2005.



Participation in the course on “collective bargaining with a gender perspective”, given by ILO experts, with the attendance of the tripartite commissions mentioned above and technical staff of the MTSS working with the Salaries Board, 24 to 27 May 2005.

Participation in the regional meeting “for equality and against discrimination” organized by the Tripartite Commission of Argentina to promote joint activities within MERCOSUR, 18 and 19 August 2005.

The Tripartite Commission for Equality of Opportunities and Treatment in Employment and the National Women’s Institute organized an international seminar on sexual harassment: “Challenge and commitments in the context of the National Plan for Equality of Opportunities and Rights” on 20 July 2006, sponsored by the ILO.

#### *National*

Preparation of a draft law on domestic labour, submitted to the executive branch by the Ministry of Labour and Social Security on 8 March 2006, approved and promulgated on 27 November 2006 (Law 18,065).

Establishment of procedures for dealing with complaints of sexual and mental harassment, and mechanisms for monitoring and evaluating them, since June 2006.

Preparation on a draft law on sexual harassment with advisory support from the ILO, now in the process of stakeholder negotiation.

As part of the effort to mainstream gender in government, the National Employment Directorate (DINAE) intends to include the gender perspective as an instrument for improving public management. In September 2005, four workshops were held for employees of the DINAE executive unit. DINAE is also sponsoring the mainstreaming of the gender focus among the officials assigned to the newly created Public Employment Services (2006).

Participation in the Gender and Labour Network (2006).

The Tripartite Commission and the National Employment Board hosted a workshop on social dialogue, gender and decent work on 21 July 2006.

As part of the effort to create tripartite commissions on equality at the departmental level, a seminar was held on “constructing equality of opportunity in the world of work,” in the Department of Cerro Largo. This was a preparatory step to establishing the departmental commission, with the support of the Departmental Council and the Municipal Government of Cerro Largo.

There have also been exchanges on the situation of men and women in the labour market at the departmental level (Paysandú, Maldonado and Colonia).

#### **(ii) Activities of the National Employment Directorate and the National Employment Board**

- Coordination of decentralized programmes of PROIMUJER (targeted at women) and PROJOVEN (targeted at young people of both sexes).

- Training for entities that tender through the DINA-E-National Employment Board system (JUNAE)<sup>31</sup> so that they can mainstream gender as a permanent dimension in their vocational training programmes.
- Coordination of the PROIMUJER and the rural labour training programme: workshop on conditions of equity for rural women, to define lines of action.
- Contract signed between MTSS-JUNAE and the BOTNIA Company and other public agencies to prepare a vocational training plan and support job creation through construction of a pulp and paper plant in the Department of Rio Negro. The company's obligations include that of "making maximum efforts to incorporate women into the undertaking, including in non-traditional activities to the extent compatible with the tasks to be performed." Contract signed 25 October 2005. In practice it has been found difficult to bring women into this non-traditional area of work, not only when it comes to recruiting by the Botnia company but also previously in the training courses.<sup>32</sup>
- Contract signed between the MTSS-JUNAE, the Paysandú government and the company EUHORES SA (a subsidiary of ENCE) for joint training programmes and job creation in the forestry industry, beginning with a course for forestry mechanics. It includes an undertaking by the company to make "maximum efforts to incorporate women into the undertaking, including in non-traditional activities". Contract signed 6 February 2006.
- Contract signed between MTSS-JUNAE and the government of Canelones for labour training under the PROIMUJER programme, with special attention to the economic, social and cultural features of each locality or region of the Department. Contract signed in March 2006.
- The Ministry of Labour and Social Security now has a protocol in place for dealing with complaints of sexual and mental harassment, as well as mechanisms for monitoring and evaluating them. According to Commission members consulted, the Ministry lacks trained staff for processing complaints.
- Training facilities have been created within the government, business and labour sectors.

### **(iii) Status of women in the labour market**

The National Statistics Institute (INE) and the National Women's Institute (INAMU/MIDES) have prepared a study on discrimination against women in the labour market: "Gender Indicators 2001-2004". Bearing in mind that these data refer only to urban areas of the country, all the indicators show a discrepancy between the situation of men and women, to the prejudice of the latter. Among the most important findings we may mention the following:

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<sup>31</sup> The National Employment Board (JUNAE) is a tripartite body that operates under the Ministry of Labour and Social Security. It has a delegation from the chambers of commerce and a delegation from the PIT-CNT (Labour Confederation), and is chaired by the National Employment Director.

<sup>32</sup> In 2006 the National Women's Institute received complaints of discrimination from women who were being trained in the welding courses.

(a) The participation rate by women over the four years of the study remained at 21 percentage points below that of men. The difference is even greater for persons over 45 years of age.

(b) The employment rate of women in 2004 was 40.6%, while that for men was 60.9%. Again, this difference is greater for people over 45. The gap has remained constant in the last four years.

(c) The employment rate gap between men and women declines with increasing levels of education: for those with more than 13 years of schooling the difference was only 12 percentage points in 2004; the greatest gap, at 30 percentage points, is found among persons with between four and six years of schooling.

(d) The unemployment picture also reveals discrimination against women in the labour market: in 2004 the female unemployment rate was 16.5%, while that for males was 10.2%. This difference declines considerably with age and with years of schooling: the greatest difference is in the 14 to 24 years age bracket.

(e) In terms of distribution by activity, men are more evenly distributed among the different types of activities, while women are concentrated (55.6%) in social, community and personal services.

(f) By type of occupation, women account for more than 50% of professionals, technicians and office workers, but less than 40% in the categories of management personnel, vendors and manual workers.

(g) In terms of occupational category, while women account for less than a quarter of employers and members of cooperatives, they represent three-quarters of unpaid workers.

(h) In 2001, there was an increase among both men and women who were not registered in the Social Security system: 36.8% for women and 35.4% for men. Today, men represent 40.1% and women 41.5%. The gender gap persists in the underemployment rate: the rate for women is approximately 7 percentage points higher.

Further information can be gleaned from the 2005 Household Survey:

(a) For the urban population, the participation rate of men is 69.3%, and that for women is 49.5%. The gap is narrower in Montevideo, where the male rate is 69.2% and the female 51%, whereas in towns of the interior the rates are 69.4% and 47.8% respectively. The tendency for the gap to increase beyond 40 years of age has persisted this year.

(b) The female employment rate in 2005 was 41.9% for the country as a whole, while the male rate was 62.7%. Again, the gap is narrower in Montevideo, with the female rate is 43.8% and the male 62.5%, while in towns of the interior the respective rates in 2005 were 39.8% and 62.9%.

(c) The unemployment rate for women in 2005 was 15.3%, versus 9.5% for men. The following table shows that, by level of education, the greatest gaps between the female and male unemployment rates are for those with primary and secondary education, at 8 percentage points. The smallest difference (2 percentage points) is for those with post secondary education.

Data from the Expanded Household Survey of July 2006 confirm the conclusions with respect to these gaps:

1. For the country as a whole, the male participation rate is 72% and that for women is 50.2%, the employment rate is 66.1% for men and 43.3% for women, while the unemployment rate is 8.1% for men and 13.5% for women.
2. In the interior, gender inequity is greater: the male participation rate is 72.7% and that for women 48.4%, the employment rate is 66.5% for men and 41.4% for women, while the unemployment rate is 8.5% for men and 14.6% for women.
3. In small towns and rural areas, which we shall discuss further in the section on rural women, the participation rate for men is 76.6% and that for women 53.6%, the employment rate is 72.7% for men and 39.4% for women, while the unemployment rate is 5.0% for men and 9.6% for women.
4. Taking the unemployment rates by age and sex for the country as a whole, we find that women under 25 years had an unemployment rate of 34.7% in July 2006, while the rate for men was 10 percentage points lower, at 24.4%. For women over 25 years the unemployment rate was 10%, and for men 4.6% at that date.

In terms of incomes, average pay for women was 71.7% of that for men in 2004; the greatest gap is in social, community and personal services, where the ratio was 63.8%. When considered by type of occupation, the differential in average pay for women and men is greater, with a ratio of 68.7%. The gap is still greater among management personnel, where the ratio is 48.4%. In terms of education levels, the female-to-male ratio for persons with 13 years of schooling or more is 55.4%.

According to data from the Continuous Household Survey for 2005, average monthly income from principal occupation for the country as a whole was 6,438 pesos for women, or 70% of the monthly average for men (9,074 pesos). This difference is greater in the age bracket 40 to 59 years, where a woman earns approximately 65% of the average monthly salary of a man for the same type of occupation.

Comparing the average monthly income from principal occupation in pesos by sex and type of occupation in 2005, we find the greatest difference among management personnel, where women's salary is 52% that of men. The smallest differential is for farm and fishery workers.

The same comparison by category of occupation reveals that the gender gap is lowest in public employment, and highest in the employer category and in private employment.

By level of education for the country as a whole (Household Survey 2005), the average income of women is 87% of that for men among teachers and professors. For university graduates, the gap is very significant, and the female-male ratio is only 60%.

Despite the education levels attained by the female workforce and the high female participation rate, these indicators are not reflected in employment opportunities and in salaries, especially in the private sector. There is no evidence of measures to

overcome occupational segregation by combating stereotypes about roles in the family and society that affect women's employment status.

**(iv) Employment training programmes for women or programmes that include actions targeted at women or at gender equity**

Within the MTSS, the National Employment Directorate (DINAE) works in coordination with the National Employment Board (JUNAE), a tripartite body with the main functions of providing advice on policy and programmes, designing labour training programmes or projects, studying and measuring the impact of new technologies and integration policies in the labour market and proposing appropriate measures, and administration of the Labour Adjustment Fund (FRL), or nearly all the funds available to the State for financing its projects and programmes.

**(a) The PROIMUJER programme (DINAE- JUNAE- CINTERFOR-ILO)**

In 2001 financing was obtained from the National Employment Board (JUNAE) for a pilot programme established with support from CINTERFOR-ILO.

The general objective of the programme was to promote an active employment policy in the field of training, so as to enhance the quality of the female workforce, bearing in mind the new skills required in the labour market.

The specific objectives for female participants in the programme were:

- To develop skills and capacities to deal with situations that arise in the workplace.
- To promote an active attitude toward learning that will allow women to (i) take responsibility for their training and continue it throughout their lives, recognizing that knowledge quickly becomes obsolete and (ii) adapt to permanent change and generate alternative employment possibilities.
- To make women more employable and help them design their own labour training project. A labour or occupational project is the set of coordinated actions that an individual defines, plans, executes, revises and re-plans in order to enter the labour market. It involves an objective, a self-diagnosis and planning for the steps ahead. The process includes training activities regarding gender and cross-cutting skills.
- To enable participants to develop their vocational training process according to their individual characteristics, potential capabilities and labour market demands.
- To achieve labour market entry for 30% of female participants and improve the employability of 50% of that group.
- To transfer methodology and relevant experience to the DINAE for inclusion in employment and training policies.
- To generate inputs and draw lessons for incorporating the gender perspective in the active employment policies of the DINAE-JUNAE system as well as to strengthen the Vocational Training Centres.

This was a pilot programme, the strategy of which was to create an inter-institutional area where the Technical Multidisciplinary Teams, the Training Centres, the local Councils and the local players participate under the direction,

coordination and supervision of the DINA E. Through this public-private management approach, the State delegated powers but retained its responsibility for the quality and coverage of the services.

It was in this context that the various activities were carried out to improve women's employability: identifying occupational profiles for which there was market demand, selecting participants, providing labour guidance, constructing the personal labour project, developing courses, helping in the job search, and in the launch or development of micro-enterprises.

The programme was conducted in four departments: Montevideo, Rocha, Cerro Largo and Rio Negro, with a total of 520 participants.

In 2003 the programme was made permanent, with the following strategies:

- To address the problem of employment access by stressing training for employability and incorporating the gender equity perspective.
- To deepen and broaden the supply of local training that incorporates the gender equity focus.
- To strengthen participation by local stakeholders in local training and employment projects to improve and enrich labour training approaches, methodologies and practices from the social equity perspective, at both the central and local levels.
- To progress further in the design and implementation of strategies and activities for incorporating the gender perspective into the vocational training programmes of the National Employment Board, as well as in other training and employment programmes.

The programme achieved the following coverage:

2003:	285 participants
2004:	927 participants
2005:	949 participants
2006:	475 participants as of the 31 July

**(b) The PROJOVEN programme (DINA E-JUNAE-INJU)**

This is a training and workforce preparation programme for young men and women, which incorporates the gender perspective as a crosscutting feature and includes activities to enhance social and gender equity.

The general objective of the programme is to help young people from disadvantaged social backgrounds improve their employability and achieve entry into the formal labour market, or to go back to school. The broader objective is to contribute to social equity and the exercise of citizenship for young men and women.

This objective is pursued through training courses that promote the development of knowledge, skills, abilities and attitudes required in the formal labour market, and provide basic qualification in an area where there are job openings. The stress is on horizontal skills that will contribute to general employability and the exercise of citizenship. These include basic, interpersonal, technological and computer skills.

The courses focus on skills training that incorporates the gender perspective. The process is focused on individuals, their characteristics and possibilities, taking into

account the differences that arise because of their social and living situation. This means recognizing the obstacles and limitations that constrain or stimulate labour market entry and the professional and personal development of women and men.

The pedagogical purpose is to create a training that integrates the various modules, stimulates learning, and promotes proactive attitudes among young people, both in terms of finding a formal job and of returning to the education system.

The training must be doubly relevant: it must be relevant in light of the actual labour market as well as for the young people themselves. It is located therefore at the intersection point between the kind of training demanded in the labour market and the kind of training that will help and motivate young men and women to develop their potential.

In this respect, it tries not to reproduce existing gender biases in the labour market, and it promotes efforts to sensitize potential employers, encouraging them to look at the actual performance of the person, independent of any prejudice about gender, ethnic origin or sexual orientation.

The programme attempts to have the young people take a critical view of gender issues and to recognize the obstacles that could impede their ability to find and hold a job, and it gives them the tools to address those obstacles at the individual and family level.

The programme is targeted at low-income young people between the ages of 18 and 24 years (in exceptional cases up to 29 years), with priority to persons who are heads of family or have child-raising responsibilities. The programme attempts to achieve equitable participation between the two sexes and between young people from the capital and those the interior of the country.

The programme has nationwide coverage, and seeks to strike a balance between Montevideo and the interior in terms of the number of courses. With the exception of the Department of Treinta y Tres, courses have been held in all parts of the country. To date, 621 labour training courses have been given, 57% of them in Montevideo and 43% in the interior. The programme has graduated a total of 17,530 young people, 8,780 of whom found a formal job at the end of the training.

Within the PROJOVEN population, 23% have children; this proportion is much higher (32%) for the women in the programme. It is true that in the selection process there is positive discrimination in favour of young women with children, but that fact alone cannot explain this imbalance. This figure probably reflects a pattern of responsibilities differentiated by gender in terms of the recognition and care of children.

When we examine the education profile of PROJOVEN participants we find that the males have fewer years of schooling than the females. As a result there are more males in the C3<sup>33</sup> courses and more women in the C1 and C2 courses. Of this year's participants, 50% have completed the third or fourth year of secondary school.

In summary, the programme has achieved nationwide coverage with equal representation between Montevideo and the interior and by sex. There is positive discrimination in favour of women, particularly those with children. The programme seeks to mainstream the gender perspective both as an instrument for making young people more employable and as a way of increasing equity in the labour force.

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<sup>33</sup> Focuses on upgrading basic reading and writing skills.

**(c) The vocational training programme for rural workers (MEVIR-DINAE-JUNAE)**

Because the programme is aimed at rural workers it has not had a specific focus on the female population. However it has at all times sought to include women in its training activity. It is a significant fact that many women have participated in the animal husbandry segment.

Special efforts have been made to provide child care facilities to allow women to participate in the courses. In some localities training has been accompanied by a workshop where women are invited to exchange views and analyze their role in the family enterprise.

Data on the course are available since 2003: in 2004 the programme was suspended from March to September because of problems with the tendering documents, and only four courses were held during that year.

In 2003, 2004 and 2005 there were a total of 2,671 participants, 28% of them female. In geographic terms, the programme covered more than one locality in all departments.

The highest rate of female participation was in the 30 to 39 years age group, followed by the 40 to 49 years bracket (the majority of whom are employed). Female heads of household account for less than 20%.

**(d) Emergency employment programmes**

The Ministry of Social Development (MIDES) offers the National Plan for Addressing the Social Emergency (PANES). The target population for this plan embraces all persons in the country living in extreme poverty. It includes individuals and families whose incomes are below the average value of the Basic Food Basket at 1 March 2005.

The “Working for Uruguay” (Trabajo por Uruguay) Programme. This is a temporary work programme for persons included in the plan. The idea is to help participants in PANES to become better citizens and to improve their living standards through a programme that will expand their education opportunities and encourage the development of personal and social strategies for finding a way out of poverty, with priority emphasis on work as a tool of social inclusion.

One of the specific objectives<sup>34</sup> is to promote equitable and mutually supportive social relations between the sexes and between the generations, by stressing equality

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<sup>34</sup> The other specific objectives of the Working for Uruguay programme are:

- To develop local community projects in association with public institutions to provide working experience for persons participating in PANES on a voluntary basis.
- To improve the incomes of PANES families that join through open registration and public lottery.
- To develop civic education programmes with participants in Working for Uruguay to make them aware of their rights and encourage them to exercise their rights and obligations responsibly.
- To help participants develop strategies for improving their incomes by strengthening their labour skills and their capacity for employment or self-employment.
- To foster social inclusion through interchange and interaction with social organizations and local and neighbourhood networks within the zone of influence of the local project.
- To facilitate access to public and community support services in the areas of health, family violence, addictive behaviour, etc.



of opportunity and equity among participants. The profile of participants in the programme consists of males and females registered and confirmed in PANES. They are unemployed heads of household over 18 years of age with family dependents who receive no type of social allowances (other than the family allowance and disability allowances)

Selection is done by public lottery to constitute the working groups among persons registered in the programme. There are no quotas for women's participation, but the lotteries take account of the ratio of men and women in each group, maintaining a proportion consistent with the gender distribution of persons registered.

According to the Evaluation and Monitoring Directorate of MIDES, in January 2006 women accounted for 52% of the PANES participants; 27.4% of the women are unemployed, and 35% are employed.

In the "Working for Uruguay" programme, more than 70% of participants and beneficiaries in January 2006 were women. At that date there were a total of 2,800 job opportunities nationwide.

**(v) The Law on paid domestic work in private households**

The Domestic Workers Act, Law 18,065 of November 2006 promoted by the Tripartite Commission,<sup>35</sup> accords female domestic workers the normal labour rights that have been in force for more than half a century such as the eight-hour working day, a half-hour of rest for those who do not sleep overnight in the employer's house and two hours off for those who do spend the night, and 36 hours uninterrupted time-off per week, including Sunday, and time-off at night for those who live in the employer's house. That nocturnal time-off may not be less than nine continuous hours, and the worker's overnight accommodation must offer proper hygiene and privacy.

When paid domestic work was unregulated in Uruguay workers in this sector fell far behind, and the recovery is now underway. The 2001-2004 gender indicators report of the INE and the INAMU found that 87.1% of female domestic employees in 2004 were working outside the Social Security system, up from 80.3% in 2001.

The new law guarantees labour rights for these workers, on a par with the rights of workers in industry and commerce, except for the working time required to earn the right to a departure allowance (30 days for workers in industry and commerce, but 90 days for domestic workers). This rule represents significant progress in recognizing the labour rights of the 6.5% of the employed population (89,500 persons) who are engaged in domestic service. The law was accompanied by a broad public awareness campaign through the media, sponsored by the Social Insurance bank (BPS) in 2006, designed to publicize and promote the rights of female domestic workers.

**(vi) The wage boards**

In 2005, after 13 years in abeyance, wage boards were established for each sector of activity. According to a report from the Tripartite Commission on the new round of wage negotiations, of the 144 agreements signed by the 205 negotiating groups, 15% included permanent forms of negotiation (through bipartite commissions) on

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<sup>35</sup> The law was drafted by a consultant hired by INAMU with ILO financing.

labour-related issues such as productivity, reclassification, training, equity and gender, although the scope of these topics is not specified.

Consistent with the general objectives of the National Labour Directorate, the Collective Bargaining Division seeks to ensure justice and social peace in collective labour relations. To this end, it oversees voluntary conciliation and mediation of collective disputes, and promotes sound labour relations among social players.

It also works with the occupational sectors in the pursuit of collective bargaining, in order to arrive at collective agreements that will govern working relations in the broad sense (including wage negotiations), fostering a productive atmosphere for discussing the entire range of labour relations.

Collective bargaining has been considered an instrument for improving women's working conditions. The negotiations can address various issues such as access to employment, wages, discussion of categories, training and promotion policies, and working conditions.

To date in the present round of wage boards,<sup>36</sup> only four labour organizations negotiating through the wage boards have included clauses referring to Law 16,045 and Conventions 100, 111 and 156. These are the AEBU (Bank Employees' Association of Uruguay), the AOEC (clause unilaterally inserted by the Union), the FUS (Uruguayan Health Federation), and UNTMRA.

Results: agreements containing a gender non-discrimination clause:

- Public Sector, Public Banking Clause and agreement of the University of the Republic with the following unions: ADUR (Association of University Teachers), AFFUR (Association of University Employees), and UTHC, agreement with COFE (State Employees Cooperative), which covers the central administration and public health.
- Private: 17 of the 137 agreements signed and already decreed.

These clauses refer to:

- The public banking system, an extension adopting in concrete form the previous agreements that spelled out the international conventions and Law 16,045.
- Agreement of the University of the Republic, a commitment to deal with gender issues through various measures.
- COFE agreement, inclusion in the framework agreement of a commitment to keep working on this issue.

In the private agreements:

- No discrimination: group 8, 16.
- Pay equity clauses: group 18 and 19.
- Non-discrimination, pay equity, inclusion of Law 16,045 and Conventions 100, 103, 111 and 156.

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<sup>36</sup> Information taken from the document *EQUIDAD Y NEGOCIACIÓN COLECTIVA ¿Cómo seguir? La Negociación Colectiva como una herramienta para la inclusión de la equidad de género* Ana Aguilera - Departamento Género y Equidad of the PIT-CNT. 13 December 2005.

- Declaration of willingness to protect maternity, paternity.
- Commitment to support the National Equality Plan, prevention of sexual and moral harassment. Group 1.
- Racial non-discrimination: group 8, subgroup table 1.
- Non-discrimination by reason of race, colour and sexual orientation: group 8, subgroup 8.<sup>37</sup>

Since 1995 the National Public Education Administration (ANEP) has been implementing a policy to assure universal access to preschool education for children aged 4 and 5 years. The basic objective was to incorporate children from economically, socially and culturally disadvantaged backgrounds who have the highest failure rates in the first year of primary school.

The Universal Education Act, Law 17,015 of 1998 provided that, once universal public education coverage had been achieved for five-year-olds, steps must be taken to achieve the same for four-year-olds. In 2003, following a major expansion in enrolment of children ages four and five years, and on the basis of a technical evaluation of preschool achievements and coverage, the Central Governing Council reported to the Legislative Branch that the ANEP was in a position to meet the entire current and potential demand from five-year-olds, and schooling at this level was therefore made compulsory. With this challenge met, it remains to move forward toward universal coverage for four-year-olds.

In the period 1995-2001 more than 37,000 new pupils were enrolled, representing a 75.6% increase over enrolment in 1995. The slight reduction in enrolment noted since 2002 reflects the pronounced decline in the birth rate.

#### **(vii) Social Security**

Law 16,713 of September 1995 launched a series of Social Security reforms that partially replaced the public programme by a jointly funded savings programme. The law also introduced amendments to reduce gender differentials in the previous legislation that favoured women over men. The minimum retirement age for the ordinary pension was raised to 60 years, whereas previously it had been 55 years for women and 60 for men. The income replacement rates, which had previously favoured women, were also unified, the minimum age of retirement for advanced age was raised from 65 to 70 years in the case of women, making it the same as for men, widowers were given the right to survivors' pensions, which had previously been limited to widows, and the survivors' pension was eliminated for unmarried daughters over 45 years of age who had devoted themselves to caring for parents or siblings.<sup>38</sup>

At a press conference dealing with gender equity efforts held by representatives of the executive branch on 8 March 2005, the Ministry of Economy and Finance, together with the National Women's Institute, issued a public invitation to submit research projects for evaluating gender differentials in the impacts of economic policies in Uruguay over the years 1985-2004. The project selected was entitled

<sup>37</sup> For more information on these agreements see the MTSS report.

<sup>38</sup> Bucheli, Forteza and Rossi, 2006, *Seguridad social y género en Uruguay: un análisis de las diferencias de acceso a la jubilación*. UdelaR.

“Social Security and Gender in Uruguay: an analysis of differences in access to retirement”.

That study recognizes that in Uruguay, retirement pensions and allowance programmes cover more than 90% of adults. Men and women are covered by different programmes: men are more likely to be covered by retirement pensions, while women rely more on the old-age pension or widows’ allowances. Some data suggest that the smaller proportion of women drawing retirement pensions reflects the fact that women are more likely to interrupt their working life for relatively long periods.<sup>39</sup>

The study concludes that the 1995 Social Security reform was more prejudicial to women than to men, because fewer than 12% of women versus 17% of men in the sample could meet the requirement of 35 years of service at 60 years of age. At 65 years, the percentages fulfilling the requirement rise to 19% and 25% respectively.

**(viii) Regulations and laws protecting working mothers<sup>40</sup>**

**Family allowances: legislation**

- Law 17,474 of May 2002. Prenatal allowance for multiple pregnancies

In their initial conception, under Law 15,084, family allowances were provided to the families of workers with children, and the direct beneficiaries were the children, conditional upon school attendance and health checks.

Successive regulations broadened this coverage. Thus, Law 17,139 included children of workers who had exhausted their unemployment insurance without finding a job, and single-parent households headed by a woman. Yet the express objective of this law did not mean any special consideration for female heads of household, because the regulation subjected entitlement to a household income cut-off point. In light of the economic crisis and the high unemployment levels of the time, this benefit was converted to a financial allowance for low-income families, but the positive discrimination element was lost. A subsequent act, Law 17,758, made explicit the objective of providing care for children in low-income households.

**Maternity allowance and leave: legislation**

The maternity allowance was created by Law 12,572 of 23 October 1958, under the name “maternity salaries”. That law regulated not only maternity leave (six weeks before and six weeks after birth) but also the supplementary prenatal leave needed in case of pregnancy-related illness, and extension of postnatal leave as necessary for medical reasons. In these two situations of illness-related special leave, the duration is established by the system’s medical services, and may not exceed six months.

The Social Insurance Bank, by means of Resolution 440/87 of 18 February 1987, extended the postnatal maternity allowance to cover adoptions, subject to certain requirements.

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<sup>39</sup> Idem.

<sup>40</sup> Based on a report on laws and draft bills relating to CEDAW, which the parliament, with ECLAC support, sent to Foreign Relations and INAMU as a contribution from the Legislature to the National Report to the Committee of Experts.

- Law 17,292 of January 2001 establishes leave for adoption.
- Law 17,827 of September 2004 provides leave for legislators for grounds that include maternity and paternity.
- Law 17,930 of December 2005, the budget act, amends the maternity and paternity leave system for civil servants and adoptive parents.

Female workers in both the private and public sectors and female sole proprietors of businesses are entitled to 12 weeks of leave during pregnancy and after birth.<sup>41</sup> This is subsidized by the State in an amount equal to daily earnings on the job. This protection covers all female workers in the private sector, and even those whose labour relationship has been terminated or suspended for any reason, with the exception of those women who have left their job voluntarily during their pregnancy or postpartum leave. There is no minimum qualification time for the benefit. It also includes women covered by unemployment insurance, who can collect the benefit until their postpartum leave expires.

Beneficiaries also receive pregnancy, birth and postnatal assistance.

Law 17,292 establishes leave of six weeks for workers in both government and the private sector who adopt children. This provision recognizes the right of the adoptive parents and the adopted children to a period of time in which to establish a mutual bond, equivalent to the postnatal leave time allowed a biological mother. This paid leave lasts for six consecutive weeks. Either partner in the marriage can make use of the special leave.

Law 17,827, regulating leave for members of the Legislature, included maternity and paternity as grounds for parliamentary leave, for the first time in our legislation.

Law 17,930 extends the 10-day paternity leave to public employees.

According to Márquez (2005),<sup>42</sup> in terms of rules for protecting maternity and paternity there are several legal shortcomings (lack of rules), including:

- the lack of rules governing sickness leave for dependent children or juveniles;
- lack of any express prohibition on pregnancy tests (although this may be included in the generic prohibition on discrimination in access to employment);
- lack of legal provisions on paternity leave (the only legal provision is for public servants) and on parental leave.

### **Breast-feeding rights**

Although there is legislation allowing the mother to interrupt her work with time out for breast-feeding, Márquez describes the difficulties in giving effect to this right. In the first place, the existing legislation is frequently flouted: when they come back to the job, female workers in many sectors have to put in a full day. There are some collective agreements (in the private financial sector, health, etc.) that provide for a reduction in the workday while the mother is breast-feeding.

<sup>41</sup> In special cases this may be extended for as long as six months.

<sup>42</sup> Márquez, M (2005). *Informe sobre normas discriminatorias de la mujer*. Requested by Senator Mónica Xavier, and commissioned by the Consejo de la Facultad al Grupo Derecho y Género (with representatives of various Institutes). Montevideo, 2002.

The two half-hour pauses are commonly combined, cutting the working day at the beginning or the end, but this measure has been found inadequate for the objective of promoting breast-feeding. (Draft Bill 457/85 of the House of Representatives calls for reducing the working day to no more than four hours, with medical certification, for a period of not less than 90 days).

Moreover, there is no legal provision for facilities that would allow a working woman to extract breast milk and conserve it for feeding her children. Nursing rooms are almost nonexistent, and there is no law requiring them. Consequently, the conditions for working women to make use of this right do not exist.

### **Job retention**

There is no rule in Uruguayan legislation establishing a term of working stability for women after they come back from pregnancy/childbirth.

Law 16,045 considers dismissal or suspension on grounds of pregnancy, change of civil status or lactation to be discriminatory. It empowers the competent judge to order measures to end such discrimination. There is no legal provision for reinstatement (Márquez 2002).

### **Nurseries and day care centres**

The new rule requiring school attendance as of the age of four years is a significant step forward, but Uruguay has no legislation to compel the establishment of day care centres or nurseries in the workplace, public or private. International Labour Convention 156 and Recommendation 165 both recommend that governments adopt such measures in order to help reconcile family and working responsibilities.

### **(ix) Sources of information and preparation of national statistics**

The National Statistics Institute produces various documents relating to gender issues, and has provided the information necessary for preparing other studies. Among the publications of the INE we may mention: *Mujeres uruguayas en cifras. Un aporte para la Conferencia Mundial de la Mujer en Beijing, 1995* ("Uruguayan Women in Figures. A Contribution for the World Conference on Women in Beijing, 1995"), INE, UNICEF; *Estadísticas de Género 2001*. ("Gender Statistics 2001") INE; *Estadísticas de Género 2002*. INE; *Uruguay: indicadores de género 2001-2004*. ("Uruguay: Gender Indicators 2001-2004") INE, INAMU, United Nations.

The Continuous Household Survey provides the bulk of the country's gender data, and all variables surveyed can be cross-referenced by sex.

Despite the documents prepared and the continuously updated information, the INE currently has no unit or specific area responsible for monitoring gender issues, although individual employees have conducted ad hoc studies over the years.

In 2006, the extension of the Continuous Household Survey to the entire national territory, including rural areas, increased the sample while expanding the subject matter. In turn, the Household Expenditure and Income Survey will make it possible to calculate new poverty lines and update gender-related data.

The data collected provide gender-disaggregated data on such matters as level of education, healthcare, work, pay, and coverage of social policies.

The INE and the National Women's Institute are currently working on a joint project to provide training in gender issues and to produce gender indicators.<sup>43</sup> A joint plan is also underway with the Social Sciences Faculty of the University of the Republic to incorporate questions on time use into the Continuous Household Survey. This will produce indicators of the overall workload by sex, the gender division of labour, and the double working day, among other aspects, which will be useful for monitoring gender equity in the country and will facilitate comparison with other countries.

At the same time, the INE is promoting cooperation with the National Women's Institute to monitor and disseminate the existing indicators and to prepare new gender indicators as inputs for policies to eliminate all forms of discrimination against women.

**(x) The situation in the MERCOSUR region**

The 15th Specialized Meeting of MERCOSUR Women (REM 2006), in which Uruguay participated through the National Women's Institute, confirmed the recommendation from the 14th REM on ratification of ILO Convention 156, which recognizes that attention to family responsibilities is particularly important for affirming the rights of working men and women, and constitutes an essential contribution to affirming the gender perspective in MERCOSUR for countries that have not yet done so (Chile has already done so). At Uruguay's request, it was agreed that the agenda of the next REM should include a topic on active employment policies targeted at women. That meeting was held in Rio de Janeiro, and this was indeed one of the issues discussed.

The Ministry of Livestock, Agriculture and Fisheries (MGAP) is the national organization that represents the country in the REAF (the Specialized Meeting on Family Farming). Under the presidency pro tem of Uruguay, the fourth REAF meeting was held in Montevideo on four and 5 November 2005. It adopted a recommendation for the Common Market Group on "bases for a gender policy in family farming", which poses the need for states parties to adopt specific policies that will discriminate in favour of rural women. It also proposed that the issue of gender equity should remain on the REAF agenda, and that the 2006 Work Plan should include specific activities to this end.

The MGAP, the PUR ("Rural Uruguay Project") and organizations of small farmers and rural workers have all participated actively in the REAF gender issues group, in the preparatory meetings of the fourth, fifth and sixth REAF, and in the MERCOSUR seminar on the gender focus in family farming.

In the context of the REAF, the MGAP has for the first time prepared a document on the situation of rural women and public policies in Uruguay.

**Article 12**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

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<sup>43</sup> This project is supported by UNIFEM and the Agència Catalana de Cooperació al Desenvolupament – Generalitat de Catalunya.

2. Notwithstanding the provisions of paragraph I of this Article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

**(i) Coverage of health services**

With respect to health coverage, the available data relate to the year 2004 and indicate that 38.9% of the female population receives public health services (representing 54% of all persons assisted by the services); there are considerable variations in this percentage between Montevideo and the interior of the country. In the capital, 26.6% of women use public health services, while in the rest of the country this figure rises to 52.1%.

As to the private sector, 24.9% of the country's female population is covered by collective medical assistance institutions (IAMC, private sector) as well as emergency mobile medical services (partial coverage by private sector). Again there are important differences between Montevideo and the interior. In Montevideo, 40.5% of women have both coverages, while in the interior this dual coverage declines to 8.4% (although 23.3% of women are covered by IAMC).

**National health programmes**

The National Programme on Gender and Women's Health<sup>44</sup> was created in 2005 within the MSP, in order to strengthen policies and the technical and operational framework for health services targeted at women.

The objective is to reduce gender inequity in health and thereby to promote the full exercise of civil rights. To this end, it promotes a policy framework of national scope that will govern the programmes and projects of public and private institutions alike.

The programme includes actions in six areas: sexual and reproductive health; gender violence, female cancers; women, mental health and gender; the status of males; advisory services in ongoing research and management.

Special actions are included for specified population groups that have historically been excluded:

- Rural women, internal migrants and seasonal harvest workers.
- Female workers in general, and females engaged in an informal work in particular.
- Women who suffer discrimination for historical and cultural reasons: women of African descent, lesbians, sex workers, disabled women, prison inmates, and women who suffer discrimination for their religious beliefs.

**Health programmes at the departmental level**

The Comprehensive Women's Care Programme (PAIM) of the government of Montevideo was launched in 1996 and currently runs 18 municipal clinics, through three subprograms: Informed and Voluntary Maternity; Supervised Pregnancy and Childbirth; and Early Detection of Breast and Genital Cancer. The PAIM has its own

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<sup>44</sup> Work plan of the *Programa Salud de las Mujeres y Género*. MSP, 2005.



budget, and is part of the social policies of the Municipal Government of Montevideo.

It incorporates the conventional services of supervised pregnancy and childbirth, early detection of genital and breast cancer, and contraceptive services through oral and injected hormone treatments, IUDs, condoms and emergency contraception. Contraceptive methods are offered at cost and are administered by neighbourhood committees sponsored by the PAIM.

**(ii) Family planning services**

There is no up-to-date information disaggregated by sex on the current coverage of family planning services for the country as a whole. The Ministry of Public Health has been providing these services since 1997. The Municipal Government of Montevideo has also been providing family planning services through its local units since 1996. The latest available information on family planning services dates from 2001. Since 2004 there has been a substantial increase in such services throughout the country, but there is no information available. According to the MSP, it currently has 163 units offering contraception services throughout the country.

The following public health programmes offer contraception advice and services:

The Comprehensive Women's Health Programme (SIM) of the MSP, operating through the primary health care centres. Created in 2001, this programme offers MSP users in Montevideo free and ongoing access to a wide range of reversible contraception methods (hormonal contraceptives, injections, IUDs, condoms, emergency contraception). For users of other health services, these methods are offered at cost, varying between US\$1.50 (for oral contraceptives) to US\$5 in the case of IUDs.

The Comprehensive Women's Care Programme (PAIM), operated by the IMM, provides contraception advice through its 20 municipal clinics. The basket of methods available is the same as that offered by the MSP units.

The Priority Programme for STI/AIDS of the MSP facilitates access to condoms throughout the country.

As to the availability of clinical protocols and manuals to guide intervention by the health teams in providing family planning services, "contraception manuals" were prepared in 2004 by the MSP's National Advisory Commission on Sexual and Reproductive Health. These were published in November 2005 by the National Programme on Gender and Women's Health. The manuals reflect in their conceptual framework the recommendations in the platforms of action from the international conferences on population and development (ICPD 1994) and on women (WCW Beijing 1995), and the Key Actions for the Further Implementation of the ICPD Programme of Action (ICPD+5, 1999).

The manuals take a comprehensive view of health that incorporates a multidimensional perspective and the historical context. They promote consideration and respect of a civil, pluralistic, independent, rational and responsible ethic and they stress the importance of health education and the right of users to relevant and updated information. They are not restricted to providing information based on scientific evidence about the various contraceptive methods and their advantages and disadvantages; they also provide guidance on the essential features of interventions in sexual and reproductive health, methodological criteria for

addressing consultation, equipment and infrastructure of health centres, and the establishment of technical teams, among other aspects.

There has been progress in shifting the paradigm from a maternal-child care model to a comprehensive model of sexual and reproductive health care. The current government's reform of the health sector provides an important opportunity for change in that its Integral Priority Services for both the private and the public subsectors include family planning services within the comprehensive approach to sexual and reproductive health for women and men.

### **(iii) Use of contraceptive methods**

The available information comes from a study on "Biological and Social Reproduction of the Uruguayan Population. Gender and Generations Project", coordinated by MSP, IMM, INE, UDELAR, MYSU and UNFPA. The quantitative phase was developed in 2004 and 2005, with a national survey of 6,500 households covering towns of up to 5,000 people throughout the country. The survey was addressed to individuals between 15 and 79 years of age, using two questionnaire forms (15 to 59 years and 60 to 79 years). The results from the first of these questionnaires (15 to 59 years) revealed the following:<sup>45</sup>

- Contraceptive methods were used in recent sexual relations by 65% of men and 62% of women. These results are consistent with the country's long tradition of contraceptive use, as measured on various occasions since the 1960s: Uruguayan Association for Family Planning and Research in Human Reproduction (1967-1993), followed by the Uruguayan Family Planning Association (since 1993); the Elective Maternity and Paternity Programme of the MSP (1997-2000); the Comprehensive Care Programme for Women (PAIM) of the Municipal Government of Montevideo (since 1997); and the Comprehensive Mother-Child Health Programme in of the MSP in the interior of the country (2000-2004).<sup>46</sup>

It may be said that Uruguayans have constructed a cultural context in which contraception is gradually becoming a normal habit. Since the 1994 ICPD event in Cairo, an awareness that people are free to choose the number and spacing of their children has permeated the family and social fabric.

The survey found that 99% of men and 95% of women know about male condoms as a contraceptive method, exceeding the 85% recorded in the 1986 study. More than 90% of respondents of both sexes said they knew where to obtain condoms, compared to the 81% of women who gave this response in 1986. Past condom use was reported by 86% of men and 68% of women, double the levels of the 1980s (34%).

When it comes to contraceptive pills, the study showed that 96% are currently aware of this method, and 92% say they know where to get them, while 75% have already used them. While the populations studied are not strictly comparable, we may conclude that oral contraceptives were better known and more widely used in the 1980s, and that people's preferences have changed because of concern over

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<sup>45</sup> Benia, W., Nierdworok, N., Macadar, D. *Informe nacional preliminar (versión xerox). Proyecto Género y Generaciones*. MSP, INE, IMM, Udelar, MYSU, UNFPA. Montevideo, 2005.

<sup>46</sup> Abracinskas L; López A. *Mortalidad materna, aborto y salud en Uruguay*. DAWN. MYSU, Montevideo 2004.

HIV/AIDS. We may ask, indeed, whether we are in the midst of the shift from the “age of the pill” to the “age of the condom”.

Knowledge of intrauterine devices (IUDs) has increased since 1986 to 77% among women. Awareness of where to get them has not changed (72%), but their use has increased: one in every five women (21%) now has one.

Women know more about emergency contraception (72%) than do men (67%), although its use is slightly higher among men (16%). Among adolescents of both sexes, knowledge of this contraception method is greater than in the general population (females 81%), but only 10% use it.

The most widely used methods among couples today are condoms (40.6%), contraceptive pills (30.5%) and IUDs (16.5%). Tube tying was mentioned as the method used by 7.1% of those surveyed.

These results show similarities and differences compared to those from previous studies. In a 2001 study involving 361 individuals, the Latin American Centre for Health and Women (CELSAM) found that contraceptive pills were the most widely used method (54%), followed by condoms (30%) and IUDs (16%). Another survey conducted in 2001-2002 by the MSP and the Chair in Reproductive Health, Sexuality and Gender of the UDELAR Faculty of Psychology<sup>47</sup> among users of the MSP’s primary health care services in Montevideo (683 respondents), found that 78% of women were using some form of contraception, with roughly similar preferences for condoms (35.8%), IUDs (32.8%) and oral contraceptives (30%).

People with partners reported that they were most likely to obtain contraceptive methods from pharmacies and shops, both in Montevideo (61.8%) and in the interior (60.3%). The public health services came next, and were slightly more important in Montevideo (17.4%). It is interesting to note that fewer than 8% turned to the health cooperatives, although IAMC coverage extends to nearly 50% of the population. This suggests the need to include contraceptive methods in the basket of services provided by these institutions, which claim to offer comprehensive coverage.

When questioned about where they got information on contraceptive methods, males mentioned the communications media (34%), friends (33%) and family members (33%) among their primary sources of information.

Among women, the preferred source of information was the health services (45%) and the family.

On this point it may be noted that, despite the restricted approach that has characterized the education system, about one in four persons of both sexes mentioned school as a source of useful information on contraceptive methods. (See tables in Annex III).

With respect to non-reversible contraceptive methods (tube tying and vasectomies), on 16 December 2006 the MSP sent out a circular to the medical corps of the health services, reminding medical personnel that Decree 258/992 remains in effect. That decree requires the physician to inform the user properly and to obtain his or her “free and informed consent” to any sterilization procedure (tubal ligation or

<sup>47</sup> López A; Benia W; Contera M; Güida C. *Del enfoque materno infantil al enfoque de la salud reproductiva. Tensiones, obstáculos y perspectivas*. Cátedra Libre en Salud Reproductiva, Sexualidad y Género, Facultad de Psicología. UDELAR. UNFPA Montevideo. 2003.

vasectomy). “Under existing provisions,” the circular advised, “there is no requirement to obtain the consent of any third person. The only requirement is that the person undergoing the procedure be legally capable and over the age of 21. For that reason, the intervention requires only the written request of the person in question. The required form is attached.”

The circular is very important, for it establishes clearly the criteria observed in the country to guarantee free and informed access to these procedures. It is serving to correct some irregularities detected in the public health services, where women were being asked to produce the signature of their spouse or were required to have had a certain number of children before their request would be accepted by medical staff. In this way medical staff were imposing their own criteria, ignoring the law and violating women’s rights.

#### **(iv) Gynaecological supervision**

According to the above-cited study on Biological and Social Reproduction of the Uruguayan Population, 24% of women surveyed had never had a gynaecological consultation unless it was related to pregnancy. Among women with less than 12 years of schooling, the figure was around 30%. It is only among women who have completed secondary school or who have gone on to postsecondary studies that the proportion of those who fail to seek consultations drops to 13%. It is a matter of concern that, even with 12 years of education, one woman in 10 is not looking after herself.

The proportion of women who had never undergone a Pap test, which is an effective means for preventing cervical cancer, stood at 29% among women aged 20 to 59 years.

Among poorer women, those in the lower socioeconomic strata, 40% had never had a Pap test. Benia and Tellechea<sup>48</sup> reported identical findings in 1997 among women in low-income communities on the outskirts of Montevideo; these findings are also consistent with those of López et al. (2001)<sup>49</sup> and their studies of MSP service users, which showed that 36.5% of women had never had a Pap test. Among women in the higher socioeconomic levels, only 28.6% had not had the test.

The behaviour of the education variable shows once again that it is only after completion of 12 years of schooling that the proportion of women not seeking a Pap test changes, dropping to 23% from levels higher than 30%.

Uruguayan women in the interior of the country seem to have more difficulty than those living in Montevideo in arranging for a Pap test: among the former group 34.5% had not done so, while in the capital the figure was 23%.

The fact that four out of every 10 poorer women and one out of every three women generally have never had a Pap test indicates barriers of various kinds that must be addressed: institutional barriers (supply, accessibility, quality of services), training of health professionals (failure to take a preventive perspective, dominance of a curative approach, inconsistencies in patient assessments, etc.) and barriers inherent

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<sup>48</sup> Benia, W.; Tellechea, G. *Estudio de los factores de riesgo para cáncer de mama y cuello uterino en mujeres usuarias de tres policlínicas barriales de Montevideo*. 1997. Revista Médica del Uruguay. Vol.16. N°2. Montevideo, 2000.

<sup>49</sup> López A; Benia W; Contera M; Güida C., *op. cit.*

in women themselves (fears, gender stereotypes, lack of inclination to self-help, etc.).

Breast cancer is the leading cause of cancer deaths among women in our country. Yet one in five women (18.2%) say they have never had a breast examination by a gynaecologist.

Among poorer women, 25.6% had never had a gynaecological breast examination, while the figure for the high socioeconomic group was 5.7%.

The fact that one out of every four women in Uruguay has never consulted a gynaecologist in the interest of self-care, the prevention of avoidable diseases, or for any reason not related to pregnancy, is evidence of a gender stereotype prevalent among Uruguayan women. This gender imperative, which determines a woman's self-understanding of her social role and reproductive function, strongly conditions women's relationship to the health services and the care of their own body, as other studies in our country have already demonstrated.

The differences between the various educational and socioeconomic levels highlight unacceptable inequalities among citizens with equal rights, and they reveal a "hard core" of women who, beyond socioeconomic aspects, are trapped in conduct inimical to self-care and prevention, through factors linked to the role and place of women, and differences between the poor and the well-off.

MSP Ministerial Order 402 of July 2006 makes Pap tests and mammograms available free of charge to users of the private health system, thereby eliminating the out-of-pocket cost.

Earlier, in 2000, Law 17,242 (adopted on 13/06/00) declared the prevention of genital and breast cancers to be in the public interest, and Article 2 gave women employed in the private and public sectors the right to one day of special leave with pay for purposes of undergoing a Pap test and/or breast x-ray, for which they must provide substantiating evidence.

#### (v) HIV/AIDS

The report of the MSP's Priority STI/AIDS Programme (2006) provides the following information on the HIV/AIDS pandemic:<sup>50</sup>

- The prevalence of HIV/AIDS is rising, from 0.23% in 2000 to 0.45% in 2004.
- The epidemic peaks among the youthful population, and is spreading steadily among women.
- Women and adolescents are in a situation of vulnerability, as are drug users, males who have sexual relations with males, and prison inmates: among these groups the prevalence is greater than 5%.

To address this problem, the Ministry of Public Health has created a programme to define and oversee policies and measures to be taken in this area.

<sup>50</sup> Source: MSP web page, available at:  
<http://www.ine.gub.uy/biblioteca/Variables%20siglo%20xx/Salud.PDF>.

**(vi) Maternal health**

Uruguay was one of the first countries in the hemisphere to develop policies and programmes for pregnancy monitoring and institutional childbirth. These so-called maternal-infant programmes introduced in the 1950s have made an important contribution to reducing maternal and neonatal mortality.

Nevertheless, this maternal-infant model has been frustrated to some extent by delays in comprehensive attention to other components of women's reproductive health. The paradigm underlying the maternal-infant model was centred on the concept of the woman as mother and on attention to the mother-child pair (López Gómez, A. *et al.* 2003).<sup>51</sup>

In Uruguay, the coverage of institutional childbirth is 99%. Pregnant women undergo an average of four prenatal checkups. These indicators reveal variations depending on the subsector of care, the age of the mother, and the region of the country. It is the younger women who turn to the public services. Those living in the north of the country wait longer (until the fourth month of pregnancy or later) for their first prenatal check-up and they have fewer checkups (fewer than the five recommended by PAHO).

With specific relation to women's rights at childbirth, an important step was taken with the approval of Law 17, 386, the "Assisted Childbirth Act" of August 2001, which gives women the right to be assisted during labour and childbirth by a trusted acquaintance or a person of her choice, especially trained to give emotional support.

**(vii) Unsafe abortions**

Maternal mortality in the country is relatively low, at 2.4 per 10,000 live births over the period 1990-2002. During that same time the maternal death rate from abortion was 27%, making it the leading cause of maternal mortality.

The increase in unsafe abortions since 2001 has raised the number of maternal deaths from this cause. At the Pereira Rossell Hospital Centre (CHPR), the country's main maternity hospital, abortion has become the leading cause of death among pregnant women, reaching 49% in 2001. This increase coincided with a deepening of the economic and social crisis that the country experienced in those years. For 2005, according to MSP figures, there were a total of 11 maternal deaths, four of which resulted from abortion (32%).

The increase in the indicators of maternal morbidity and mortality and the of unsafe abortions as the leading independent cause reveals the health dimension of the problem (Briozzo 2003).<sup>52</sup>

In August 2004 the MSP approved health measures to reduce the incidence of unsafe abortion. Ministerial Order 369 and its protocols and clinical guidelines (measures for maternal protection against abortion under conditions of risk, sponsored by the Health Initiatives Group), include guidance for women in a situation of unplanned pregnancy to help them take the decision (pre-abortion care) and comprehensive post-abortion care.

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<sup>51</sup> Source: MSP web page, available at:

<http://www.ine.gub.uy/biblioteca/Variables%20siglo%20xx/Salud.PDF>.

<sup>52</sup> Abracinskas L; López A. *Mortalidad materna, aborto y salud en Uruguay*. DAWN. MYSU. Montevideo. 2004.

This provision applies to the entire health system, public and private. However, it has been implemented to date only in the CHPR and in some of the primary care centres in Montevideo.

**(viii) The adolescent population**

The fertility rate in Uruguay is relatively low by international comparison (IDB/ECLAC/DELADE 1996, Varela 2004).

The total fertility rate<sup>53</sup> in 2004 was 2.1 children per woman (INE 2006). It should be noted that this figure is at the lower limit of the rate necessary for generational replacement. (See Annexes III).

This decline in total fertility stands in contrast to the emergence during the same period of phenomena within certain age groups that reveal changes in women's reproductive behaviour. Age-specific fertility rates<sup>54</sup> show variations.

These variations can be summarized in two broad trends:

- Increasing fertility among adolescent girls (15 to 19 years).
- Sharply declining fertility at the peak childbearing ages (between 20 and 29 years).

Teenage fertility is the demographic phenomenon that evokes the greatest concern both in government and in society. In some cases, it is seen as a "threat" from the social viewpoint, for it finds its most common expression amongst the most disadvantaged sectors of the population, and thus tends to reproduce poverty.

Between 1963 and 2002 the fertility rate rose by 149% (see Annexes III).

The reproductive behaviour of teenagers thus tends to blur the distinction between Uruguay and most of the countries of Latin America, and the teenage fertility rate, at 80 per thousand, is indeed close to the average rate for those countries.

The second feature to note is the sustained decline in reproduction among women at the peak childbearing age (20 to 29 years), i.e. the time when most women have their children.

The data show changes in women's reproductive behaviour. These changes are particularly evident among teenagers and young women: they do not affect the total average of children born, but they reveal modifications in the stages of the life cycle in which Uruguayan women have their children. On the other hand, it is teenage reproduction that is preventing a greater decline in the total fertility rate, thereby compromising even further the replacement of generations (Amorín, Carril, Varela, 2006).<sup>55</sup>

<sup>53</sup> The Total Fertility Rate is the average number of children born to each of a hypothetical cohort of women who meet the following conditions: a) during their childbearing years they experience the age-specific birth rates of the study group, and b) they do not die before or during their childbearing years.

<sup>54</sup> The age-specific fertility rate is the proportion of women giving birth during a specific period of reference.

<sup>55</sup> Amorín, Carril, Varela (2006) *Maternidad y paternidad en adolescentes de sectores bajo y medio de Montevideo*. In López Gómez A. (coord.) Reproducción biológica y social de la población uruguaya. Proyecto Género y Generaciones. Tomo 1. Estudios Cualitativos. UdelaR, MSP, INE, IMM, MYSU, UNFPA. Montevideo.

When it comes to measures to prevent teenage pregnancies, we may note the introduction as of 2004 of subcomponent 1.4 (“Comprehensive Model for the Prevention of Teenage Pregnancy”) of the Childhood and Family Programme (since 2005 this has been placed within MIDES), with external financing from the Inter-American Development Bank. This subcomponent includes the following lines of action:

- Programme of information, education and communication on sexual and reproductive health.
- Training for youth promoters in teenage pregnancy prevention and reproductive health. A series of workshops and exchange activities. Teenage promoters.
- Strengthening of specialized and differentiated care for work with adolescents, raising awareness and defining action strategies with public institutions.
- Training for MSP staff in sexual and reproductive health and improving mechanisms for providing differentiated care for adolescents in the public health services.
- Support and monitoring for teenage parents in situations of social vulnerability.

During 2005 and 2006, through its Adolescence Programme, as part of the “*Programa Infamilia*”, the MSP (the co-executing agency for this subcomponent) has instituted special teenage health facilities in several departments of the country, to provide comprehensive and differentiated care for juveniles between 10 and 19 years of age.

Between 2004 and 2006, technical training was provided for MSP personnel in sexual and reproductive health, with special emphasis on preventing teenage pregnancy. The courses were given to 250 non-medical health professionals (psychologists, nurses, midwives, social workers) and 250 physicians (gynaecologists, family doctors, paediatricians, and general physicians). Each course lasted 42 hours.<sup>56</sup>

During the same period, training was provided for 250 young men and women as youth promoters of sexual and reproductive health.<sup>57</sup>

Since 2004, under the Programa Infamilia, the MSP has been pursuing a line of action for support and monitoring of teenage parents with the following objectives: to postpone the second pregnancy, to encourage exclusive breast-feeding for six months, to control puerperal health, to support health checkups for the baby, and to help teenage parents construct a “life plan” and encourage them to pursue educational, social and occupational endeavours.

For this line of action there are 50 socio-educational agents who conduct their monitoring work in visits to homes or in other community forums outside the health centre. Teenage mothers are contacted after giving birth in public maternity wards

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<sup>56</sup> The training institution selected for these courses, through competitive bidding, was the one proposed by the consortium formed by the University of the Republic and MYSU (*Mujer y Salud en Uruguay*).

<sup>57</sup> The training institution selected to give these courses was the NGO “Iniciativa Latinoamérica”, which was selected through a process of competitive bidding.



throughout the country, and are invited to participate in the programme. The idea is to provide monitoring throughout the first year of the baby's life. At the present time there are 37 professionals (midwives, social workers, nurses, psychologists) employed by the MSP, and 15 financed by the Programa Infamilia. Between October 2004 and December 2005 the programme worked with 2,500 teenagers.<sup>58</sup>

During 2005 and 2006, eleven adolescent health centres were inaugurated in the departments of Montevideo (5), Canelones (2), Artigas (1), Rivera (1), Salto (1) and Durazno (1).

These new centres are in addition to the existing adolescent care clinics in Montevideo (4 of them run by the MSP, 5 by the IMM, and 2 by the University of the Republic). In those centres teenagers have access to contraceptive methods, as part of the gynaecological and obstetrical care service.

### **National programmes and inter-institutional mechanisms relating to sexual and reproductive health<sup>59</sup>**

#### **Programmes**

This section examines existing programmes in sexual and reproductive health sponsored by the MSP. They are:

#### **1. Programa Nacional de Salud de la Mujer y Género (MSP – DIGESA)**

The “National Programme on Gender and Women's Health” is part of a series of priority programmes of the MSP under DIGESA, and was created by the current administration in 2005.

The programme is the result of growing institutional recognition of the need to approach women's health with a focus on gender and rights. This process took root in the MSP under the influence of the International Conference on Population and Development (ICPD 1994) and the sustained impact of women's organizations that were demanding inclusion of this agenda in public health policies.

The conceptual framework of the previous programmes oscillated swung “combating extreme poverty” and “defending sexual and reproductive health”, revealing “paradigmatic and conceptual tensions”.<sup>60</sup> In 2000 the MSP halted these programmes and introduced a new line of work through the State Health Services Administration (ASSE-SSAE).

This new line of work resulted in 2001 in the formulation and execution of the Comprehensive Women's Health Programme (SIM),<sup>61</sup> which emerged as a result of “a decentralizing process based on transferring to the front lines the planning and implementation of promotion and prevention efforts.”<sup>62</sup>

The programme has been implemented in 10 primary care health centres of the MSP in Montevideo, and “sought to amend the conventional mother-child approach

<sup>58</sup> Source; *Informe Nacional: Pacto de derechos económicos, sociales y culturales. La salud en Uruguay*. Montevideo 2006.

<sup>59</sup> The information on programmes and mechanisms was obtained from CNS Mujeres. López Gómez, A., Abracinkas, L, Quesada, S, Arrambide (2006). *Uruguay y las políticas en salud sexual y reproductiva. A un año de gobierno progresista*. Montevideo.

<sup>60</sup> Idem.

<sup>61</sup> 2001-2005.

<sup>62</sup> Idem.

focused on the woman-mother equation in order to develop a comprehensive perspective that would redefine the place of the mother-user as the subject of rights and an active participant in looking after her own health.”<sup>63</sup>

The conceptual framework for these activities was based on the gender focus and the promotion of sexual and reproductive rights. It was the first programme to guarantee MSP users (at least in Montevideo) free and permanent access to a broad basket of reversible contraceptive methods.

The SIM programme included contraception, early detection and monitoring of pregnancy, prevention of cervical and breast cancer, prevention and treatment of sexually transmitted infections, awareness and training for professionals in dealing with women’s health from a gender perspective, and training for women’s groups.

Creation of the SIM represented a step toward strengthening the first level of care, and took account of a potential linkage between the reproductive health agenda (based on a rights perspective) and the reform of the health system (based on a decentralized care model and the transfer of promotion and prevention responsibilities to agents at the first level of care).<sup>64</sup>

The National Programme on Gender and Women’s Health, as noted earlier, was launched by the current administration, and its institutional antecedents are those summarized above, which are an indispensable starting point for its development. The programme has six components: sexual and reproductive health, mental health, gender violence, the status of men, female cancer, advisory services in research and continuous management. The programme’s conceptual framework embraces the platforms from the Cairo and Beijing conferences (ICPD 1994 and WCW 1995). It bases its actions on gender equity and the rights perspective. It highlights the importance of citizen participation and decentralization of activities.

The sexual and reproductive health area addresses the following principle objectives:

“To create conditions conducive to health and to sexual and reproductive rights, to affirm them and guarantee universal access to sexual and reproductive health care and to sexual education. In this way we shall move closer to giving effect to the right to a full, decent, healthy and responsible sex life. This includes the promotion of equality of rights between men and women, the promotion of health and well-being for adolescents and for citizens in all stages and circumstances of life.”<sup>65</sup>

The Sexual and Reproductive Health Area includes the following programmes and actions:

Contraception programme. Principal actions: “standardization of assistance with contraception and infertility; public campaigns on sexual health, family planning, responsible maternity and paternity and the right to choose with respect to reproduction; improvement and maintenance of access to a broad basket of safe and effective contraceptive methods; universal access to assisted fertilization programmes, increased participation by men in family planning; closer participation by civil society organizations to help supervise compliance with the objectives set.”

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<sup>63</sup> Idem.

<sup>64</sup> Idem, Introduction.

<sup>65</sup> Document on the National Programme on Gender and Women’s Health, MSP, May 2005.

Safe motherhood programme. Principal actions: “updating of standards for assistance in low-risk pregnancy, childbirth and postpartum; creation of standards for care in high-risk pregnancy, childbirth and postpartum; constituting Maternal Mortality Committees nationwide; encouraging early and adequate monitoring of pregnant women and stimulating their support networks; assisting women experiencing their first menstrual period or in menopause through campaigns and protocols; promoting all aspects of humanized childbirth care; training and upgrading of technical personnel in aspects relating to sexuality, pregnancy, childbirth, postpartum and abortion” (among others).<sup>66</sup>

One of the mandates given the Programme by the health authorities is to mainstream gender considerations in all MSP programmes.

During the first year of the programme (2005) the following activities were conducted, among others:<sup>67</sup>

- Public launch and presentation of the National Programme on Gender and Women’s Health in May 2005.
- Public presentation of the Contraception Standards (reversible methods).
- Secretarial services to the National Advisory Commission on Sexual and Reproductive Health.
- Transfer to ASSE of administration and distribution of contraceptive methods for all MSP units.
- A study on barriers to implementing the Assisted Childbirth Act in the health services.
- Launch of the process to redraft standards of care for pregnancy, childbirth and postpartum, through a meeting of experts in various health disciplines.
- Definition of guidelines for dealing with domestic and sexual violence in the health services.

Consistent with the programme’s concern over difficulties and resistance encountered in implementing the Assisted Childbirth Act, in March 2006 the MSP and the President of the Republic decreed implementation of the Act to be mandatory in all public and private health services (Decree 47/2006 of 6/3/06). Pursuant to that decree, the Programme on Gender and Women’s Health is the agency responsible for receiving complaints under the Act. That Programme and the National Women’s Institute launched a campaign to promote sexual and reproductive health, with a view to publicizing the regulations and the new right enshrined by the Act through posters and brochures distributed nationwide.

However, the MSP and the Office of the President of the Republic have also defined other measures that involve aspects of sexual and reproductive health, independent of the programme’s management. Thus, Decree 271/2005 (Official Gazette 562/005 of 26/12/05) exempts all pregnant women from the user fee payable for paraclinical examinations recommended in the protocol for proper monitoring of low-risk pregnancies. The decree makes the following examinations free of charge: full

<sup>66</sup> Idem.

<sup>67</sup> Report prepared by the Director of the Programme Panel on Sexual and Reproductive Rights as part of Human Rights Week, sponsored by the United Nations (13/12/05).

haemogram following the initial and third-trimester check-up, full urine test, glycaemia test at first check-up, VDRL testing at the first and third-trimester checkups, blood group and Rh, serology for toxoplasmosis, antigens for hepatitis B, serology for Chagas disease, HIV serology, three obstetrical echograms (one per trimester), detection of gestational diabetes mellitus, urine culture in the second and third trimesters.<sup>68</sup>

The decree came into force in February 2006 and applies to all public and private health services in the country.

## 2. The National STI/AIDS Programme (MSP-DIGESA)<sup>69</sup>

The National STI/AIDS Programme is one of the 14 priority programmes of the MSP that are run by DIGESA. The following paragraphs describe the contents of the programme since the change of authorities produced under this administration.

The conceptual framework of the programme emphasizes a policy of promoting health and preventing STI/AIDS. Its guidelines are: to implement a government policy for comprehensive treatment of HIV and other STIs; to guarantee comprehensive health care for persons living with HIV/AIDS; and to develop standards and interventions from a gender, ethnic, age and sexual diversity perspective, and in full observance of human rights.<sup>70</sup>

The intent is to promote active participation by networks, NGOs and groups of people living with HIV/AIDS in the design and execution of activities, and also to decentralize the programme to the interior of the country.<sup>71</sup>

The targets set for the programme are quantifiable, although no time limits are set for reaching them. Those targets are:

1. To ensure that 100% of pregnant women undergo effective checkups and have access to ART and STI therapy in case of need.
2. To eliminate congenital syphilis (below 0.5%) and reduce the incidence of vertical HIV transmission to less than 3%.
3. To achieve a plateau in the incidence of HIV.

In pursuit of these objectives and targets, the programme will develop a strategy to promote access to information, education and health promotion and STI/AIDS prevention; facilitate access to condoms; promote non-discriminatory health care for persons with HIV; facilitate universal access to HIV diagnosis for anyone who so requires; develop a strategy to reduce risks and injury among drug users who cannot or will not give up their habit; and to standardize and monitor the diagnosis and treatment of STI/AIDS and their prevention.

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<sup>68</sup> Decreto N° 271/2005 (MSP) – Decreto Diario Oficial N° 562/2005. 26 December 2005.

<sup>69</sup> The analysis of this programme is based on information provided by its director (PowerPoint presentation on the programme) and information available at the MSP website.

<sup>70</sup> [www.msp.gub.uy](http://www.msp.gub.uy).

<sup>71</sup> Idem.

The specific objectives proposed are:

- To prevent transmission from mother to child.
- To promote nationwide implementation and monitoring of mandatory reporting of congenital syphilis, HIV, and hepatitis B and C.
- To promote rationalization of treatment; preparation of a national protocol.
- To promote the expansion and deepening of systematic efforts at HIV/AIDS prevention with a focus on gender, ethnic origin, human rights and respect for sexual diversity.
- To ensure HIV/AIDS prevention, care and treatment in prisons.
- To promote and develop research on high-risk behaviour among vulnerable population groups so as to design targeted intervention strategies.
- To promote a study of the condoms market: sales, distribution, use, obstacles and unmet demand.
- To strengthen NGOs and groups of persons living with HIV, and establish national and departmental networks.
- To help promote the programme of sex education in the formal education system.
- To promote efforts at AIDS prevention in the workplace.
- Events commemorating World AIDS Day at the national level.
- To contribute to public awareness and participate actively in the various districts by decentralizing departmental governments to the community level.

As well, the programme director since November 2005 has been the MSP's delegate to the Committee on Commercial and Non-commercial Sexual Exploitation of Children and Adolescents, chaired by the INAU and comprising the ministries of the interior, tourism and sports, and education and culture, ANEP, CODICEN, OPP, NGOs and international agencies.

Working groups are being created to address specific issues: AIDS and the Workplace (comprising MTSS, the Chamber of Industry, the Chamber of Commerce, the University of the Republic, BPS, PIT-CNT, and MSP), and the Group on the Health Emergency in the Prisons (comprising the Ministry of the Interior, MSP and the Forensic Institute).

Finally, the programme includes a Country Coordination Mechanism (CCM) which will be examined in detail in another section of this chapter.

The proposed goals, objectives and activities are at different stages of development and definition with respect to expected outcomes, and they are not always interrelated: this could pose difficulties when it comes time to evaluate their impacts. The strategic plan for the programme calls for evaluation indicators. Since these had not been completed at the time of the interview, we do not know what the indicators will be.

There is recognition that the target population must be involved in formulating, developing and evaluating these activities. This point was also stressed during the interview with the Programme Director, who highlighted the development of

monthly coordination forums with the four existing networks, which consist of organizations working with people living with HIV/AIDS. This is in fact the only programme among those analyzed that has specific forums for participation, consultation and coordination with persons living with HIV and the social organizations caring for their needs.

The scope of the programme is national and its guidelines spell out the need to decentralize its activities to the interior of the country.

### **Sexual and reproductive health mechanisms**

Following is a description of the existing mechanisms in the country relating to sexual and reproductive health. These mechanisms are based in the Ministry of Public Health:

1. National Advisory Commission on Sexual and Reproductive Health.
2. Country Coordination Mechanism (CCM) of the Project for the United Nations Global Fund to Fight AIDS, Malaria and Tuberculosis.

#### **1. National Advisory Commission on Sexual and Reproductive Health**

In December 2003 a meeting of health ministers of MERCOSUR and Chile was held at Punta del Este, Uruguay, at which it was agreed to create an Intergovernmental Commission to promote an integrated policy on sexual and reproductive health in the MERCOSUR region and associated States.<sup>72</sup>

The agreement cited as a point of reference the contents of the Convention on the Rights of the Child (1990), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) and the Programme of Action from the Third International Conference on Population and Development (Cairo 1994).

The Intergovernmental Commission was given the following tasks:

- (a) To promote a comprehensive policy of sexual and reproductive health for MERCOSUR, and to lay a proposal before the Meeting of Health Ministers for its consideration and approval.
- (b) To optimize efforts to develop coordinated action among national government agencies, nongovernmental organizations and international agencies.
- (c) To promote and establish strategies for exchanging experience, information and technology.
- (d) To promote the development of common instruments for managing and strengthening national programmes.
- (e) To promote education and information activities targeted at the general public and to strengthen or introduce health committees in border areas.
- (f) To assess the possibility of implementing concrete measures of technical cooperation with international agencies involved in the issue.<sup>73</sup>

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<sup>72</sup> MERCOSUR/XV RMSMBCH/ACUERDO N° 13/03.

<sup>73</sup> Idem.

This Intergovernmental Commission is emerging in a regional context of debate over progress and the challenges facing countries ten years after the International Conference on Population and Development. The ICPD called for a paradigm shift by placing sexual and reproductive health at the centre of population policies, through a gender- and rights-based approach, in an instrument supported by international consensus.

From March to June 2004, countries of the region conducted a debate on giving effect to, and dealing with the challenges posed by, the ICPD.<sup>74</sup>

In this context, creation of the Intergovernmental Commission within MERCOSUR represented a very important tool for ratifying the validity of the ICPD in the regional process.

At the national level, in order to fulfill the duties of that commission, the National Advisory Commission on Sexual and Reproductive Health<sup>75</sup> was created, with the following objectives:

- (a) To analyze the tasks of the Intergovernmental Commission.
- (b) To establish the lines of action necessary to carry out the tasks of the Intergovernmental Commission.
- (c) To establish definitions relating to sexual and reproductive health policies that the Uruguayan government will have to promote in the various national, regional and international forums and summits.

The ministerial ordinance defining the institutions that comprise the commission was partially amended in 2005 by Ordinances 495 and 565. (See Annexes III).

Pursuant to those new ordinances, the Commission now comprises representatives of the General Directorate of Health and Administration of Government Health Services (MSP), the National Women's Institute, the National Congress of Mayors, the Women's Secretariat and Health Division (IMM), Women and Health in Uruguay (MYSU), the National Monitoring Commission, Women for Democracy, Equity and Citizenship, the Uruguayan Medical Association, the Uruguayan Gynaecological Society, the Uruguayan Obstetrics Society, the UDELAR Faculty of Medicine, the UDELAR Faculty of Psychology, the Parliamentary Committee on Gender Equity, the Bicameral Women's Caucus, and the Senate Committee on Population, Development and Inclusion.

The ordinance also calls for United Nations agencies to participate in the meetings of the Commission. The UNFPA and PAHO are now participating as observers.

Ordinance 495 makes the National Programme on Gender and Women's Health (DIGESA-MSP) responsible for coordination and secretarial services for the Commission.

The membership of the Commission reflects a broad profile of governmental and nongovernmental players with key roles in the country's sexual and reproductive health agenda. This diversity is an important factor for reaching agreements and consensus as needed to fulfill its role of advising the health authorities.

<sup>74</sup> ECLAC held special sessions for dealing with this agenda, in Santiago, Chile, in March 2004, and in San Juan, Puerto Rico in June 2004.

<sup>75</sup> MSP Ordinance 147 of 24 March 2004.

The National Advisory Commission on Sexual and Reproductive Health has taken the lead among MERCOSUR countries in bringing civil society organizations into its membership.<sup>76</sup>

The originating ordinance does not spell out the conceptual framework for the Commission's activity. Bearing in mind that the National Advisory Commission was created at the behest of the Intergovernmental Commission and in order to fulfill its tasks, the frame of reference set for the Intergovernmental Commission is assumed to apply as well to the National Advisory Commission.

The recommendations from the update report for April-December 2004 from the National Advisory Commission on Sexual and Reproductive Health call for:

- Preparation of a National Plan for Sexual and Reproductive Health that will ensure full incorporation of comprehensive services into the health system.
- Consolidating sexual and reproductive health policies in the public subsector and extending them to the private subsector.

The report concludes that the National Advisory Commission is “the only inter-institutional mechanism for cooperation and joint work among governmental agencies, academics and civil society in the field of sexual and reproductive health policies, from a comprehensive perspective, and is a forum for articulation and definition of joint measures for progress in sexual and reproductive health and rights in Uruguay, and in the MERCOSUR region.”

Between December 2004 and July 2005 the Commission ceased to function. This impasse coincided with the change of administration, and several steps had to be taken by civil society organizations before the new government reactivated the mechanism. As a result of this effort the Commission took up its work again in July 2005, and has been holding fortnightly meetings ever since.<sup>77</sup>

After the Commission was ratified<sup>78</sup> by the current health authorities, it held its first session on 11 July 2005<sup>79</sup> in the presence of the Minister of Public Health, the Undersecretary and the Director of the General Directorate of Health.

The Commission has assigned some of its members to prepare ad hoc reports. In other cases, it has received delegations or other ministerial committees addressing specific aspects of sexual and reproductive health, either at its own request or that of the other party.

The Commission appeared before the Minister of Public Health in October 2005, at which time it put forward three priority issues: concern over the situation with unsafe abortions; dissemination of Ordinance 369 creating the rules governing measures to protect women from high-risk abortion, and existence of the Criminal

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<sup>76</sup> Report – Comisión Nacional Asesora en Salud Sexual y Reproductiva (update April –December 2004).

<sup>77</sup> In addition to its regular sessions, the Commission has held some special meetings to deal with specific matters.

<sup>78</sup> Ordinances 495 and 565 of June 2005, MSP

<sup>79</sup> World Population Day (United Nations).



Abortion Squad, its mission and scope.<sup>80,81</sup> The Commission held a meeting with members of that Squad before it met with the Minister.

The document prepared by one working group of the National Advisory Commission declares “that it could not obtain information on cases dealt with by the Criminal Abortion Squad, nor could it obtain the criteria used to recommend the interruption of pregnancy.”<sup>82</sup>

In October, by ministerial resolution (Ordinance 890, 17 October 2005), the Advisory Commission on Interruption of Pregnancy was created, and the Criminal Abortion Squad was disbanded. This Commission includes two members of the former Squad,<sup>83</sup> in addition to three new members.<sup>84</sup> The ordinance is confined to disbanding the former Squad and establishing the new Commission, without defining its tasks, scope and frame of intervention.

The National Advisory Commission on Sexual and Reproductive Health scheduled a special session in November 2005 to define its basic operating needs (in particular the drafting and approval of its bylaws), to clarify its tasks, and to establish priorities for the year 2006. The Commission prepared, debated and approved its bylaws between November 2005 and March 2006.

The Commission agreed on the importance of publicizing the Contraception Chapter of the Standards for Sexual and Reproductive Health and wrote to the Minister of Health recommending a public launch. That event took place in November. It was agreed that the MSP should develop a broad strategy for publicizing these rules, as well as all those relating to aspects of sexual and reproductive health, to ensure that they are effectively implemented throughout the health system.

## **2. Country Coordination Mechanism for the United Nations Global Fund to Fight AIDS, Malaria and Tuberculosis (CCM)**

In March and April 2005, the National STI/AIDS Programme and the Planning and Budget Office of the President of the Republic convened government agencies, NGOs, academics and religious organizations to create a discussion forum for the country project on AIDS, to be submitted for financing to the Global Fund to Fight AIDS, Malaria and Tuberculosis. The meetings benefited from wide participation from various instances of government, social organizations and the academic world. Working groups were established to discuss specific aspects of the project and to make recommendations. This short and intense process produced the Project known as “*Proyecto SIDA ¿oportunidad o exclusión?*” (“AIDS Project: Opportunity or Exclusion?”), which Uruguay presented to the Global Fund in June 2005.

The Global Fund requires, as a condition of eligibility for projects, that there be a Country Coordination Mechanism (CCM); this was formally created in Uruguay on

<sup>80</sup> The Criminal Abortion Squad was created by ministerial resolution of 14 October 1991.

<sup>81</sup> Comisión Nacional Asesora en Salud Sexual y Reproductiva. Informe Grupo de Trabajo sobre Mortalidad Materna. September 2005 “*The MSP files contain no record of its creation. The only record we could obtain was from a DIGESA minute of 1991 and from the regulations issued on 25 January 1991 (Ordenanza 5/91) during the ministry of Dr. Lasalvia, specifying procedures for dealing with therapeutic abortions.*”

<sup>82</sup> Idem.

<sup>83</sup> Dr. Alejandro Bozzolo and Dr. Enrique Arezzo.

<sup>84</sup> The decree names the following new members: Dr. Bremen de Mucio, Lic. Inés Bausero, Dr. Gerardo Giambruno.

31 May. According to the country project prepared by Uruguay, the CCM “is the agency proposing the Uruguay Project 2005-2010 to the Fifth Round of the Global Fund to Fight AIDS, Tuberculosis and Malaria. It is consequently the counterpart agency of the Global Fund in formulating, following, monitoring, and evaluating execution of the project should it be approved by the fund. But it goes beyond this initiative by sharing responsibility with the governmental and private initiatives for preventing AIDS. Uruguay’s Country Coordination Mechanism comprises high-level representatives of government and of organizations involved in combating AIDS, and they are committed to coordinated and joint efforts in prevention and in dealing with situations related to this epidemic threat.”<sup>85</sup>

According to the order creating it,<sup>86</sup> the Executive Committee of the CCM will consist of one full member and an alternate from each agency, and it will be chaired by the Undersecretary of Public Health and President of the National Resources Fund. Member organizations are at the Office of Planning and Budget, Ministry of the Interior, Ministry of Public Health, Ministry of Social Development, Ministry of Foreign Relations, the Health Committees of Parliament, the National Public Education Administration, the network of AIDS NGOs, persons living with AIDS, churches, United Nations agencies (UNICEF and UNDP), the University of the Republic, the private business sector, and the PIT/CNT. The list of organizations and institutions involved demonstrates the diversity of its makeup, in which two of the three branches of government (executive and legislative) are represented as well as the municipal governments, the decentralized education agency, the University of the Republic, and civil society, through various players: organizations working on AIDS issues, groups of persons living with HIV/AIDS, women’s organizations, labour unions, churches and the private sector, in addition to international agencies (UNFPA, UNDP and PAHO).

The project prepared by Uruguay was in the end not considered by the Global Fund, in spite of senior ministerial interventions. Uruguay is not one of the countries eligible for the Global Fund, and this initial obstacle could not be overcome at that time. In any case, negotiations are underway to have Uruguay’s project considered at the next funding round.

Despite this, and although the CCM was created for the purpose of presenting the project, that body continues to function, with full participation by its members.

The fact that this coordination forum (the CCM) exists and is in operation is a tremendous step forward for the country, for it allows interventions in this area by the National STI/AIDS Programme of the MSP to be coordinated with those of other sectors and ministries, with the private sector, and with the labour unions, as well as with civil society organizations and groups working on the AIDS agenda.

### **Article 13**

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

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<sup>85</sup> www.presidencia.gub.uy. Proyecto SIDA ¿oportunidad o expansión? Propuesta de Uruguay ante la quinta ronda del Fondo Global de Lucha contra el SIDA, la Tuberculosis y la Malaria.

<sup>86</sup> www.presidencia.gub.uy.

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;
- (c) The right to participate in recreational activities, sports and all aspects of cultural life.

While legislation in these fields does not discriminate against women, practices and customs may give rise to such discrimination. There are however no records kept that would reveal problems in this respect.

#### **The right to participate in recreational and sporting activities**

In 2005 the National Juvenile Soccer Organization (ONFI), which operates under the Ministry of Tourism and Sports as the governing body for juvenile soccer, created a girls' department with the establishment of girls' soccer leagues. Until that time, girls were only able to participate by joining boys' teams.

The National Sports Directorate of the Ministry of Tourism and Sports, which has more than 100 community sporting centres under its jurisdiction throughout the country, has no specific programmes for the promotion or practice of physical education, sports or recreation for women.

#### **Article 14**

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

- (a) To participate in the elaboration and implementation of development planning at all levels;
- (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
- (c) To benefit directly from social security programmes;
- (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
- (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
- (f) To participate in all community activities;
- (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

According to data from the INE's 2004 Census, Phase 1, while women account for 52.4% of the urban population, they represent only 43.6% of people living in rural areas. Thus, in 2004 there were 77 women for every 100 men in rural areas. There were no differences in this respect from previous censuses, indicating the historical dominance of men in rural areas. There is broad agreement that the situation reflects the predominant economic activity in the countryside, which tends to drive out female labour.

In any case, despite the paucity of information, we may conclude that the situation of rural women is not the same throughout the country. There are significant differences between geographic areas, and between more densely settled areas and those where the population is scattered.

According to the 2000 survey by the Office of Agricultural Planning and Budget, household poverty (in income terms) is less of a problem in rural settlements than it is in areas where the population is scattered. According to Vitelli (2004), in villages and towns of up to 2,000 inhabitants the average income of households headed by females is 75% of the average income of households headed by males, while in the more sparsely populated areas this figure is only 67%. The average income of women is 64% of the average income of men in small towns, while in sparsely populated rural areas women achieve only 47% of male incomes.

Women account for 34.1% of the economically active rural population, demonstrating that the workforce is predominantly masculine. Among women who declared themselves inactive, 55.2% said they perform domestic chores, a category that subsumes many productive activities that are not recognized as such (Vitelli 2004). Women account for 32.1% of the employed population, revealing a ratio of one woman for every two men employed.

According to data from the Ministry of Livestock, Agriculture and Fisheries, the breakdown of occupation by category shows a high percentage of unpaid female workers compared to unpaid male workers: 37.1% and 7.5% respectively. Public and private wage-paid employment engages 47.2% of women and 51.4% of men. The biggest differences are found among the self-employed (13.2% of women and 31.9% of men) and in the employer category (2.1% of women and 9.1% of men) (Ion 2006).

A breakdown by sex and category of the population employed in farming establishments of more than 1 ha, according to the 2000 Agricultural Census, reveals that most wage earners work as labourers. This category accounts for 92.3% of women and 66.9% of men. The proportion of technical and professional personnel is similar (4.3% of women and 5.8% of men). The greatest difference is found in specialized occupations such as foremen, administrators and machinery operators (3.4% for women and 27.4% for men) (Ion 2006).

Within the national public sector there is no agency with a specific mandate relating to rural women. However, the National Women's Institute has had a pilot programme running since 2005 for "Promotion of Gender Policies in the

Metropolitan Area”, with the intent of preparing measures to foster traditional food production in the Metropolitan Region.<sup>87</sup>

In a study on the situation of rural women and public policies in Uruguay, the sociologist Lilian Ion<sup>88</sup> maintains that there is currently no systematic compilation in Uruguay of rural policies targeted specifically at rural women.

According to Vitelli<sup>89</sup> (2004), “Uruguay has no national policies for rural women. In the last two decades there has been some progress in favour of women in the legislature and in the practices of some government institutions, but they have no reference to the situation of rural women”. The author finds that one of the principal causes for this situation is the limited information available on the situation of women in the countryside; in effect, the lack of data and the dispersed and heterogeneous nature of the sources make the problem of rural women invisible and prevent the development of solutions.

The Ministry of Livestock, Agriculture and Fisheries, through the Rural Uruguay Project (PUR), is working to reduce rural poverty, but its target population is the rural family, with no explicit mention of the situation of women in particular.

One of the key objectives of the PUR is to work with and for poor rural women and to encourage small-scale female producers and wage earners to organize themselves, express their needs, and participate in both public and private life.

#### **PUR programme beneficiaries, by sex, January-June 2006**

<i>Instrument</i>	<i>Beneficiaries</i>		<i>Total</i>
	<i>Men</i>	<i>Women</i>	
Technical assistance	1 487	736	2 223
Training	30	27	57
Microcapitalization	150	144	294
Institutional strengthening	435	205	640
Microcredit	301	318	619
Revolving fund	303	54	357
Total	2 706	1 484	4 190
Percentage	64.5	35.5	100

*Source:* PUR-Ministerio de Ganadería Agricultura y Pesca

The Occupational Training Programme for Rural Workers, offered through the MEVIR-DINAE contract for the entire national territory, is designed to promote employment by training human resources in the rural sector. The 2003-2004 annual report reveals the male-dominated socio-demographic profile of the target population: 7 of every 10 participants are men. The gender gap is even greater for participants between 14 and 19 years, where there is only one female for every 4.3

<sup>87</sup> For further information see the 2005 Management Report from INAMU.

<sup>88</sup> Ion, Lilián. *Pesquisa sobre a situação das mulheres rurais e as políticas públicas em Uruguai*. In: *Gênero, Agricultura e Reforma Agrária no MERCOSUR*. Reunión Especializada de Agricultura Familiar. 2006.

<sup>89</sup> Vitelli, R. 2004. *La situación de las mujeres rurales en Uruguay*. FAO.

males. None of the other data on participants, including those relating to occupational status, are broken down by sex.

The National Colonization Institute, founded in 1948 for the purpose of redistributing land and improving settlers' access to it, has established explicit differences between men and women, although without any explicit objectives.

The PRODENOR project for "Social Development in the Poorest Zones of Northern Uruguay" is a joint undertaking of the Ministry of Housing, Territorial Development and Environment and the European Union. It is being executed by MEVIR in the largely rural, eastern portions of the departments of Salto and Artigas, in the vicinity of the City of Artigas, and in the entire department of Cerro Largo. Its objectives are:

- General: "to alleviate the grave social problems of Uruguay linked to the great economic crisis in which it is submerged".
- Specific: "to reduce unemployment especially among youth and women, by integrating them into the labour market".

The target population is an estimated 12,700 persons, of whom 5,000 are women. That population includes 2,600 families, (a third of which are single-parent families headed by women) and 3,000 young people between the ages of 15 and 29 years.

The programme calls for positive discrimination in favour of disadvantaged groups:

- Women (with the goal of reducing unemployment among women).
- Positive discrimination in favour of young people (to achieve more employment for young people and reduce emigration).
- Positive discrimination in territorial terms (the project is located in the poorest areas that are most remote from decision-making centres).

The project is not based on any diagnosis of the gender situation, and so no specific goals have been set with respect to gender discrimination: women are simply identified as one disadvantaged population group. International technical assistance is now being provided to incorporate the gender focus as the programme gets underway.

### **Rural Social Security contributions**

The contribution of rural enterprises to Social Security is calculated on the quantity of hectares farmed, and when there is a co-working spouse this contribution is increased by 10%, and both spouses acquire retirement pension rights. Cohabitation arrangements are not recognized and in these cases the retirement pension rights accrue to the owner of the business, who is rarely a woman.

Rural women have developed occupational activities in traditional or handicraft food production, but this activity is difficult to handle within the Social Security system because it is seasonal and profits are low, which makes it hard to afford the contributions required. The proposed tax reform includes a chapter on unified contributions that seeks to resolve the situation by means of a small, single contribution that would take the place of Social Security and income tax assessments and would be compatible with the rural activity pursued in the establishments. While this form of contribution is not directed exclusively at activities pursued by women, there are many women who will benefit from it.

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## **Part IV**

### **Article 15**

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

### **Article 16**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
  - (a) The same right to enter into marriage;
  - (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
  - (c) The same rights and responsibilities during marriage and at its dissolution;
  - (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
  - (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
  - (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
  - (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
  - (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

**(i) Rights pertaining to couples**

Our civil legislation regulates the rights of family members, taking marriage as the central consideration. Free unions have been assimilated to marriage as a way of overcoming certain forms of discrimination, without any specific regulation.

The Senate has already approved a bill on cohabitation arrangements which seeks to guarantee basic rights to stable couples who have not contracted marriage, regardless whether they are persons of the opposite or the same sex.

With specific reference to the minimum age for contracting marriage, this continues to be set at 12 years for females and 14 years for males. This extremely low age is particularly discriminatory vis-à-vis women, especially when it is recalled that the Juvenile Code sets 13 years as the age at which a person is considered to be an adolescent.

**(ii) Rights and responsibilities with respect to children**

Legislation does not discriminate between males and females in terms of rights and responsibilities with respect to children, although in practice it may be said that patriarchal attitudes still prevail, leaving to the woman full responsibility for the children.

In September 2004 Uruguay adopted a new Juvenile Code to bring its legislation into line with the Convention on the Rights of the Child.

The new code represents significant progress on several fronts, including:

- The possibility of women and men to recognize their children, regardless of age or civil status. Until approval of the new code, married persons could not recognize children born outside the marriage. Moreover, no maternity investigation could be undertaken with respect to a married woman, although a paternity investigation could be undertaken with respect to a married man, a provision that was highly discriminatory against women (Article 28 and 30 of the code).
- The right of children to be heard by the court in all cases, with specific procedures for protecting their rights (Article 8 of the code).

Certain discriminatory measures relating to the civil status of the parents are retained:

(a) In relation to children, they are classified as “born in wedlock” or “born out of wedlock” for purposes of registering their birth, and there are various ways of selecting the surname depending on whether or not the father recognizes the child (Articles 27 and 28, final paragraph)

(b) Males and females below the ages of 12 years and 14 years respectively require judicial authorization to recognize their children. The age differentiation by sex repeats the discrimination indicated above with respect to marriageable age.

(c) All obstacles to a child’s knowledge of its true identity have been lifted, but there are time limits for initiating filiation action that would challenge the legitimate filiation of the interested party, thus introducing pejorative considerations with respect to persons born out of wedlock (Article 29).



With respect to adolescent fathers and mothers, rights and responsibilities regarding their children are different, depending on their civil status. If the parents are married, they may exercise full parenting rights over their children. If they are not married, guardianship is conferred upon a third person, preferably a grandparent who lives with the mother of the child, with the proviso that the parents must be heard in all decisions affecting the child.

With respect to child maintenance, the rules of the Juvenile Code relating to maintenance payments were supplemented by Law 17,957 of March 2006, creating the Registry of Maintenance Debtors, which makes it more difficult for men who deliberately shirk their maintenance obligations to conduct certain civil formalities and to obtain loans.

#### **The situation of minority women**

For decades there was virtually no information on minority groups in Uruguayan society. As of 2006 the National Women's Institute and the National Statistics Institute have been conducting a qualitative study of recent data from the 2006 Expanded Household Survey. For this purpose it grouped all persons claiming African descent within the "Afro" category, regardless of whether they also had forebears of another race. As well, within the "indigenous" category are persons who consider themselves to be of exclusively indigenous descent as well as those of mixed indigenous and other (non-African) descent, while it places in the "white" category those persons whose forebears are exclusively white. The results are the following: the population is 9% Afro, 87.02% white, 3.07% indigenous, and 0.92% other.

Of the female population of African descent (8.62% of the total Uruguayan female population), 3.4% work in managerial positions, 9.3% are professionals and technicians, 9.6% are office employees, and 77.77% are vendors and manual workers (in services and the armed forces). These are the most recent data available at this time.

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