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Summary record of the 3022nd meeting

Held at the Palais Wilson, Geneva, on Wednesday, 23 October 2013, at 3 p.m.

Chairperson: Mr. Ben Achour

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The meeting was called to order at 3.05 p.m.

Submission of reports by States parties under article 40 of the Covenant *(continued)*

Fifth periodic report of Uruguay (CCPR/C/URY/5; CCPR/C/URY/Q/5 and HRI/CORE/1/Add.9/Rev.1)

1. *At the invitation of the Chairperson, the delegation of Uruguay took places at the Committee table.*
2. **Mr. Arenas** (Uruguay) said that, since the submission of the previous periodic report, Uruguay had undergone profound changes in a number of areas, including human rights. The intervening 15 years had seen significant legislative and institutional progress, and civil and political rights had been expanded. New laws had been adopted to protect rural and domestic workers, guarantee equality between men and women, prevent domestic violence and combat racism and discrimination. Affirmative action had been taken for persons of African descent, the identity of descendants of indigenous peoples had been recognized and specific provisions had been adopted to protect the rights of members of sexual minorities. Laws on equality within marriage and on sexual and reproductive health also demonstrated that Uruguay was among the most advanced countries in terms of recognizing and protecting fundamental rights. The corrections system reform and the drastic reduction of prison overcrowding were significant steps forward in the prevention of torture and ill-treatment. The progress had been made possible by the establishment of new institutions, such as the Ministry of Social Development, the Human Rights Department at the Ministry of Education and Culture, the Parliamentary Commissioner for the Prison System and the National Human Rights Institution and Ombudsman's Office. Uruguay had ratified all the core human rights instruments and their optional protocols and cooperated with all the bodies of the international human rights system. It had issued a standing invitation to all the rapporteurs and special procedures mandate holders, leading to a number of visits over the previous two years.
3. Extremely serious offences — forced disappearance and torture — had been committed during the civilian and military dictatorships, most of them yet to be investigated or tried. With the restoration of democracy, a number of complaints had been filed, but the efforts of the justice system had been stymied by the entry into force of Act No. 15848. Not until 2005 had new complaints been excluded from the scope of the Act, which had eventually been rescinded in 2011 and replaced by Act No. 18831, reinstating public prosecution and suspending the statute of limitation applicable to offences committed prior to 1985. However, the Supreme Court had recently declared unconstitutional two articles of Act No. 18831 lifting the limitation imposed on acts committed during the military dictatorship by virtue of their status as crimes against humanity, thus ruling against the imprescriptibility of such violations.
4. **Mr. Perazza** (Uruguay), summarizing events since the submission of the report in December 2012, said that the Act on affirmative action for the Afro-descendant population as well as a law permitting same-sex marriage and raising the marriage age to 16 for both sexes had been adopted. A new complaint had been lodged by the Parliamentary Commissioner for the Prison System concerning 29 detainees said to have been ill-treated. Alternatives to detention, such as electronic bracelets, were being used to combat domestic violence. The corrections system and conditions of detention had undoubtedly seen the greatest progress: refurbishment and the opening of a number of units had relieved all overcrowding at COMCAR prison, the country's largest. Investigations had confirmed some 178 cases of forced disappearance, with 40 cases still pending. The mandate of the Peace Commission, namely to shed light on forced disappearances, political assassinations, and births in detention, had been transferred to the department of the Human Rights Secretariat in charge of recent history. Regarding child protection, significant amendments

to adoption provisions had been made in the Code on Children and Adolescents, and a number of projects had been rolled out for the benefit of street children.

5. **Mr. Iwasawa** thanked the State party for being the first to agree to submit its report following the new optional procedure, fostering more targeted exchanges between the Committee and the delegation.

6. **Mr. Salvioli**, having requested additional information about the enforcement of the Covenant by the courts and the measures taken to encourage individuals to invoke its provisions, asked whether the state of emergency regulations were in line with article 4 of the Covenant. The Committee had recommended the State party to speed up the proceedings in the Peirano case, but the trial was apparently still at the investigation stage. He invited the delegation to provide an update on that case and confirm whether there was a mechanism for follow-up to the Committee's recommendations.

7. **Mr. Rodríguez-Rescia**, asked whether in the light of civil society reports of excessive delays and officialdom, the remedy of *amparo* really fulfilled the conditions set out in article 2 of the Covenant, which provided that any person was entitled to an effective remedy. In its report to the Committee, the National Human Rights Institution and Ombudsman's Office mentioned the need to review its currently imprecise mandate. It also reported that its recruitment capacity was very limited because its budget and operations were managed by a special unit of the Legislative Assembly. Moreover, its staff consisted of a mere 10 civil servants seconded from other units, hence the concern that it had been chosen to act as the national torture prevention mechanism, lacking, as it apparently does, the capacity to fulfil that mandate.

8. **Ms. Waterval**, requesting information on follow-up to the recommendations of the National Coordinating Council for Public Policies on Gender Equality and to the findings of the study on the situation of women of African descent, asked about the status of the bill on affirmative action for persons of African descent. No matter the measures adopted to promote women's access to high-level positions, they remained underrepresented in the governing bodies of political parties, parliament, Government and high judicial office. They were also more affected by unemployment and earned less than men, especially in the private sector. It would be interesting to know how the State party intended to counteract those inequalities. According to Ministry of Public Health statistics, 1 in 4 women was a victim of sexual violence on an almost daily basis and 16 women had died as a result of domestic violence since the beginning of 2013. She would like to know what measures were being taken.

9. **Mr. Neuman** enquired about the delay in adopting the implementing regulations for the Act enforcing the Convention on the Rights of Persons with Disabilities. He wished to know whether the penalties set out in the Act had ever been imposed on employers found guilty of discriminating against persons with disabilities and, if so, whether the victims had been compensated. Legislation on sexual minority rights, notwithstanding some sources reported the persistence of discrimination and violence, against such minorities — especially transgendered persons — and condemned police preservation of the status quo. He invited the delegation to describe the measures for greater protection of that population group. He would also be interested to learn whether the draft national action plan on racism and discrimination included measures to eliminate discrimination on grounds of disability, sexual orientation and gender identity; whether there were data on the number of criminal prosecutions in cases of trafficking and the penalties imposed; whether trafficking offences were indeed often prosecuted on lesser charges; and whether foreign victims benefited from protective measures.

10. **Mr. Flinterman** asked whether inclusion of the definition and prohibition of torture in Act No. 18026 implied that the State party considered torture to be a crime against

humanity, and acts of torture to be therefore not subject to limitation. Had the Act been incorporated into the Criminal Code? If not, did the State party intend to include a definition of torture in the Code? He wished to know what exactly was meant by the principle of “command responsibility, which prevents ‘commission by omission’” mentioned in paragraph 147 of the report.

11. **Ms. Chanet** asked how the State party planned to implement the recent order of the Supreme Court prohibiting the reopening, under the category of crimes against humanity, of certain proceedings relating to violations committed during the dictatorship, it being clear that a number of cases had already been referred for judicial action since the adoption of the 2011 law removing the limitation. Did the reinstated limitation apply to civil as well as criminal suits?

12. **Mr. Bouzid**, referring to paragraph 150 of the report, asked about the outcome of the lawsuits brought by NGOs on behalf of former political prisoners tortured by law enforcement officers during the dictatorship.

The meeting was suspended at 4.30 p.m. and resumed at 4.55 p.m.

13. **Mr. Perazza** (Uruguay) acknowledged that the Government had not made sufficient progress on implementing the Committee’s recommendation to modify its criminal procedure. However, Parliament was considering plans to overhaul the current inquisitorial procedure and replace it with adversarial proceedings which, if adopted, would ensure victims’ representation. Uruguay had replied to all the Committee’s requests for information on the Peirano case, and all the necessary measures had been taken to ensure efficient conduct of the process, although it had not yet been concluded owing to defence requests relating to the submission of evidence. An interministerial commission had been set up to prepare treaty body reports and follow up on the ensuing recommendations. Since its establishment, its priority had been to eliminate the backlog of overdue reports, but it would tackle follow-up to concluding observations as soon as possible.

14. **Mr. Miranda** (Uruguay) said that the Constitution did not accord an explicit rank to international human rights instruments in the domestic legal hierarchy, but case law and doctrine founded on article 72 assigned them constitutional status. While the Covenant could be directly applied and invoked before the courts, it was nonetheless true that lawyers and judges did not refer to it as often one might wish. The remedy of *amparo* had long been part and parcel of Uruguayan judicial practice and was neither slow nor bureaucratic. Constitutional review in Uruguay was based on the American model, whereby the Supreme Court ruled only on the constitutionality of a law in connection with a specific case, and the law remained applicable.

15. Given that the National Human Rights Institution and Ombudsman’s Office had begun operating in 2012, it was too soon to assess results. Its operations and budget were managed by the legislature because the political conditions were not optimal for amending the Constitution and raising the Institution to the rank of a fully independent constitutional body. That compromise solution had been chosen to avoid further delaying the Institution’s creation. Its funding was an established component of the parliamentary budget, which was separate from the general State budget. The five-member Board of Directors could appoint thematic rapporteurs and set up working groups. The goal of the system was to avoid the proliferation of specialized agencies. Thus, the Board itself did not constitute the national torture prevention mechanism, that responsibility having been assigned to a working group. The Ministry of Foreign Affairs was in charge of liaising with the Committee against Torture and the Subcommittee on the Prevention of Torture and of coordinating international cooperation efforts and technical assistance, but did not directly take part in torture prevention activities.

16. **Mr. Perraza** (Uruguay) said that the National Council on Gender was composed of representatives of all the ministries, the legislature and the judiciary. It had initiated gender equality policies across Government bodies, on which it provided training, as well as action plans on trafficking in women, directed at consular units. Its annual report was made public. The implementation of recommendations made by international bodies such as the Committee on the Elimination of Discrimination against Women fell to the Inter-agency Commission on Gender Issues — made up of representatives of the Government and civil society and headed by the National Institute for Women — and the interministerial commission for the preparation of treaty body reports and follow-up to the ensuing recommendations. Act No. 19122 on persons of African descent had introduced significant new provisions. For the first time, the State recognized that that category of the population had been victims of perpetual discrimination. Among other measures, an 8 per cent quota had been instituted to promote their recruitment to administrative posts and their participation in vocational training. Pursuant to recommendations by the Committee on the Elimination of Racial Discrimination, the history and culture of Afro-descendant communities needed to be integrated in curricula and teacher training.

17. **Ms. Dupuy Lasserre** (Uruguay) recalled that there was a minimum one-third quota of women in elected office and that two of the main political parties were currently headed by women. In order to combat female unemployment, which was twice as high as men's, the Government was working on a national day-care system for children and dependent adults. A bill on maternity and paternity leave in the private sector was about to be adopted and would enable Uruguay to ratify International Labour Organization (ILO) Maternity Protection Convention, 2000 (No. 183). The Ministry of Labour had adopted a national plan on decent work. Act No. 18065 regulating domestic work, which had served as a basis for ILO Domestic Workers Convention, 2011 (No. 189), had led to the regularization of 65 per cent of jobs in that sector.

18. **Mr. Arenas** (Uruguay) said that the Government assigned priority to the issue of domestic violence, which had been punishable by the law since 1995. The adoption of Act No. 17514 of 2002 on domestic violence had made it possible to increase prevention and punishment, better allocate responsibility among Government bodies and train special police and judicial units. All the same, more efforts were still needed despite those achievements.

19. **Ms. Fulco** (Uruguay) said that there had been 23,800 complaints of domestic violence in 2012, more than 16,000 of them having resulted in prosecution. Some 60 perpetrators of violence were being monitored by electronic bracelet. The next five-year budget provided for the establishment of a national agency for combating domestic and sexual violence, which would be attached to the Ministry of the Interior and would have offices in all the country's departments. All of the measures were evaluated by the Ministry of the Interior in coordination with the National Institute for Women.

20. **Mr. Perraza** (Uruguay) acknowledged that, although the law provided for a 4 per cent quota of persons with disabilities in the civil service, it was not currently being met in all departments. The private sector was not subject to that law. There was therefore progress to be made despite significant legislative improvements. Regarding discrimination on grounds of sexual orientation, Uruguay had been a pioneer in recognizing the right of same-sex couples to marry and adopt. Moreover, the National Refugee Commission had recently recognized persecution based on sexual orientation as a ground for granting refugee status. The Government was nonetheless aware that it should increase its efforts to eliminate discrimination in society.

21. **Ms. Dupuy Lasserre** (Uruguay) said that trafficking in persons was punished under Act No. 18250 on immigration and fell under the jurisdiction of specialized courts on organized crime. Victims were usually women and girls who were sexually exploited, but

there were also cases of labour exploitation. In a case involving Bolivian domestic workers, a fine had been imposed on the employers but no criminal suit had been launched. A European company operating in Uruguay had also been fined for illegally employing Turkish nationals. Migrant workers who were victims of exploitation could apply for refugee status or, if they so chose, could return to their country of origin at the expense of the offending company. Uruguay was a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and observed the relevant international laws.

The meeting rose at 6.05 p.m.