



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination

**Reports submitted by States parties under article
9 of the Convention**

**Sixteenth to twentieth periodic reports of States parties due
in 2008**

Uruguay*

[7 January 2010]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Part I

General information

Regulatory and institutional framework

1. The present Constitution establishes a republican, democratic and semi-representative system. This entails the coexistence of representative institutions elected by popular vote with mechanisms of direct democracy: the constitutional plebiscite (ratifying reforms approved by Parliament or by popular initiative), the referendum for the partial or total repeal of laws, and the popular initiative for new legislation. In its statement of principles, the Constitution provides for the equality of all persons before the law, and expressly protects a broad range of rights, including the right to freedom of expression, the right to freedom of religious belief and teaching, the right to work and decent housing and the prohibition of the death penalty; under article 72 this enumeration is not exhaustive¹ and, under article 332, rights do not need to have been regulated.² Over the last four years, Parliament has approved 590 bills, 114 of which refer directly to human rights.

National human rights institutions

2. In March 2005, shortly before the new Government took office, a human rights unit was set up in the Ministry of Education and Culture. This new institution was formally elevated to the status of a directorate in January 2006,³ as the national authority on the subject. It is responsible for promoting the enjoyment and observance of human rights as a comprehensive and interdependent whole.

3. In order to introduce a rights-based approach in other public policies, new institutional entities were set up. The Advisory Service on Fundamental Rights was set up in the Ministry of Labour and Social Security to promote freedom of association, the elimination of all forms of forced labour, the abolition of child labour and campaigns against all forms of discrimination, and the Human Rights Directorate was set up in the National Public Education Administration, an independent authority responsible for primary and secondary education in the public sector. These entities are in addition to the Directorate of Human Rights and Humanitarian Law of the Ministry of Foreign Affairs, which is responsible for relations with international intergovernmental and non-governmental human rights organizations, following up on international negotiations in this area, submitting periodic reports and processing complaints to the inter-American and universal human rights systems.

Institutional mechanisms for the protection of fundamental rights

4. Act No. 17.684 of 29 August 1993 established the position of Parliamentary Commissioner, whose tasks include: advising lawmakers on monitoring compliance with domestic legislation and international conventions ratified by Uruguay concerning the situation of persons imprisoned by the courts, supervising the work of the bodies that run

¹ Article 72: "The list of rights, duties and guarantees set out in the Constitution does not exclude others that are inherent in the human person or that derive from the republican form of government."

² Article 332: "The provisions of the present Constitution that recognize rights to individuals, and those that assign powers to and impose duties on public authorities, shall not be deemed inapplicable for lack of the respective regulations, which shall rather be replaced by the principles of similar laws, general legal principles and widely accepted doctrine."

³ Act No. 17.930 of 19 December 2005 on the national budget, art. 229.

the prisons, and the social reintegration of prisoners and ex-prisoners. To enable the commissioner to do his job, he is authorized to request information, pay unannounced visits to places of detention, receive complaints from people deprived of their liberty and make recommendations to the prison authorities.

5. The Parliamentary Commissioner is appointed by the General Assembly, by a vote of three fifths of its members. He receives no orders or instructions from any authority, and performs his tasks completely independently, according to his own good judgement and under his own responsibility. Since the institution of Parliamentary Commissioner was introduced, the Ministry of the Interior has received more than 1,000 complaints.

National human rights institution

6. Act No. 18.446 of 24 December 2008 established the National Human Rights Institution, an independent body that operates as a collective ombudsman consisting of five members elected by the General Assembly. The elections will be held by the legislature that begins its term of office in 2010. This institution will be able to propose institutional mechanisms for processing complaints of human rights violations and to act on them. It will have wide-ranging powers to visit places of detention and act as the national preventive mechanism referred to in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Cooperation with international mechanisms

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

Political and demographic indicators

President: Dr. Tabaré Vázquez

Vice-President: Mr. Rodolfo Nin Novoa

Land area: 176,215 km²

Territorial waters: 137,567 km²

Total area: 313,782 km²

Population: 3,334,052 (2008)

Capital: Montevideo

Language: Spanish

Political regime: representative republican democracy

Gross domestic product (GDP): \$22,977 million (2007)

GDP per capita: \$6,910 (2007)

Currency: Uruguayan peso

Exchange method: sale and purchase

Visa: granted for 90 days

Migration requirements:

- (a) From neighbouring countries: identity document
- (b) From the rest of the world: passport

Population density: 17.8 inhabitants per km²

Cultural features: literacy rate, 96.2 per cent; number of pupils per teacher, 21

State education system: secular, free and compulsory

Religion: Catholics, 56.2 per cent; no religion, 38.3 per cent; Protestants, 2 per cent; Jews, 1.7 per cent

Racial origin: white, 96.9 per cent; African, 9.1 per cent; indigenous, 3.8 per cent

Part II

Introduction

8. Uruguay is committed to principled action against discrimination on grounds of race or ethnic origin and against any other form of intolerance. This is reflected in its ratification of anti-discrimination instruments, and its national democratic tradition of ratifying human rights treaties. Since the end of the dictatorship in 1985, Uruguay has ratified practically all the human rights instruments of the United Nations and the regional system for the protection of human rights.

9. Uruguay ratified the International Convention on the Elimination of All Forms of Racial Discrimination on 30 August 1968 (Act No. 13.670 of 1969). It has also ratified the International Convention against Apartheid in Sports (Act No. 15.892 of 1987), the Convention on the Protection and Promotion of the Diversity of Cultural Expressions and its annex (Act No. 18.068 of 2006), the UNESCO Convention against Discrimination in Education (Act No. 17.724 of 2003), the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (Act No. 16.036 of 1989) and the Agreement Establishing the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean (Act No. 17.019 of 1998). The International Convention on the Suppression and Punishment of the Crime of Apartheid, adopted by the General Assembly on 30 November 1973, in its resolution 3068 (XXVIII), is currently in the process of being ratified by the legislature.⁴ The ratification of the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), is pending.

10. Uruguay's current commitment to non-discrimination cannot hide the fact that, from its beginnings as an independent State until well into the twentieth century, discrimination against people of African descent and the descendants of native indigenous peoples was present but invisible. The nation's self-image as a white, integrated, homogeneous society hid great inequalities in opportunities for the effective realization of the rights of those communities. The historical and cultural legacy of people of African descent and indigenous people was considered of secondary importance.

11. This invisibility was reflected in the total absence, until very recently, of any official statistics with indicators of racial or ethnic descent. For a long time, the very existence of

⁴ Uruguay, which was under a military dictatorship at the time, did not sign or accede to the convention. Under democratic rule, a message was sent to Parliament on 10 November 1987 and again on 20 March 1990, but was not adopted.

the problem of racism, as reflected in unequal access to opportunities to exercise one's rights, was denied. This meant that the racial dimension was absent from data collection, analysis of the demographic, social and economic situation, and policymaking.

12. Discrimination still persists, as is reflected in this report. It can be seen in the obstacles to taking educational opportunities, the unequal distribution of employment opportunities, differences in salary and income, and inadequate recognition of the cultural contribution of these communities to building the nation of Uruguay. In short, from the very start, people of African descent in particular have faced great inequality of opportunity, which hampers their human development and their chances of achieving their goals for the future.

13. At the moment, Uruguay is making progress towards recognizing the diversity of the ethnic groups that make up the country, and can point to their social integration and their cultural and symbolic integration. This process includes government action against racial discrimination, the production of official statistics on minorities, the establishment of new institutions specifically to ensure equal opportunities for people of African descent, recognition of their historical and cultural contribution, and the trend to consider race as a cross-cutting issue in public policy.

14. Although significant progress has been made, the public policy implemented so far has not been enough to reverse the situation. There are, for example, problems surrounding the multiple discrimination to which some women are subjected because they belong to a particular racial or ethnic group. Although Uruguay has made great strides towards eliminating discrimination against women — plans, mechanisms and measures have been adopted under a comprehensive national policy to address the unequal relationship and eliminate inequalities between men and women — this problem is still rarely discussed and analysed.

15. To provide a comprehensive approach to this situation, the Human Rights Directorate of the Ministry of Education and Culture, the national authority in this area, is preparing a national plan against racism and discrimination, to which this report and the Committee's recommendations will be important inputs. In May 2009, in its national report under the universal periodic review process of the United Nations Human Rights Council, Uruguay volunteered to prepare a national plan against discrimination. The plan will be based on the principles set out in the Durban Declaration and Programme of Action and the Durban Review Conference, and will involve a year of regional and thematic consultations covering the different forms of racial discrimination and related intolerance, as well as other types of discrimination. With technical and financial support from the Office of the United Nations High Commissioner for Human Rights, the process is expected to take place in 2010 and 2011.

16. The Uruguayan Government and the institutions set up to address this issue regret the delay in submitting this report to the Committee. They will do their best to ensure that this does not happen again and that the Committee's recommendations are acted upon by public institutions, with the participation of civil society organizations.⁵

17. The preparation of the report was coordinated by the Human Rights Directorate of the Ministry of Education and Culture, the national authority in this area, together with the Directorate of Human Rights and Humanitarian Law of the Ministry of Foreign Affairs, on the basis of information provided by State institutions and the relevant stakeholders.

⁵ Civil society has been consulted on a proposal to establish a standing committee on the preparation of human rights reports, bringing together public institutions and civil society organizations.

18. The Department for Women of African Descent, of the National Institute for Women (Inmujeres), made a major contribution to the report with an analysis of ethnic origin and gender that addresses the Committee's concern about the situation of women of African descent.

19. The report provides information on the ethnic characteristics of the country and, in particular, the situation of women; on the general legal framework for the prohibition and elimination of racial discrimination; and on policies to eliminate all forms of racial discrimination. This information — a review of the progress made and problems encountered in policies to combat racial discrimination — was gathered from documents and from the bodies that discussed the content of the report.

20. A central concern of this document is the use of language that does not discriminate between men and women. Linguists do not agree on how this can best be achieved, and translation problems may arise. Accordingly, the masculine will generally be used, on the clear understanding that all such gender references invariably apply to both men and women.

Statistical information

21. There are few precedents for collecting information on sociodemographic characteristics that takes account of racial descent. They include the 1860 census and the race module included in the national household surveys in 1996 and 1997.

22. In 2006, the National Statistical Institute included the ethnicity/race item in the expanded national household survey, to fill the large gap in information on the socio-economic and demographic characteristics of people of African or indigenous descent. The main aim of the expanded survey was to estimate the size of the population according to racial origin and demographic, economic and social characteristics. According to the 2006 data, almost the whole population (96.9 per cent) is of white racial descent, about 1 person in 10 has black forebears (280,000 people, or 9.1 per cent), and 115,000 people (3.8 per cent) consider themselves of indigenous descent.

23. Comparing the figures for 1996 and 2006, the percentage of the population of African descent rose from 5.9 per cent in 1996 to 9.1 per cent in 2006, while the population identifying itself as indigenous rose from 0.4 per cent to 3.8 per cent. The differences in the figures can basically be explained by technical differences between the data compilation tools, although they may also have been affected by a reassessment of indigenous roots and the reaffirmation of ethnic and racial awareness promoted by civil society organizations.

24. The information collected reveals important differences in the residential patterns of groups of different origins. To the north of the Río Negro, which cuts the country in two, the proportion of the population of African or indigenous descent is significantly higher. In the departments of Artigas and Rivera, the population of African descent represents between 15 and 25 per cent of the population. In the north-eastern region and in the department of Tacuarembó, the population of indigenous descent represents 6 per cent of the population.

25. Looking at the geographical distribution within each ethnic or racial group, outside the capital some 51 per cent of people of African descent and 45 per cent of people of indigenous descent are concentrated in the north-eastern and coastal departments — including some along the border, such as Artigas, Rivera, Paysandú, Salto, Cerro Largo y Tacuarembó — while only 28.1 per cent of the white population living outside the capital lives in these departments.

26. In Montevideo, people of African descent — 3 per cent of the population of the department — are concentrated in the historical inner city and in the shanty towns on the

outskirts. The opposite is true of the white population, which is concentrated more along the coast and less in the outer districts. The indigenous population is so small that it is impossible to tell how it is distributed in the city districts. However, the statistical information confirms that there are no racial ghettos in Montevideo.⁶

27. The population of African descent is younger than the white and indigenous population, and its demographic profile is similar to that of the less well-off population. Women of African descent have a higher fertility rate than white women and have children at an earlier age.

28. People of African descent tend to marry early. There is also a higher proportion of unwed couples in this population group. The aforementioned study on the expanded national household survey (see footnote 6) shows that, while the majority of people of African or indigenous descent marry whites, there is some reluctance on the part of the white population to choose a partner of another origin.

29. In 2010, the ethnicity/race item will for the first time be included in a general population census, which will give more precise information on the situation of people of African or indigenous descent. The item was included after consultations with civil society and representative organizations. In July 2009, at the initiative of the Office for the Promotion and Coordination of Public Affirmative Action Policies for People of African Descent, a national workshop was organized jointly by the Human Rights Directorate of the Ministry of Education and Culture, the National Statistical Institute and the non-governmental organization (NGO) Mundo Afro, to discuss the importance of this variable and how to incorporate it in the national census.

30. Another very interesting survey tool is the national prison census, carried out in conjunction with the University of the Republic. This will include the race variable, based on how the population identifies itself, in order to determine and evaluate racial representation. The information from the census will be taken into account in the prison management system currently being developed.

31. Finally, the University of the Republic, the country's biggest university, decided on 7 September 2009 to include, as from 2010, the question on self-identification and racial descent in the register of individuals of the new education management system that will be operational in 2011. This real-time information system will make it possible to track a person's full educational career from undergraduate to postgraduate. The NGO Mundo Afro and the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination played a fundamental role in promoting this initiative.

Article 2

32. The Constitution of the Eastern Republic of Uruguay establishes the principle of equality between all persons (art. 8) but does not refer specifically to racial or gender-based discrimination. Nevertheless, international human rights conventions are applicable even where not expressly provided for, and the rights recognized therein have constitutional rank (arts. 72 and 332).

⁶ Marisa Bucheli and Wanda Cabella, "Perfil demográfico y socioeconómico de la población uruguaya según su ascendencia racial", *Informe Temático de la Encuesta Nacional de Hogares Ampliada 2006* (Montevideo, National Institute of Statistics, United Nations Development Programme (UNDP), United Nations Population Fund (UNFPA), 2007).

33. In order to combat discrimination and promote the full exercise of human rights by all, with no distinction of any kind, new institutions have been set up and some important laws passed.

34. In 2004, Act No. 17.817 declared that it was in the national interest to combat racism, xenophobia and all other forms of discrimination, including discrimination based on race, skin colour, religion, national or ethnic origin, disability, appearance, gender and sexual orientation and identity. The Act established the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination to propose national policies and practical measures aimed at preventing and combating racism, xenophobia and discrimination, and includes rules on positive discrimination. The Act is regulated by Decree No. 152/006.

35. The Commission, appointed by presidential decision of 5 January 2007, consists of representatives of the Ministry of Education and Culture (which chairs the meetings), the Ministry of the Interior, the Ministry of Foreign Affairs and the Central Governing Council of the National Public Education Administration, as well as three representatives, and alternates, nominated by NGOs with a track record of combating discrimination. Organizations devoted to people of African descent, sexual diversity, religious diversity, persons with disabilities and people of indigenous descent are among those represented.

36. After three years of work, the Commission proposed a partial reform of Act No. 17.817, to change its composition (number, status and nature of members, clear recognition of its technical independence, number and method of appointment of members and alternates, quorum for decision-making, replacement of the chair in case of absence, etc.) and to provide an adequate infrastructure (appropriate premises, specialized library and a well-equipped, dedicated secretariat).

37. In addition, various State mechanisms were established to promote racial equity (see annexed table for summary of the main features of these mechanisms). These are, in order of establishment:

(a) Montevideo city council's Municipal Unit on the Rights of People of African Descent (2004);

(b) Secretariat for Women of African Descent, in the National Institute for Women, Ministry of Social Development (2005);

(c) Advisory Service on Racial Equity, in the Office of the President (2006);

(d) Office for the Promotion and Coordination of Affirmative Action Policies for People of African Descent, in the Human Rights Directorate of the Ministry of Education and Culture (2006, by ministerial decision);

(e) Advisory Service for Young People of African Descent, in the Institute for Youth, Ministry of Social Development (2006);

(f) Afro-ethnic Section of the National HIV/AIDS Programme of the Ministry of Health (2006);

(g) Advisory Service for Afro-Uruguayan Affairs, in the National Directorate of Housing, Ministry of Housing, Land Management and the Environment (2008);

(h) Anti-discrimination office of the Rivera city council (2009).

38. These mechanisms have strengths and weaknesses. One of the weaknesses is that their political, administrative and financial impact is limited by the internal rules of the institution to which they belong. Generally speaking, they receive no funding from the national budget, with the exception of the Department for Women of African Descent at the National Institute for Women (which is funded by international aid agencies). There is also

a need for greater coordination between the mechanisms, which need to be incorporated into the organizational structure of their institution so as to expand their scope and impact.

39. Uruguay has been improving its legislation on gender-based discrimination, which compounds and aggravates racial discrimination, demonstrating a new approach to legislation on women's rights. Although inequality persists and much remains to be done to meet international standards, a number of important steps have been taken in both the public and private sector. Some regulations are now in force, while others are under discussion in Parliament. However, Uruguay recognizes that it has produced very little analysis or legislation on discrimination against women based on their ethnic or racial origin.

40. The first step was the adoption of Act No. 17.817 of 14 September 2004, as has already been mentioned. In 2005, Act No. 17.930 of 13 December 2005 established the National Institute for Women, the lead agency for gender policy. Currently, the main legislative framework for national gender policy is Act No. 18.104 of 15 March 2007, on equal opportunities for men and women, which requires the State to take all necessary measures to ensure that a gender perspective is incorporated in the design, drafting, implementation and monitoring of public policies. The National Institute for Women was entrusted with drawing up the National Plan for Opportunities and Rights to give effect to the commitments undertaken by Uruguay in the international instruments it has ratified in relation to combating gender-based discrimination.

41. While the Act on Equal Opportunities for Men and Women makes no specific reference to women's ethnic or racial origin, the following actions are set out under equality strategy No. 5 of the Equal Opportunities Plan for 2007–2011 (adopted by Executive Decree No. 291/2007 of 15 May 2007):

- (a) Identify and modify discriminatory rules and practices in public institutions;
- (b) Establish institutional mechanisms to deal with gender issues in State bodies and strengthen existing mechanisms for the promotion of equality at the national and departmental level;
- (c) Implement the action plan of the Secretariat (now Department) for Women of African Descent of the National Institute for Women;
- (d) Encourage the inclusion of a gender perspective in existing mechanisms for the promotion of racial equity, and help to strengthen them;
- (e) Establish a network of existing institutional mechanisms for equal opportunities and non-discrimination at the national and departmental level;
- (f) Establish an administrative procedure for offering advice and support and dealing with complaints about discrimination.

42. The plan also includes measures to help individuals subjected to aggravated discrimination, and provides for awareness campaigns and efforts to support and promote affirmative action for women deprived of their liberty, women with HIV, migrants, persons with disabilities and sexual minorities (equality strategy No. 15).

43. At the municipal level, and specifically in the city of Montevideo, gender and race/ethnicity are cross-cutting issues in the Second Plan on Equal Opportunities and Rights for Women and Men, for the period 2007–2010, as follows:

- (a) Secretariat for Women, objective No. 4: help coordinate gender, sexual diversity and ethnic/racial issues in the social policies of Montevideo city council;
- (b) Health Division, objective No. 1: help promote the sexual and reproductive health of women and men in Montevideo by promoting healthy and pleasurable practices

irrespective of gender-conditioning and ethnic or racial origin, taking into account the diverse needs and interests of individuals;

(c) Municipal Unit on the Rights of People of African Descent, objectives: encourage attitudes and practices that promote equality and respect for women of African descent; facilitate the entry of women of African descent in the Montevideo labour market; study the historical characteristics of violence against women of African descent; collect data from the municipal health system on diseases to which ethnic groups are prone, disaggregated by sex.

44. At the regional level, the Ushuaia Protocol of the Southern Common Market (Mercosur, of which Uruguay is a founding member) contains a clause that provides for penalties — even expulsion — for countries where the democratic order breaks down. The Asunción Protocol adopted in 2005 by decision 17/05 of the Council of the Common Market contains the Mercosur commitment to the promotion and protection of human rights. In 2008, the Commission on Citizenship and Human Rights of the Mercosur Parliament (Parlasur) conducted public consultations on the subject.

45. Combating racism and all forms of discrimination has always been on the agenda of the meeting of high-level human rights authorities and foreign ministries of Mercosur and associated countries. The meeting has a working group on racism, xenophobia and discrimination which considers regional proposals to combat discrimination and coordinates positions on the Durban review process and negotiations on the Inter-American Convention. In this connection, in 2008 the city of Brasília hosted a regional workshop on people of African descent, which was coordinated by the Human Rights Directorate of Uruguay's Ministry of Education and Culture, Argentina's National Institute against Discrimination, Xenophobia and Racism (INADI) and Brazil's Special Secretariat for Racial Equality (SEPPIR).⁷

46. Also at the regional level, the city council of Montevideo, the Uruguayan capital, is coordinating the Coalition of Latin American and Caribbean Cities against Racism, Discrimination and Xenophobia, an initiative of the United Nations Educational, Scientific and Cultural Organization (UNESCO). In 2009, Montevideo city council set up a special advisory service on racism and discrimination within the framework of this coalition.

47. In view of the success of the Coalition of Latin American and Caribbean Cities, Uruguay, with the support of UNESCO, has pressed the case for a pilot project to establish a regional network of high authorities against discrimination. Initial funding for the project was recently approved by UNESCO, and the project will go ahead in 2010.

48. The progress made in promoting racial equity since the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance was recognized in open consultations with civil society as a sign of the growing consensus on the need to combat racism and promote racial equality and the human rights of vulnerable people of African descent.

Article 3

49. Uruguay unreservedly condemns any system of apartheid or racial segregation. There are no laws or regulations whatsoever in Uruguay that promote racial segregation.

⁷ Act No. 18.447 of 17 December 2008 adopted a memorandum of understanding with the Government of Brazil on combating discrimination and promoting racial equality, signed in Brasília on 29 August 2006.

50. In 2004, as has already been mentioned, Uruguay adopted Act No. 17.817, which declared that it was in the national interest to combat racism, xenophobia and all other forms of discrimination and established the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination.

51. Subsequently, by Act No. 17.510 of 17 June 2002, Uruguay adopted the Rome Statute of the International Criminal Court. The Act includes crimes committed against women, especially the use of sexual violence as a weapon of war and torture, among the crimes of genocide, crimes against humanity and war crimes.

52. Act No. 18.026 of 4 October 2006 includes crimes against humanity, genocide and war crimes as “crimes” in the Criminal Code. Under the crime of genocide (art. 16), one of the motives cited is the intention to completely or partially destroy a national, ethnic, racial, religious, political or trade-union group, or a group with its own identity based on gender, sexual orientation or culture. Article 26.3 sanctions as war crimes attacks on cultural goods that are protected by international law or of great importance to humanity.

Article 4

53. Act No. 16.048 of 16 June 1989, amending the Criminal Code, defined as an offence incitement to hatred, contempt or violence or the commission of such acts against one or more persons on account of their skin colour, race, religion, national or ethnic origin, sexual orientation or sexual identity.

54. Act No. 17.677, on incitement to hatred, contempt or violence or the commission of such acts against certain persons, was adopted on 29 July 2003. The Act replaces two articles of the Criminal Code, articles 149 bis and 149 ter, incorporated therein by the above-cited Act No. 16.048, and establishes prison sentences of 3 to 18 months for incitement (art. 149 bis) and 6 to 24 months for commission of such acts (art. 149 ter).

55. Decree Law No. 10.279 of 19 November 1942, in its article 6, paragraphs (i) and (j), punishes “conspiracy to subvert” as follows:

“(i) Anyone who promotes, constitutes, organizes or directs, even under a false name or in a bogus form, associations, sections, bodies or institutions contrary to the democratic republican regime established by the Constitution of the Republic shall be liable to 2 to 10 years’ imprisonment.

Anyone who participates in such associations, sections, bodies or institutions shall be liable to 3 to 15 months’ imprisonment.

(j) Anyone who promotes, constitutes, organizes or directs associations, bodies, institutions or sections to induce or inspire racial strife or hatred shall be liable to 10 months’ to 5 years’ imprisonment.

Anyone who participates in such groups shall be liable to 3 to 15 months’ imprisonment.”

56. A bill on “offences of incitement to, or commission of, acts of hatred, contempt or violence for racial, religious, political or similar reasons” is now before the Parliamentary Commission on the Constitution, Codes, General Legislation and Administration. The bill proposes to amend articles 149 bis and 149 ter of the Criminal Code, as amended by Act No. 17.677, by adding to the grounds for discrimination that are already punishable (skin colour, race, religion, national or ethnic origin, sexual orientation or sexual identity) the grounds of gender, disability, political views, social status and age.

57. For the purposes of this report, the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination took stock of its work over two years, focusing on the 52 complaints and cases it had received for consideration.

58. Classified by theme, these complaints referred to discrimination on grounds of race (39.5 per cent), gender (25 per cent), religion (10.4 per cent), disability (10.4 per cent), HIV status (6.25 per cent) and employment-related reasons (8.3 per cent).

59. The Commission also undertook various promotional and publicity activities: support for various discussion forums such as the workshop on anti-discrimination legislation organized by the National Jewish Committee and Foro Divergencias (on discrimination and sexual orientation); appearances on radio and television programmes and the preparation of publicity materials on the Commission and its objectives; support for the return of the remains of the cacique Vaimaca Perú to the National Pantheon of the Central Cemetery; and advice and support for various legislative initiatives (the bill on the Day of Resistance of the Charrúa Nation, the bill on change of name/gender identity, and the bill on the National Human Rights Institution).

60. The Commission also put out feelers to see if it would be possible to establish similar commissions at the departmental level, and promoted action in schools, highlighting physical access to educational institutions by persons with disabilities; the inclusion of the ethnicity/race item on admission and graduation forms of the University of the Republic; and the adoption of a proposal regarding various religious feast days, in decision No. 20 of 25 March 2009 of the Central Governing Council for Education.

61. The decision of the Central Governing Council for Education included the following provisions: “(1) Absences of students for religious reasons shall not count in public and private educational institutions that report to the National Public Education Administration, up to a limit of four days per academic year; ... (4) If it is not possible to set a date for examinations that does not coincide with these [feast] days, the pupil(s) shall be able to take the exam on a different day, provided that they have registered for it; ... (7) Students who, for duly attested religious reasons, prefer not to attend classes on Saturdays shall be given preference for registration in public educational centres or in groups that do not have classes on that day; (8) Private faith schools that report to the National Public Education Administration shall be exempt from holding classes on religious or traditional feast days, up to a maximum of four days per academic year.”

62. The Security Directorate at police headquarters in Montevideo reports that its records for the last 12 months show no complaints about discrimination that had to be referred to the courts.

63. Act No. 18.315 of 22 July 2008 on police procedures sets out the principles for police conduct. The police must respect and protect the human rights of all persons; treat everyone in need of their services conscientiously, politely and respectfully, without discriminating in any way on grounds of age, gender, ethnic origin, religion, economic or social status, or any other status; and comply with their obligations under the Code of Conduct for Law Enforcement Officials adopted by the United Nations General Assembly in its resolution 34/169 of 17 December 1979.

64. To date, there have been no complaints of racial discrimination in prisons. Nor has the subject been mentioned in the annual reports of the Parliamentary Commissioner.

Article 5

65. Since 1945, women have enjoyed the same political and civil rights as men, regardless of their racial or ethnic origin, under the Women’s Civil Rights Act. Uruguay

has no legislation that specifically provides for mechanisms to guarantee gender equity in the courts or affirmative action to rectify the balance of power between ethnic or racial groups.

66. When consulted by the Department for Women of African Descent of the National Institute for Women, the César Vallejo cultural association and hostel for immigrants estimated that 95 per cent of the men who migrate to Uruguay do so with a view to being hired as crew members on fishing boats in the port of Montevideo. This is the result of the arrival of ships from various countries flying “flags of convenience”, which hire personnel both for fishing on the high seas and for loading and unloading on the docks. Between 1995 and 2008, Peruvian, African, Chilean, Indonesian, Korean, Chinese and Ukrainian migrants arrived in Uruguay to work in the fishing industry on ships flying flags of convenience, in inhuman conditions that violate labour rights recognized by the International Labour Organization (ILO).

67. Article 63, paragraph (m), of Act No. 18.250 empowers the National Migration Board “to coordinate the promotion of the human rights of migrants, specifically in relation to combating racism, racial discrimination, xenophobia and related intolerance”.

68. When consulted by the Department for Women of African Descent, the NGO Charrúa Choñik reported on the establishment of a cooperative whose president and half of whose members are women, and the organization Creaciones Étnicas Chaloná (“girl” in the Charrúa language), consisting of six women heads of household. The coordination of information and communication technology projects is the responsibility of a woman of Charrúa indigenous descent who is a member of the Indigenous Commission on Information and Communication Technologies in the Americas. This organization works with primary schools to raise awareness about the history of indigenous people in Uruguay and publishes, for the same purpose, an electronic newspaper that is distributed free of charge on the Internet.

69. Act No. 18.476 of 3 April 2009 establishes that persons of both sexes are to be included in the electoral lists and executive bodies of political parties. It stipulates that, of every three candidates, at least one must be of a different sex. The idea is to have a quota of at least one woman for every three holders of electoral office. The law has been applied to the executive bodies of political parties since it entered into force. However, it will only begin to be applied to holders of electoral office at the national or departmental level in the elections in 2014 and 2015. The law does not contain any provisions to guarantee ethnic diversity among parliamentarians or other holders of public office.

70. No specific studies have been carried out on the racial origins of elected representatives. However, there is clearly a large discrepancy between the proportion of people of African descent in the population as a whole and their representation in Parliament.

The right to work

71. In recent years, within the context of the favourable external economic climate that prevailed before 2008, Uruguay witnessed a positive trend in job creation combined with increasing wages and growth in real household incomes arising from structural reforms in investment promotion and taxation and the reinstatement of wage councils. However, even in the context of this growth, racial inequalities in access to employment, quality of employment and incomes persist.

72. Three key labour market indicators reflect this racial inequality: economic activity, employment and unemployment rates. In 2006, the economic activity rate was 60 per cent for the white population and 66 per cent for Afro-descendent and indigenous groups. The economic activity rate for young people aged between 14 and 17 years is 25 per cent among

Afro-descendent and indigenous communities as compared to 17 per cent among the white population. The employment rate for the white population is also lower because of its lower labour market participation. The unemployment rate varies according to racial background: in 2006, it was 10.5 per cent for the white population; 14.1 per cent for people of African descent; and 13.2 per cent for indigenous people.

73. The economic activity rates for women of African descent in 2006, 2007 and 2008 were 59.9 per cent, 56.8 per cent and 58.2 per cent, respectively. Their respective employment rates were 49.5 per cent, 46.2 per cent and 49.9 per cent. The unemployment rate among women of African descent was higher than that for Uruguayan women as a whole (17.4 per cent in 2006; 18.5 per cent in 2007; and 14.3 per cent in 2008).

74. People of African descent are employed mainly in low-skilled jobs: a high proportion of men are employed in the construction sector and a high proportion of women in the personal service sector. The numbers of people of African descent employed in managerial, technical and professional occupations and in the health, education and financial sectors are substantially lower.

75. In 2008, the employment distribution of women of African descent by sector of activity was as follows: administration and public undertakings, 3.51 per cent; professional and scientific, 6.16 per cent; technical and professional, 4.1 per cent; office work, 9.91 per cent; services, 24.22 per cent; farming and rural work, 0.53 per cent; skilled and craft work, 5.06 per cent; plant operators, 4.41 per cent; unskilled work, 41.93 per cent; and armed forces, 0.17 per cent.

76. One of the most significant advances with respect to the quality of employment has been the adoption of the law on domestic service,⁸ which placed workers in this sector on the same footing as other workers and is viewed as one of the most progressive laws in the region. The law limiting the working hours of rural workers to eight hours a day is also considered a historic achievement.⁹

77. In 2007, a working group was created to establish a tripartite commission for the promotion of racial equity, with representatives from government, business and labour, which would consider measures to promote ethnic and racial equity in employment. Government representatives are currently drafting the decree establishing the commission and preparing its programme of work.

The right to form and join trade unions

78. The rights of all citizens to organize and to bargain collectively are fully respected in Uruguay. There are no formal or substantive requirements for forming a trade union and there is complete freedom to join a trade union, as well as to federate and join international trade union organizations. Uruguay is a party to the International Covenant on Civil and Political Rights and to the following ILO Conventions: the Convention concerning Freedom of Association and Protection of the Right to Organise, 1948 (No. 87); the Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, 1949 (No. 98); and the Convention concerning Protection of the Right to Organise and Procedures for Determining Conditions of Employment in the Public Service, 1978 (No. 151). A trade union, simply by virtue of its establishment, has the power to act on behalf of the workers it represents and to exercise the collective will independently. The only exceptions would be the restrictions applicable to military and police personnel.

⁸ Act No. 18.065 of 27 November 2006 on domestic service.

⁹ Act No. 18.441 of 24 December 2008 limiting the working hours of rural workers.

79. Act No. 17.940 on freedom of association establishes more effective mechanisms to protect the right of all workers to form and join trade unions. It is regulated by Decree No. 66/006, of 6 March 2006, and provides protection for workers by rendering null and void acts of anti-union discrimination in respect of their employment or access thereto.

80. There have been no reports of racial discrimination in the exercise of the right to form and join trade unions and the right to strike.

The right to housing

81. Generally speaking, in the country's capital no significant differences are observed between the indigenous and white populations with respect to access to housing. Nevertheless, as previously mentioned in this report, considerable disparity does exist in the distribution of Afro-descendent and white groups: a large proportion of the Afro-descendent population lives in areas that include the poorest neighbourhoods on the outskirts of the city. Almost 40 per cent of people of African descent live in the poorer districts, as compared with 20 per cent of the white population.

82. There are markedly fewer people of African descent than whites in the upper and upper-middle class neighbourhoods, which include the coastal and central areas of the city. Density levels for people of African descent are above the average for Montevideo (9.3 per cent) in the city's shanty towns – these include housing built by squatters on public or private land, which is substandard and lacking all or most public services. Their numbers are not particularly high in the Sur and Palermo districts, neighbourhoods traditionally associated with high concentrations of people of African descent. Their presence is noticeable, however, in the Ciudad Vieja district.

83. The main objective of the Five-Year Housing and Habitat Plan (2005–2009)¹⁰ is to “improve the housing conditions of the population, taking into account its diversity (socio-economic, age, ethnic, cultural, gender) in order to guarantee a civil right”. Recognition of the right to adequate housing and a sustainable habitat is linked in the five-year plan to an acknowledgement of the diversity of the population, which means making a commitment to overcoming discrimination in all its forms: ethnic, age-based, gender-based, socio-economic and cultural. This is an innovative vision in housing policy in that it begins to address discrimination or inequalities that generally remain masked by the umbrella terms used to describe the socio-economic inequalities affecting our society and to offer the possibility of exercising effectively the right to gain access to and remain in adequate housing.

84. This fresh approach is evident in measures implemented by the Ministry of Housing, Land Management and the Environment since the new administration took office. The most important of these was the signing of a first agreement with Mundo Afro on the inclusion of an ethnic perspective in housing programmes, with provision for information and awareness-raising activities for public officials and government teams on racial discrimination against the Afro-descendent community.

85. Subsequently, the Ministry's Secretariat for Afro-Uruguayan Affairs was established within the National Directorate of Housing in 2007. Under the agreement, representatives of civil society organizations — in this case Mundo Afro — advise on housing issues from an ethno-racial perspective. In 2009, a second agreement was signed to finish projects already started, mainly relating to the UFAMA al Sur and Barrio Ansina urban housing

¹⁰ The plan is prepared by the executive and approved by the National Parliament whenever a new administration takes office (in accordance with Act No. 13.728 of 1968, as amended).

programmes, and to strengthen awareness-raising on non-discrimination issues for government officials and teams.

86. The work of the Advisory Service for Afro-Uruguayan Affairs in the Ministry of Housing has been closely associated with demands for the Afro-descendent community to be allowed to return to their traditional neighbourhoods in Montevideo, from which they were evicted in 1978–1979 during the military dictatorship. At that time, evictions were carried out in three Montevideo neighbourhoods that symbolized the culture of people of African descent: the Conventillo Medio Mundo in Barrio Sur; the Barrio Reus Sur housing complex in the Palermo neighbourhood; and another complex in the Cordón neighbourhood.

87. Residents were evicted under an order (file No. 22.252) issued by Montevideo city council on 23 November 1978, pursuant to Decree No. 656/978. The decision, which was taken at the height of the military government, was justified on the basis of the need to protect the population from the risk of the buildings' collapse. However, the military's aim was to destroy a way of life based on close community ties, such as that which existed in the Conventillo.

88. The evicted families were rehoused in a municipal shelter and then transferred to emergency housing in Cerro Norte housing complex. The families thus uprooted were cut off from the way of life and forms of expression that families of African descent had developed in the neighbourhoods concerned, especially *candombe*, a music and dance tradition.

89. The first affirmative action taken in relation to housing problems facing Afro-descendent families was the allocation of land and funding by Montevideo city council for a housing programme aimed at women heads of household of African descent. The UFAMA al Sur programme allows female-headed families of African descent to return to the neighbourhood.

90. The dilapidated buildings in Barrio Reus were reoccupied between 1980 and 2008. Following consultations with each household, the families concerned were temporarily rehoused while a housing project was built in the same neighbourhood. The project adopts a comprehensive approach and incorporates a heritage perspective. It is intended as reparation to the community of African descent for the 1978 evictions by enabling the families that lived there to return.

91. The project seeks to recover tangible and intangible heritage in the Ansina neighbourhood by promoting a dialogue between the past and the present with reference to both architectural features and aspects of Afro-Uruguayan culture.¹¹ It is a housing project for families evicted in the 1970s, with a museum space open to the public as part of the agreement reached between the Ministry of Housing and the Montevideo city council within a broader programme of action to reconstruct public spaces expressing Afro-Uruguayan cultural identity.

92. The agreement between the two institutions was signed on 10 August 2010. As noted above, it is the first public measure providing reparation for the evictions carried out during the military dictatorship, an issue about which the Committee has expressed particular concern in its suggestions and recommendations.

¹¹ Stakeholders involved in the project include the Advisory Service for Afro-Uruguayan Affairs in the Ministry of Housing and the technical team contracted by UNDP as part of output 5 of the ONU/08/00D project, in coordination with the Social Division of the National Directorate of Housing.

The right to public health, medical care, social security and social services

93. In 2008, the health system was reformed with the introduction of the Comprehensive National Health System. According to this human rights-based model, health is a human right and must be made universal. Health spending in Uruguay is around 9 per cent of GDP and yet it has failed to meet the goal of ensuring quality of life for most of the population.

94. The aims of the reform were, inter alia, to make access to health universal and to ensure that access to and the cost of health are fair. The new system is based on the idea that health is a social good, an essential human right and a State responsibility; that health care should be guided by the principles of universality, continuity, timeliness, quality, an interdisciplinary approach and team work, centralized regulation and decentralized delivery, social and financial efficiency, humanitarian care, democratic management, social participation and the patient's right to an informed decision about their situation; and that stakeholders should participate. All Uruguayans are now registered with a comprehensive health-care provider.

95. To achieve universal, equitable care, the reform has introduced a system of income-based contributions; the right to coverage for the family unit, for all children aged under 18 and disabled persons of any age, effective immediately, and for non-working spouses as of 2011; and a change in the social security payment system from a standard payment to one linked to the age and sex of users. At the same time, an additional payment is made for specific kinds of care.

96. As part of the reform, the public provider (the State Health Services Administration) doubled funding per person. This measure has a direct impact on the quality of the health care provided to people of African descent since they represent a disproportionate share of those on the lowest incomes and use mostly public health-care services.

97. An additional element, in the case of mutual providers, has been the drop in co-payments: a 40 per cent reduction in prescription costs; free access for people with diabetes; free pregnancy check-ups; free screening tests for women (mammograms and Pap smears); reduction of prescription costs for people with high blood pressure to a maximum of 50 pesos (around \$2) per prescription; set of free vouchers for retirees admitted to the National Health Fund; no charge for check-ups for children aged up to 14 months; and treatment for drug addicts under the age of 18 and support for their families.

98. The Ministry of Health — in conjunction with the National Statistical Institute, the Chair of Statistics at the University of the Republic, and the Department of Preventive and Social Medicine — is working to include data on ethnic identity in vital statistics. An ethnic variable will be introduced on the same basis as it was in the expanded national household survey, i.e. by descent and self-identification.

99. The same variable is also being included in epidemiological surveillance and, more specifically, in reporting and recording cases of HIV/AIDS.

100. The Five-Year Strategic Plan of the Programme for the Prevention of Sexually Transmitted Infections and AIDS focuses on vulnerable population groups and seeks to mainstream gender, ethnic and sexual diversity issues. One area of activity, initiated in 2006, concerns people of African descent. As part of this work, civil society organizations active in the field of health and sexually transmitted infections (STIs)/HIV have been registered with the Programme; conferences for exchanges and training on STIs/HIV and ethnicity have been organized in conjunction with the civil society organization Mundo Afro; activities have been carried out during carnival celebrations in various departments; an AIDS prevention leaflet has been prepared with the support of Afro-Uruguayan artists and social organizations; sponsorship and funding support has been provided for events organized by the Afro-Uruguayan movement; and research has been produced to inform

ethnic and HIV policy design (social organizations registered with the Programme were invited to participate in research between November 2008 and July 2009).

101. In cooperation with the Black Uruguay Cultural and Social Association (ACSUN), a qualitative study on STIs/HIV is being conducted nationally among Afro-descendants in the 15–34 age group.

102. The Programme on Gender and Women’s Health now includes an ethnic variable and material on Afro-descendent women’s health is being prepared in collaboration with Mizangas, a civil society organization.

103. An ethnic-racial variable has also been incorporated in work produced as part of the Programme for Adolescents. Work is under way to include an adolescent perspective in issues related to sexual health, sexually transmitted infections and HIV/AIDS, and health promoters and departmental officials of the Child, Adolescent and Family Programme of the Ministry of Social Development have been invited to participate in this work. Information sharing with peers has also been encouraged. Mizangas, one of the civil society organizations selected for the programme, implemented a project aimed at Afro-Uruguayan women.

104. It was apparent from consultations undertaken for the report that action taken by social organizations in the Afro-descendent movement has raised awareness of the need to link health provision to the fight against racism and has placed the issue on the national agenda. However, despite the progress made so far in changing the health-care model, it cannot yet be said that there is a multicultural approach to health care.

105. A study on the inclusion of an ethnic-racial variable in vital statistics in Uruguay¹² made the following recommendations with a view to strengthening health policies targeting the Afro-descendent population: include an ethnic-racial variable in continuous records and promote ethnically based epidemiological studies; provide training for health service personnel; include an ethnic perspective in training for health professionals; carry out an awareness-raising campaign for the general public; conduct research into the relevance of affirmative action and targeted policies (to link the health and education sectors); promote research contributing to the recovery and development of ancestral cultural heritage; and establish forums where the Afro-descendent community can address these issues itself through debates and sessions on information, training and support measures.

Family

106. With respect to maternity and paternity, the Children and Adolescents Code (Act No. 17.823 of 9 September 2004) repealed the obsolete provision of the Civil Code under which it was forbidden to recognize the children of married persons born out of wedlock and therefore to carry out maternity investigations in the case of married women. Nevertheless, the mere fact of categorizing children as being born either in or out of wedlock, a practice which is still current under the Code, continues to constitute discrimination on the basis of the marital status of their parents.

107. Article 9 of the Code establishes with respect to basic rights that: “Every child and adolescent has the intrinsic right to life, dignity, freedom, identity, integrity, image, health, education, recreation, rest, culture, participation, association, the benefits of social security and to equal treatment irrespective of his or her gender, religion, ethnicity or social status.”

¹² Rudolf, Susana, et al. (Noelia Maciel, Oscar Zumbí Rorra, Diego Castro, Silvia Valdez, Amanda Díaz, Javier Díaz, Carolina Ricarte, Sergio Medina, Yolanda Rospide, Graciela Fulle, Graciela Albanés, Verónica Rodríguez) *Incorporación de la variable etnia/raza en las estadísticas vitales en el Uruguay* (Montevideo, Pan-American Health Organization (PAHO), 2005).

108. Act No. 17.957, of 18 April 2006, on maintenance debtors, recently amended by Act No. 18.244, provides for measures aimed at enforcing payment of maintenance for children by parents who are not directly responsible for their care. These provisions benefit mainly women since it is generally women who are responsible for caring for children.

109. Act No. 18.245 of 27 December 2007 on cohabitation recognizes the diversity of family arrangements and sexual orientations, thereby guaranteeing rights, including social security rights, to members irrespective of the family structure concerned.

110. Act No. 18.250 of 27 December 2007 on migrants' rights guarantees the access of migrants and their families to the rights to health, work, social security, housing and education on the same basis as nationals. Irregular migrant status does not restrict access to justice or health facilities, or access to education for their children. Family reunification with parents, spouses, partners and children is guaranteed by article 10 of the Act.

111. Act No. 18.076 of 5 January 2007, on the right to asylum and refugees, establishes in article 11 that: "No State authority, institution, group or individual shall discriminate in any way whatsoever against an asylum-seeker or refugee on the grounds of membership of a particular ethnic or social group, race, gender, religion, nationality, ideology, economic situation or political views."

The right to education and training

112. The available information indicates that a gap exists on the basis of racial background: Afro-descendent men and women regularly complete fewer years in education than their white peers. This gap is observed at an early age — among those aged between 15 and 19 years — and widens to two years by the age of 35. The average number of completed years of education is higher for Afro-descendent women than men.

113. Intergenerational growth patterns and the gender gap — which is present in the population as a whole — are repeated among groups with different backgrounds. The educational levels of the population are increasing — the average number of completed years of education is higher among young people — and, on average, women have higher levels than men.

114. Studies reveal that the enrolment rate is low for children aged under 3 years (approximately 18 per cent for children of African descent and 22 per cent for white children) and that children of African descent drop out of school at a younger age. In the 14–17 age group, the proportion of children of African descent attending school is 68 per cent, as compared to 78 per cent for children of indigenous descent and 80 per cent for white children.

115. The gap widens among young people aged between 18 and 24 years, i.e. those of higher education age; the enrolment rate is 22 per cent for Afro-descendants and 41 per cent for the white population.

116. The values for the indigenous population are similar to those of the white population, although the overall average of completed years of education is 0.3 percentage points lower for indigenous people.

117. Young people of African descent leave the education system to start work at an earlier age, which means that fewer of them go on to higher education. In 2007, under Executive Decree No. 346/07, priority was given to Afro-descendants in the allocation of Carlos Quijano scholarships for postgraduate studies abroad (established under Act No. 18.046 on accountability and budget balance for the 2005 financial year) by arrangement with the University Solidarity Fund. The delay in the launch of the scheme and its low profile hindered delivery of grants to the target population, but these aspects were addressed in the second edition of the programme in 2009 through special workshops

promoted at the national level by the Office for the Promotion and Coordination of Affirmative Action Policies for People of African Descent in conjunction with the section dealing with grants in the Ministry of Education and Culture. The low number of applications for these grants suggests that the Afro-Uruguayan population faces many difficulties in gaining access to and continuing university studies.

118. The new law on education, Act No. 18.437 of 12 December 2008, establishes anti-discrimination objectives, and guarantees, in article 8, the rights of minority communities and those that are particularly vulnerable: “The State shall guarantee the rights of minority communities and those that are particularly vulnerable, with a view to ensuring equality of opportunity and full exercise of the right to education and their effective social inclusion.”

119. Article 18 establishes as a general principle that the State shall provide special support to particularly vulnerable persons and groups and shall act to include persons and groups who are the object of cultural, economic and social discrimination so that they can achieve real equality of opportunity in access to, continuity of and success in education. It shall also promote action to change stereotypes that discriminate against people by age, gender, race, ethnicity or sexual orientation.

120. In keeping with international trends and the covenants ratified by Uruguay, the new law explicitly sets out multicultural strategies, indicating that education should aim to produce people who are thoughtful, independent and public-spirited and who have non-discriminatory attitudes, and also to contribute to the development of a national identity based on democratic principles and the recognition of all the factors that have helped shape the nation, including the presence of indigenous and Creole communities, European and Afro-descendent immigration and the diverse cultural expressions that continue to enrich it.

121. Equality of opportunity and equity are enshrined as the governing principles of State education and the State shall provide special support to particularly vulnerable persons and groups and shall act to include persons and groups who are the object of cultural, economic and social discrimination so that they can achieve real equality of opportunity in access to, continuity of and success in education. It shall also promote action to eliminate stereotypes that discriminate against people by age, gender, race, ethnicity or sexual orientation.

122. Another noteworthy provision with respect to gender equity is the provision guaranteeing the right of pregnant girls to continue their studies, in particular the right to enrol and remain in school, to receive special educational support and to take time off before and after the birth of the child, though without losing a school year.

The right to equal participation in cultural activities

123. The population of African descent is set apart from the population in general by a digital divide manifest in limited access to new information and communication technologies. In 2006, 38.59 per cent of the Uruguayan population as a whole had access to computers. Among the population of African descent this figure was just 29.4 per cent, i.e. 9.18 percentage points lower. The divide was most pronounced among persons aged between 40 and 49 and least pronounced among the over-50s.

124. The Ceibal Plan (Basic Computer Educational Connectivity for Online Learning) to give all children attending State primary schools access to a computer (within the framework of the “One Laptop per Child” initiative) is now operational and in 2009 every child in every State primary school in the country — a total of 369,727 children — was given their own laptop.

125. The Cardales Plan (Convergence for Access to Leisure and the Development of Alternative Forms of Work and Sustainable Enterprises) to make basic telephony, cable

television and the Internet available throughout the country at a subsidized price is currently in the pilot phase.

126. The Ministry of Education and Culture, acting within the framework of the plan to popularize scientific culture spearheaded by the Directorate of Innovation, Science and Technology for Development, and the section of the Ministry's Human Rights Directorate with responsibility for promoting public policies that benefit the population of African descent, have organized the first junior competition on methods of inclusion and non-discrimination. The competition was aimed at science clubs attached to State and private sector schools and at secondary schools throughout the country and had a threefold objective: to inspire among students an individual and collective awareness of the importance of an inclusive, non-discriminatory society, and of the potential negative consequences on everyone of an attitude of indifference; to foster among children and young people an appreciation and understanding of the contributions that the different social groups, including the population of African descent, have made to the country's development, encouraging them to become agents of change for an inclusive society; and to reinforce the Ministry of Education and Culture's efforts to raise awareness among the population as a whole and among children, young people and their families in particular, of the importance of the right to non-discrimination as a factor in social, cultural and economic development.

Right of access to public places

127. This right is enshrined in article 149 ter of the Criminal Code, which prohibits discrimination in accordance with article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination. Pursuant to article 2804 of the Municipal Digest, restrictions on this right are permitted only on the grounds of a "state of inebriation or flagrant lack of cleanliness".

Article 6

128. Act No. 17.817, on measures for combating racism, xenophobia and discrimination, adopted on 6 September 2004, declared that it was in the national interest to combat racism, xenophobia and discrimination and provided a definition of what this meant. The Act also established the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination to propose national policies and concrete measures for preventing and combating racist, xenophobic and discriminatory behaviour. The Commission, which has been active since March 2007, keeps a record of incidents of such behaviour and files the corresponding legal complaint whenever deemed necessary. To date the Commission has received 52 complaints of conduct that could be deemed racist, discriminatory or xenophobic, issuing its opinion on whether or not the conduct in question was discriminatory in the corresponding reports. On three occasions its reports have been referred to the judiciary by the interested parties. Other reports have been referred to the corresponding public bodies.

129. Act No. 18.446 of 24 December 2008 established the National Human Rights Institute as an autonomous institution in accordance with the Paris Principles. The Institute reports to the legislature on its activities.

130. The Uruguayan Government has taken steps to comply with article 6 of the Convention and to guarantee effective access to justice for all persons in vulnerable situations. To this end, on 2 April 2009 the Supreme Court of Justice ruled that the Brasilia Rules on Access to Justice for Persons in Vulnerable Situations adopted at the Fourteenth Meeting of the Latin American Judicial Summit should be declared to have the status of

acordada – a decision of the country’s highest judicial body. The decision has been circulated to all branches of the judiciary for implementation where applicable.

131. Since the adoption of Act No. 16.048 and Act. No. 17.677, and in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination, the judiciary has considered a number of cases of discriminatory behaviour, principally under the criminal, labour and civil codes.

132. The following examples are cited for illustrative purposes only:

(a) The criminal courts have heard various cases involving offences defined and classified as discriminatory behaviour:

(i) A number of persons with national socialist leanings were prosecuted for publishing or posting notices inciting contempt of others on the grounds of their religion or national origin. These persons formed part of a skinhead group fighting to preserve the purity of the white race by inciting human rights violations (17th Rota Criminal Court of First Instance, Judgement No. 1505/2000 and Judgement No. 81/200, respectively);

(ii) One person was tried but not imprisoned, in application of article 149 ter of the Criminal Code, for making aggravating phone calls and sending e-mails containing “black jokes” to another black person. The defendant appealed to a higher court, which overturned the initial ruling on the grounds that the defendant’s conduct did not constitute the offence he was charged with (20th Rota Criminal Court, Judgement No. 1014/2004, and Second Rota Criminal Appeal Court, Judgement No. 224/2005, respectively).

(b) Cases heard before the labour courts include one in which the dismissal of a person who adopted a discriminatory attitude towards a female colleague, whom he had harassed with racist jokes and comments, was ruled to be justified and the allegations of gross misconduct on the part of that person were upheld (Third Rota Labour Court of First Instance, Judgement No. 30/2009);

(c) As regards cases brought before the civil courts, just one case — a tort claim for damages, filed in relation to an alleged act of racial discrimination — can be cited. The case was brought by a female State employee working in a medical institution against a female medical professional who had harassed the plaintiff with discriminatory remarks. The case resulted in an agreement between the parties entailing financial compensation (First Rota Civil Court, Judgement of 15 October 2004);

(d) The Supreme Court of Justice decided to dismiss a female judicial employee who engaged in inappropriate behaviour, hurling insults — some of them discriminatory — at other employees in the same unit. The Supreme Court based its judgement on, inter alia, article 21 of Act No. 17.060, which establishes that “civil servants must respect other civil servants and persons with whom they have contact in the exercise of their professional duties and must refrain from all forms of disrespectful behaviour” (Supreme Court of Justice, decision No. 203/08).

Article 7

Teaching and education

133. One of the objectives of the new Education Act mentioned above, as established in its article 13, paragraph (c), is to produce people who have non-discriminatory attitudes. The Act places considerable emphasis on non-discrimination on racial and ethnic grounds and on promoting and showing respect for cultural diversity. Article 13, paragraph (d),

stipulates that the objectives of national education policy shall include the development of a national identity based on democratic principles and the recognition of all the factors that have helped shape the nation, including the presence of indigenous and Creole communities, European and Afro-descendent immigration and the diverse cultural expressions that continue to enrich it.

134. As mentioned above, the section of the Act dealing with State education stipulates that the State must take action to promote the inclusion of persons from population groups who are the object of cultural, economic and social discrimination, and must work to eliminate stereotypes that discriminate against people by race, age, ethnicity or sexual orientation.

135. The National Police Academy covers the elimination of racial discrimination in the human rights training included in the curriculum of first-year cadets. To the same end, in conjunction with the civil society organization Mundo Afro, the Academy has been organizing a series of one-day workshops across the country to train up police officers of all ranks in all districts in the country. The culmination of this initiative will be a conference in Montevideo at which delegates will seek to define the measures that should be adopted in order to improve police training in how to eliminate racism, xenophobia and other forms of discrimination.

136. A proposal to include a module on ethnicity and race in the basic education curriculum and in the curriculum of the public security undergraduate programme is currently being considered.

137. The National Jewish Committee has indicated that it would like a specific chapter on the Holocaust to be included in the country's official education curricula. In 1993, it submitted a provisional teaching programme to the relevant education authorities. In 2007, it submitted a new proposal to the Ministry of Education and Culture and to the Central Governing Council of the National Public Education Administration, the autonomous body governing State education.

138. On the basis of the aforementioned proposal, and others submitted by groups of African descent regarding the possibility of incorporating the fight against racism in the curriculum at the various levels of education, the Central Governing Council charged its Human Rights Directorate with establishing a committee composed of representatives of the various educational councils and civil society organizations to come up with strategies and initiatives for addressing these issues.

139. The view of the National Public Education Administration is that the Holocaust, as well as other genocides and the subject of discrimination and the fight against racism and xenophobia, are already covered in the curriculum at the various levels of education. However, its Human Rights Directorate is organizing training and awareness-raising activities for both teachers and students with a view to raising the profile of these issues through new teaching strategies.

140. In the course of 2008 and 2009, the Human Rights Directorate of the Ministry of Education and Culture rolled out its "1,000 Promoters" programme of human rights awareness-raising and training activities for different target groups. Non-discrimination is a central, cross-cutting theme in this initiative, which incorporates various human rights training methods (seminars, discussion groups, workshops and residential courses) and provides training for those working to promote human rights and a culture of non-discrimination.

141. Various workshop-based courses attended by hundreds of civil servants, activists, social actors, local councillors, academics, professionals, and secondary and primary school teachers were held outside the capital in 2008. The workshops addressed discrimination

against people of African descent, both in general and in relation to their economic, social and cultural rights. Racism and stereotypes were also specifically addressed. Non-discrimination was a central theme of the second workshop on human rights education in 2009 as well as at the city camp organized for young people from rural areas.

142. Since 2006, the Human Rights Directorate has been running a course on human rights, which addresses the issue of racial discrimination, at the National College for Civil Servants operated by the National Office of the Civil Service. In 2009, seminars on human rights were also organized.

143. In 2008 and 2009 classes on human rights in the twenty-first century were given at the Military Academy, the higher educational institution for army officers. In these classes, the issue of racism was addressed from the perspective of the high percentage of soldiers of African descent.

Culture

144. Act No. 18.059, of 20 November 2006, establishes 3 December as the National Day of *Candombe*, Afro-Uruguayan Culture and Racial Equity, declaring all activities, educational initiatives and awareness-raising campaigns related to the National Day to be in the national interest. In the same Act, *candombe*, the music and dance of people of African descent, is declared part of Uruguay's cultural heritage.

145. *Candombe*, a cultural expression of the Afro-Uruguayan community, was recognized as Intangible Cultural Heritage of Humanity at the fourth session of the UNESCO Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage held between 28 September and 2 October 2009.

146. In 2004, in a public act of recognition of the population of indigenous descent, the bone remains of the Charrúa cacique Vaimaca Perú, previously on display at the Musée de l'Homme in Paris, were returned to the National Pantheon.

147. In 2007, a representative of organizations of people of indigenous descent was included in the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination. This in itself was one of the most important symbolic and political acknowledgements of the indigenous peoples' contribution to shaping the country's cultural identity.

148. Act No. 18.589, of 18 September 2009, establishes that 11 April shall be celebrated as the Day of the Charrúa Nation and Indigenous Identity, besides promoting awareness in schools about the genocide of the Charrúa people.

149. The preamble to the above Act establishes that: "The Charrúa nation merits the unequivocal praise and gratitude of our society for the blood that it so generously shed in defence of this land and its past traditions, for its invaluable legacy of community solidarity and indomitable rebellion – characteristics that Uruguayans today invoke in the concept of 'Charrúa blood'. The acknowledgement of the contribution and existence of the indigenous people in the shaping of the Uruguayan nation, and the acceptance of the true history of the fate they suffered in our country, besides constituting an act of justice and unequivocal recognition, is also a key factor in building a stronger national identity through recognition of the diversity of contributions that enrich that identity, and together constitute the essence of the Uruguayan people and their culture."

150. Organizations of people of indigenous descent are today focusing their work on increasing public and social awareness and recognition of their cultural legacy and burial places.

151. As mentioned previously, ratification of ILO Convention No. 169 is currently pending in Uruguay.

152. During the consultations during the preparation of this report, the National Jewish Committee, the civil society organization that groups together the various Jewish associations in Uruguay, reported that the clearest indication of anti-Semitism was the increase in graffiti, not only in Montevideo but in other regions of the country also. The Holocaust Memorial in Montevideo was defaced by Swastika graffiti.

153. On 12 January 2009, the Dr. Jaime Zhitlovsky Jewish cultural centre was attacked with an explosive device that damaged the building's facade. Numerous politicians and groups, including the National Jewish Council, expressed their solidarity with the centre.

Information

154. In 2007, the Human Rights Directorate organized a forum on the use of non-discriminatory language in the media, in which media professionals, analysts, academics and representatives of civil society were invited to participate.

155. Community radio broadcasting services are regulated by Act No. 18.232 of 11 December 2007. Pursuant to article 4 of this Act, such services must include among their objectives the promotion of social development, human rights, cultural diversity, freedom of information and opinion, and democratic values, besides satisfying social communication needs, fostering peaceful coexistence and strengthening the bonds that are the essence of Uruguay's cultural and social identity. They must not engage in party-political or religious propaganda or promote discrimination on the grounds of race, ethnicity, gender, sexual orientation, religion, age or any other criteria. Failure to observe these provisions constitutes grounds for suspending or withdrawing their licences.

156. During the consultation process, the civil society organization UAFRO highlighted the need to observe and monitor the new forms of racism emerging through the media (radio, television and Internet) and to strive to eliminate the stereotypes that target people of African descent as a minority group. These stereotypes are aggravated by the addition of references to gender, social status and sexual orientation, among other things.
