



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

Forty-fifth session

Geneva, 1–19 November 2010

### Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant

#### Concluding observations of the Committee on Economic, Social and Cultural Rights

##### Uruguay

1. The Committee considered the combined third and fourth periodic report of Uruguay on the implementation of the Covenant (E/C.12/URY/3-4) at its 31st, 32nd and 33rd meetings, held 2 and 3 November 2010 (see E/C.12/2010/SR.31, E/C.12/2010/SR.32 and E/C.12/2010/SR.33), and adopted, at its 55th meeting, held on 19 November 2010 (E/C.12/2010/SR.55), the following concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the combined third and fourth periodic report of the State party. The Committee also welcomes the State party's written replies to the list of issues, the additional information provided by the State party prior to the dialogue and the frank and constructive dialogue with the State party's delegation.

#### B. Positive aspects

3. The Committee commends the State party on the following measures adopted since the examination of its second periodic report:

(a) The reinstatement, in 2005, of the tripartite collective bargaining councils involving employers, employees and Government representatives;

(b) The adoption of the National Social Emergency Plan (2005–2007) aimed at mitigating the effects of the economic crisis of 2002 on persons in situations of extreme poverty;

(c) The creation, in 2005, of the Social Cabinet, which aims to coordinate the State party's response to poverty, and comprises the Ministers for Economy and Finance, Education and Culture, Labour and Social Security, Public Health, Regional Planning and Environment, and Tourism and Sport;

(d) The reform of the health sector, including the establishment – with a view to increasing access to health care – of the National Health Fund (FONASA), and the Integrated Health System in 2007;

(e) The adoption, in 2007, of the Equity Plan, an important feature of which is the Plan for Equal Opportunities and Rights between Women and Men; and

(f) The adoption of the National Strategy for Children and Adolescents (2010–2030).

### C. Principal subjects of concern and recommendations

4. The Committee is concerned about the lack of clarity in the State party's legislation regarding the status of the Covenant in the domestic legal order.

**The Committee urges the State party to give legal effect to the provisions of the Covenant in its domestic legal order, including through incorporation or other appropriate means, in accordance with the Committee's general comment No. 3 (1990) on the nature of States parties' obligations and general comment No. 9 (1998) on the domestic application of the Covenant. The Committee reminds the State party that the incorporation of the Covenant into domestic law is an important means of ensuring its justiciability.**

5. The Committee is concerned that, although the national human rights institution was established in 2008, it is not yet operational.

**The Committee urges the State party to render operational the national human rights institution, in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).**

6. The Committee is concerned about the lack of detailed data disaggregated, inter alia, by age, sex, urban or rural population and socio-economic situation on the implementation of the Covenant, including on the impact of measures referred to in the State party's report. The Committee reiterates that such data is crucial for the effective assessment of the progress made towards the realization of the obligations contained in the Covenant.

**The Committee recommends that the State party provide, in its next periodic report, updated statistical information, including data, on the effective implementation of each Covenant right, disaggregated by age, sex, urban or rural population, socio-economic situation and other relevant status, on an annual comparative basis over the past five years. The State party is encouraged to take into account the Committee's general comment No. 1 (1989) on reporting by States parties.**

7. The Committee notes with concern the persisting discrimination against, and the social and economic marginalization of, minority groups in the State party, including persons of African descent, and widespread discrimination on the basis of sexual orientation. The Committee notes that such discrimination and marginalization are reflected in all areas covered by the Covenant, most notably health care, education, employment and access to housing. The Committee regrets that the State party has not provided information

on the budget allocations for its plans and programmes in this area or on the impact of measures taken so far to combat discrimination against these groups (art. 2, para. 2).

**The Committee recommends that the State party adopt a comprehensive anti-discrimination law, taking into account the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural Rights, and prioritize the effective implementation of existing programmes to eliminate all forms of discrimination in law and in practice.**

8. The Committee is concerned that, despite the adoption of a quota for employing persons with disabilities to fill at least 4 per cent of public sector vacancies and the employment placement programme for the visually impaired, operated in collaboration with the Braille Foundation, persons with disabilities continue to lack access to employment. The Committee is also concerned that programmes of comparable potential impact have not been put in place for the private sector (art. 2, para. 2).

**The Committee recommends that the State party take additional measures to promote equality of access to employment for persons with disabilities and pay particular attention to their access to private sector employment.**

9. The Committee is concerned about the persisting inequalities between men and women in the State party, partly as a result of entrenched stereotypes regarding the role of women in society and the family. The Committee notes with concern that women are underrepresented at all levels of government and that significant disparities exist in relation to access to employment and conditions of work, with women being overrepresented in the informal economy and unskilled and less remunerative employment. The Committee expresses its concern that women of African descent are particularly disadvantaged as a result of the discrimination faced by Afro-descendants in all spheres (arts. 3, 6 and 7).

**The Committee recommends that the State party:**

(a) **Strengthen the implementation of measures to combat discrimination against women, including Law No. 18.104 on the Promotion of Equal Rights and Opportunities between Men and Women (2007) and the First National Plan for Equal Opportunities and Rights (2007);**

(b) **Ensure that such measures receive sufficient budgetary support and that they fully address, inter alia, the particular vulnerability of women of African descent, disparities in access to and conditions of employment, and participation in public life; and**

(c) **Conduct public awareness-raising campaigns, in collaboration with civil society organizations and the media, with a view to combating traditional stereotypes regarding the status of women and men in the public and private spheres.**

10. The Committee notes with concern the information provided in paragraph 76 of the State party's report (E/C.12/URY/3-4) with regard to the inadequacy of legislation on, inter alia, employment security for pregnant women and the provision of leave for employees with children requiring medical attention (art. 7).

**The Committee recommends that the State party undertake a comprehensive review of its employment laws with a view to ensuring the full realization of the right to just and favourable conditions of work for women and men.**

11. The Committee expresses its concern over the relatively high number of workplace accidents and the absence of an effective regulatory framework for occupational health and safety, despite the reinstatement of the National Workforce Safety and Health Council in 2008 and the preparation of draft regulations for the implementation of International

Labour Organization (ILO) Convention No. 184 (2001) concerning Safety and Health in Agriculture (art. 7).

**The Committee recommends that the State party take effective measures to prevent accidents in the workplace, including by strengthening the occupational safety and health commissions. The Committee also recommends that the State party strengthen the regulatory framework by expanding it to cover all occupations, and ensure the application of appropriate sanctions in the event of a failure to observe safety regulations.**

12. The Committee is concerned that, according to information provided by the State party, the current minimum wage remains insufficient to ensure a decent living as stipulated in article 7 (a) (ii) of the Covenant.

**The Committee recommends that the State party strengthen its efforts towards the progressive increase of the minimum wage in accordance with article 7 (a) (ii) of the Covenant.**

13. The Committee expresses its concern that a significant proportion of detainees who are engaged in work in the State party's prisons are not remunerated (art. 7).

**The Committee recommends that the State party ensure that all detainees receive fair remuneration for their work.**

14. The Committee is concerned that, despite legislative changes designed to ensure equal treatment of children, de facto discrimination against children born out of wedlock is widespread (arts. 10 and 2, para. 2).

**The Committee recommends that the State party strengthen its efforts to address discrimination against children born out of wedlock, including through amendments to its family law in order to bring it into line with the provisions of the Covenant. The Committee encourages the State party, in collaboration with civil society organizations and the media, to conduct awareness-raising programmes on the right of all children to equal treatment.**

15. The Committee notes with concern that, despite the adoption of measures such as the National Plan to Combat Domestic Violence, launched in 2004, and the creation of specialized courts to deal with domestic violence, such violence remains widespread. The Committee is also concerned that specialized courts exist only in Montevideo and that no psychosocial support and other assistance is available for victims of domestic violence (art. 10).

**The Committee recommends that the State party strengthen measures to combat violence against women by, inter alia, effectively enforcing the existing legislation on domestic violence and conducting public awareness and education campaigns on domestic violence and its effects. The Committee urges the State party to ensure that specialized courts are also available in areas outside Montevideo and that psychosocial support and access to shelters are readily available to victims of domestic violence.**

16. The Committee notes with concern the provisions of certain penal laws which discriminate against women, including the prohibition on remarriage within 300 days of the dissolution of marriage and public decency laws, which, in practice, affect mostly women (art. 10).

**The Committee recommends that the State party take urgent steps to repeal all discriminatory provisions in its legislation, including the restrictions on remarriage and the public decency legislation that has a discriminatory effect on women.**

17. The Committee is concerned that the minimum ages for marriage, namely 12 years for girls and 14 years for boys, are inconsistent with the requirement under the Covenant that marriage be entered into only with free consent. The Committee is further concerned that the lower age for girls is discriminatory (arts. 10, para. 1, and 3).

**The Committee calls on the State party to raise the minimum age of marriage to 18 years for both boys and girls.**

18. The Committee is concerned about the incidence of child labour in the State party, particularly in the solid waste removal industry. It is particularly concerned that the legal framework does not sufficiently address the requirements of relevant international legal standards in the area of child labour, particularly in relation to the specification of categories of hazardous work and the right of every child to education. The Committee regrets the lack of detailed information on the practical measures taken by the National Committee for the Eradication of Child Labour (CETI), established in December 2000, to combat child labour and on the outcome of the survey on child labour referred to in paragraph 143 of the State party's report (E/C.12/URY/3-4) (art. 10, para. 3).

**The Committee recommends that the State party:**

(a) **Enforce the existing legislation on the prohibition of child labour and ensure that children attend school;**

(b) **Strengthen its legal framework in line with the Covenant and other applicable international legal standards, including ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; and**

(c) **Provide, in its next periodic report, information on the measures taken by the National Committee for the Eradication of Child Labour (CETI) and on the outcome of the State party's survey on child labour.**

19. The Committee notes with concern that, despite a steady decline in poverty in recent years, partly due to significant economic growth and measures such as the National Social Emergency Plan (2005–2007) and the Equity Plan (2008), the percentage of the population living in poverty remains high. The Committee is also concerned about the disproportionate vulnerability to poverty of women, persons of African descent and children, particularly those under 6 years of age (arts. 11, para. 1, and 2, paras. 2 and 3).

**The Committee calls on the State party to:**

(a) **Strengthen the integration of economic, social and cultural rights into its Equity Plan, taking into account the Committee's statement on poverty and the Covenant, adopted on 4 May 2001 (E/2002/22-E/C.12/2001/17, annex VII);**

(b) **Step up its efforts to reduce poverty; and**

(c) **Ensure that adequate resources are allocated for disadvantaged and marginalized individuals and groups.**

20. The Committee is concerned that, despite the measures taken by the State party to improve access to housing, including the Five-Year Housing Plan (2005–2009), a high number of irregular settlements continue to exist in urban and suburban areas, many of which lack access to proper sanitation and are hazardous due to structural defects. The Committee also notes with concern that many rural settlements are situated in flood-prone zones (art. 11, para. 1).

**The Committee urges the State party to strengthen its efforts to provide access to adequate housing, with a focus on adequate funding for the Five-Year**

**Housing Plan, the relocation of families in irregular settlements to safe housing, assistance to low-income families and other disadvantaged and marginalized individuals and groups, and to the provision of adequate sanitation facilities. The Committee also calls upon the State party to ensure that any forced evictions of individuals and groups living in irregular settlements take into account the requirements set out in the Committee's general comment No. 7 (1997) on the right to adequate housing: forced evictions. The State party is requested to provide information, in its next periodic report, on the impact of the Five-Year Housing Plan.**

21. The Committee is concerned that, despite the availability of shelters, many people, the majority of whom are children, live on the streets, where they have limited access to health care, education and other rights guaranteed by the Covenant (art. 11, para. 1).

**The Committee recommends that the State party take effective measures to address the root causes of the phenomenon of people living on the streets and to ensure that they have access to health care, education, social security and other rights guaranteed under the Covenant. The State party is requested to provide information, in its next periodic report, on the impact of measures taken in this regard, including any plans and programmes implemented by the Institute for Children and Adolescents.**

22. The Committee is concerned about the poor conditions in prisons and police cells including overcrowding and inadequate sanitation, and the lack of access to health care. It notes with regret that, although the State party's report refers to the development of plans to address the situation, no detailed information on these plans has been provided to the Committee (art. 11, para. 1).

**The Committee recommends that the State party take urgent steps, including providing access to health care, to improve conditions in prisons and police cells and to ensure that they accord with applicable international legal standards in this area.**

23. The Committee notes with concern the significant regional disparities in access to and quality of health care, including the concentration of doctors around the capital and the disproportionate representation of the more remote regions in infant and child mortality rates (art. 12).

**The Committee recommends that the State party continue to strengthen the implementation of measures to ensure access to universal health care, including by addressing regional disparities in access and the incidence of preventable diseases among children.**

24. The Committee expresses concern that, although maternal mortality rates remain relatively low in the State party, unsafe abortion has been a leading cause of maternal death (art. 12).

**The Committee urges the State party to incorporate comprehensive sexual and reproductive health education into school curricula at both primary and secondary school level and introduce public education and awareness-raising programmes in this respect.**

25. The Committee is concerned about the marginalization of persons with mental disabilities within the health-care system, particularly the declining standards of their care (art. 12).

**The Committee recommends that the State party take effective steps to improve standards of care for persons with mental disabilities and update its Mental Health Act of 1934. While noting that a draft bill on mental health is**

**currently being discussed, the Committee invites the State party to address this issue in its next periodic report and to provide data on the steps taken and measures adopted in this regard.**

26. Committee is concerned about the situation of people with mental health disorders, particularly those being treated in the psychiatric clinics of Bernado Etchepare and Santin Carlos Rossi, where the sanitary and health situation is reportedly very poor (art. 12).

**The Committee recommends that the State party address the issue of mental health in psychiatric clinics, take measures to improve living conditions for persons suffering from mental health disorders and provide data, in its next periodic report, on the steps taken to improve the situation of mental health patients, particularly on the availability of essential medicines.**

27. The Committee is concerned about the health situation of prisoners and detainees infected with HIV/AIDS (art. 12).

**The Committee recommends that the State party take effective measures to improve the treatment situation of detainees and prisoners infected with HIV/AIDS and to provide information, in its next periodic report, on the concrete steps taken to address this problem.**

28. The Committee is concerned at the significant secondary school dropout rates and poor levels of literacy in rural areas and among Afro-descendants, occurring despite substantial budgetary allocations for education (art. 13).

**The Committee recommends that the State party strengthen the implementation of existing measures to improve access to and quality of primary and secondary education for all children and take additional, effective steps to ensure that primary education is available, on a free and compulsory basis, and that secondary education is accessible, as provided in article 13 of the Covenant. Such measures should, in particular, address the need for further funding for education and the factors contributing to low enrolment and completion rates, and take into account the effect of poverty and income disparities on the realization of the right to education.**

29. The Committee recommends that the State party take measures to address the remaining disparities in access to social security, with a view to ensuring universal coverage. The Committee also recommends that the State party pay particular attention to the need to ensure access to and enjoyment of social security benefits by people of African descent, detainees and their families, and persons employed in the informal economy.

30. The Committee recommends that the State party take effective steps to address the increased use of the drug Ritalin on children as a method of behaviour control.

31. The Committee encourages the State party to consider ratifying the Optional Protocol to the Covenant.

32. The Committee also encourages the State party to consider ratifying the Optional Protocol to the Convention on the Rights of Persons with Disabilities, and ILO Convention No. 187 (2006) concerning the promotional framework for occupational safety and health.

33. The Committee requests that the State party disseminate the present concluding observations widely among all levels of society, in particular among State officials, the judiciary and civil society organizations, to translate and publicize them as far as possible, and to inform the Committee on the steps taken to implement them in its next periodic report. It also encourages the State party to engage the national human rights institution, non-governmental organizations and other members of civil

society in the process of discussion at the national level prior to the submission of its next periodic report.

34. The Committee invites the State party to update its core document in accordance with the harmonized guidelines on reporting to the international human rights treaty monitoring bodies (HRI/GEN/2/Rev.6).

35. The Committee requests the State party to submit its fifth periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 30 June 2015.

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