



International Covenant on Civil and Political Rights

Human Rights Committee

**Report of the National Human Rights Institute and
Ombudsman of Uruguay**

Fifth Periodic Report of States Part

Uruguay

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Introduction to the National Human Rights Institute and Ombudsman of Uruguay's report

1. The National Human Rights Institute and Ombudsman of Uruguay presents the following report to the Human Rights Committee's 109th session, where Uruguay's fifth periodic report will be evaluated, in order to contribute to strengthening the Rule of Law and for the effective protection of Civil and Political Rights.
2. The following report addresses some of the issues raised within the List of issues prior to presenting Uruguay's fifth periodic report (CCPR/C/URY/5).
3. The National Human Rights Institute and Ombudsman of Uruguay (hereinafter the INDDHH) welcomes the progress achieved in several regards, which although not mentioned in the following report, are listed in the State of Uruguay's report.

Presentation of the National Human Rights Institute and Ombudsman of Uruguay

4. The INDDHH is an autonomous government agency within the Legislative, set out to defend, promote and protect all human rights to the fullest extent, as recognized under the Constitution and International Law.
5. It was established by Law N° 18,446 on December 24th, 2008, in compliance with the guidelines set out by the Paris Principles, adopted by the General Assembly of the United Nations, by resolution 48/134 in 1993, as well as according to the commitments embodied in the 1993 Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights in 1993.
6. It is a mechanism that complements already existing institutions in order to provide further guarantees to people in the full enjoyment of their rights and to monitor the compliance of legislation, administrative practices and public policies with international human rights laws and regulations.
7. Since the Institution has only been recently created, the following is the first report submitted by the INDDHH to the United Nations Human Rights Committee.

I. Overview of the status of human rights at national level, including new measures taken and developments pursuant to the implementation of the Covenant

Reply to the issues raised in paragraphs 1 to 3 of the list of issues

8. The country has ratified several instruments since 1998, year in which the State of Uruguay last presented a report before the Human Rights Committee. Ratifications as follows: United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, on February 15th, 2001; Optional Protocol to the Convention on the Elimination of All Forms of Racial Discrimination, on July 20th, 2001; Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, on July 26th, 2001; Rome Statute of the International Criminal Court, on February 28th, 2002; Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on July 3rd, 2003; Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on September 9th, 2003; Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

- Punishment, on December 8th, 2005; Convention on the Rights of Persons with Disabilities, on February 11th, 2009; International Convention for the Protection of All Persons from Enforced Disappearance, on March 4th, 2009. In addition, it acceded to the Optional Protocol to the Convention on the Rights of Persons with Disabilities, on July 15th, 2011 and approved the International Convention on the Suppression and Punishment of the Crime of Apartheid on August 26th, 2011.
9. During the aforementioned period of time, Uruguay has fostered the creation of institutions aiming at the promotion and guardianship of human rights in all areas of government.
 10. The Commission for Peace (hereinafter COMIPAZ), was created by Executive Decree N° 858/000 on August 9th, 2000, with a mandate to “determine the fate of the disappeared detainees during the *de facto* regime”.
 11. Once the mandate of COMIPAZ was completed, the Follow-up Secretariat to the Commission for Peace was created by Executive Resolution 449/03 on April 11th, 2003. Such Secretariat was responsible for continuing the work of COMIPAZ. The Follow-up Secretariat to COMIPAZ increased its membership by Executive Resolution 450/011 on August 31st, 2011. In addition, the name of the Secretariat was changed to “Human Rights Secretariat for the Recent Past”, by Executive Resolution 708/2013 on August 1st, 2013, and it was comprised by and Governing Council chaired by a General Director and four members, one nominated by the General Office of the State Attorney, one nominated by the Organization of Mothers and Family Members of Uruguayan Disappeared Detainees and one nominated by the University of the Republic (UdelaR), appointed by the President of the Republic.
 12. The Office of the Parliamentary Commissioner for the Prison System was established by Law N° 17,684 on August 29th 2003, to advise the Legislative Branch in monitoring compliance to the supranational, constitutional, legal and regulatory policies and standards regarding the status persons deprived of liberty by judicial decision, as well as in supervising the institutions in charge of managing the detention facilities and the social reintegration of inmates or released prisoners. Its responsibilities are: to protect the rights of all people under legal proceedings that entail deprivation of liberty; to request information to prison authorities pertaining the status and living conditions of those who are imprisoned; to issue recommendations to prison authorities; to handle complaints and reports of violations to the rights of those who are deprived of liberty; to conduct inspections of detention facilities; to prepare and promote studies and reports that may be deemed convenient for the better performance of its duties; to request reports to public agencies, defense attorneys, assistance and related organizations for assessment and promotion purposes; to render an annual report to the General Assembly; to file appeals for legal protection or *habeas corpus*, file criminal complaints and to cooperate with other entities that promote the respect of human rights.
 13. The Office of the Ombudsman was created as an independent institution by the departmental government for the city of Montevideo, by Decree N°30592 on December 18th, 2003. It is responsible for: 1) requesting information and issuing recommendations or suggestions; 2) conducting visits to the different departmental government agencies; 3) handling complaints regarding the human rights of the citizens of Montevideo, especially those connected to the protection of the environment and consumers’ rights, as well as taking part in all complaints filed regarding any and all forms of discrimination; 4) preparing and promoting studies and reports; 5) keeping record of all complaints and reports filed before them and of their resolutions; 6) promoting the

- appropriate legal proceedings on behalf of the concerned general interests; 7) establishing reciprocal cooperation for consultation and advocacy with Public Agencies, Public Defenders' Offices, NGOs, and similar entities; 8) Exercise the right to petition set out in the Constitution under Article 30, before any and all public authorities when there are circumstances that jeopardize the human rights of the residents of the Department.
14. The Human Rights Board, was created by Law 17,930 on December 19th, 2005, Article 229, under the umbrella of the Ministry of Education and Culture (MEC), to: promote enforcement of Human Rights; develop a Human Rights National Plan; promote awareness and knowledge of such rights and educate on Human Rights reaching out to the entire national education system, both public and private, formal and informal; draw up regulations to ensure compatibility among national and international legislation; implement a program aimed at fostering respect and recognition of rights before the Public Administration and those of the civil servants; develop actions to eliminate all types of discrimination, whether based on race, gender, religion, sexual orientation, different needs, age or appearance; enable institutional frameworks for civil society participation so as to provide further guarantees against violations of residents' rights and allow for follow-up and assessment of the Public Service, as well as suggesting and coordinating Human Rights initiatives in the region.
 15. The INDDHH was created by Law N° 18,446 on December 24th, 2008 and further modified by Law N° 18,806 on September 14th, 2011, as an autonomous institution within the Legislative Branch, to “defend, promote and protect all human rights to the fullest extent, as recognized under the Constitution and International Law”. The analysis of the INDDHH can be found in the chapter pertaining to the Constitutional and Legal Framework within which the Covenant is implemented (art.2).
 16. Recently, by Statement 7070, the Judiciary of Uruguay decided to create a Human Rights Advisory Office, which reports to the Legal Secretariat of the Supreme Court of Justice in order to: compile, classify and systematize international laws and regulations on the protection of human rights; liaise with specialized bodies; create a database; advice and guide judges and assist in terms of case law pursuant to the files that are to be considered by the Court..

II. Specific Information regarding the implementation of articles 1 to 27 of the Covenant, including considerations pursuant to the Committee's prior recommendations

A. Constitutional and Legal Framework within which the Covenant is implemented (art.2)

Reply to issues raised in paragraph 4 of the List of Issues

17. Law N° 18,446, in its Chapter V, sets out the system for the election and nomination of candidates for the Governing Council of the INDDHH. In accordance with the regulation, the Parliament began the set up process of the INDDHH by holding a public call for candidate nominations.
18. Once such process was completed, on May 8th, 2012, the General Assembly appointed, complying with the required majorities, the five members of the INDDHH Governing Council: Juan Raúl Ferreira Sienna, Ariela Peralta Distefano, Juan Faroppa Fontana,

Mariana González Guyer and Mirtha GuianzeRodríguez, who took office on June 22nd, 2012.

19. There were some obstacles in the process of setting up the INDDHH, and these were duly presented before the Legislative.
20. These obstacles are due to some vagueness with respect to the legal nature of the institution, which jeopardizes the autonomy the agency should have in accordance with the Paris Principles (General Assembly Resolution 48/134 of December 20th, 1993). This situation has caused the institution to carry out their many duties, to this date, with 10 staff members on secondment, rather than employing its own staff.
21. In order to solve such issues the President of the General Assembly requested the services of an independent consultant. The findings of such study confirmed the INDDHH's full power to self manage and issue their own regulations within the constitutional and legal framework (Annex 1: INDDHH specialized consultation -Dr. Cajarville 18.09.2012).
22. Although efforts have been made to solve such issues, and having legal reports that state the autonomy of the Institution, in practice the INDDHH is administratively subordinated to a unit within the Legislative (Administrative Commission), which has conditioned its financial autonomy and the amount of resources allocated in the latest budget modification approved last July 31st. This results in a reduction of resources that affects both the improvement and renovation of facilities and current staff remuneration.
23. Art. 80 of the Law stated that "The Executive Branch will allocate to serve as headquarters for the INDDHH, a building that has a symbolic and emblematic significance in close connection to the nature of the functions that the institution will conduct".
24. In compliance with such article, and in line with the symbolic reparation measures pursuant to the judgment of the Inter-American Court of Human Rights in the *Gelman vs. Uruguay* case, the Executive allocated as headquarters for the INDDHH a building that was used as a clandestine detention center for Uruguayan and Argentinean citizens during the civil-military dictatorship years, within the framework of "Operation Condor", and where both María Claudia García Iruretagoyena and her daughter, Macarena Gelman were held.
25. Since such building needs significant improvement and refurbishment and due to the aforementioned administrative and budget constraints, the INDDHH headquarters are currently located in temporary rented premises.
26. In addition, the vagueness of its legal nature has made calls for applicants impossible. Moreover, as stated under Article 81, Law N° 18,446, the General Assembly was required to issue a call for applicants within 30 days after the first Governing Council election, but this requirement has not been met.
27. After one year of full service, the INDDHH is beginning to prepare its accreditation application before the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (CIC). It aims to submit the formal requirements before the Accreditation Subcommittee to evaluate the application in 2014.
28. With the aid of the Regional Office for South America of the United Nations High Commissioner for Human Rights (OHCHR-South America Office) and the Spanish Agency for International Development Cooperation (AECID), the INDDHH has hired the services of independent consultants to address specific issues (holding Assemblies and drafting Reports, Strategic Planning, Communications). In addition, it conducted a

- Regional Workshop for Ombudsmen and Human Rights Institutions, with the participation of the OHCHR-South America Office Representative as the convening authority, and of ombudsmen and directors of institutions with vast experience, from several countries in South America.
29. In addition, it has signed Interagency Coordination Agreements with the University of the Republic (UdelaR) and with the OHCHR-South America Office and the National Human Rights Institute of Chile. It is also currently in the process of signing Agreements with UNICEF, UdelaR Institute for Statistics and the Inter-American Institute of Human Rights, for the better fulfillment of its institutional purposes.
 30. The INDDHH took part in the 21st session of the United Nations Human Rights Council, in the XVII Congress and General Assembly of the Ibero-American Federation of Ombudsmen (FIO) and in the 11th International Conference of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (CIC).
 31. In compliance with the Law, during the first year of its mandate, the INDDHH held the first two Governing Council Special Sessions, entitled “National Assemblies on Human Rights”. Authorized social organizations appropriately registered, government agencies and other entities under their control, participated in an advisory capacity. These sessions, thanks to their wide participation, become significant forums for communication, which allow the collection of input for the setting and follow-up of the institutional agenda.
 32. The Governing Council has presented nine draft bill reports, as per request of several parliamentary commissions: provisions regarding Adoption; voluntary termination of pregnancy; modifications to the Code of Children and Adolescents (CNA) and modifications to criminal legislation that increase the severity of punishment for some crimes; *Habeas Corpus* remedy; stateless persons; Statute of the victims, successors and those affected by crime; access to public information; persons of African descent (see Annexes 2 to 9, Parliamentary Commissions Reports).
 33. It has also published two thematic reports, on migrant workers, human trafficking and labor exploitation and on the contention for the right to vote of Uruguayan citizens living abroad.
 34. The Law establishes several obligations for the INDDHH which demand a close and effective relationship with other government agencies. To do so, it has adopted an inter-institutional coordination strategy, by identifying key focal points for communication.
 35. The INDDHH coordinates its scope of action with the Ministry of Foreign Affairs (MRREE) in areas of overlapping competencies, especially regarding the implementation of the National Preventive Mechanisms under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as set out by article 83, Law N° 18,446.
 36. In addition, it works in close coordination with the Human Rights Board of the Ministry of Education and Culture, in the search for strategies to strengthen the protection of human rights.
 37. Regarding the monitoring of the prison system and the rights of persons deprived of freedom, the INDDHH has set out guidelines for communication and information exchange with the Parliamentary Commissioner for the Prison System.
 38. Moreover, the INDDHH liaises with the Office of the Public Defender of Montevideo.
 39. In the fulfillment of its mandate, the INDDHH works in close coordination with several organization of the civil society.

40. The INDDHH is responsible for handling and investigating complaints regarding alleged human rights violations, upon request of the parties or by own initiative. A total of 334 complaints were filed from June 25th, 2012 to August 31st, 2013.
41. While during the first period (June-December 2012) the majority of the complaints were related to violations to the principle of equality and non-discrimination, the causes of complaint in 2013 have been more diverse.
42. The INDDHH issued several recommendations to the agencies in question, some of which have been addressed, and others, to this date, are in the follow-up stage.
43. In accordance with the Law, the INDDHH presented on May 8th, 2013, before the General Assembly, their first performance report as of December 31st, 2012. The report systematizes the information pursuant to their performance in the fulfillment of functions within the framework of their several areas of competency (See Annex 10 First Report before the General Assembly).
44. The INDDHH began to carry out the functions of the National Preventive Mechanisms by conducting the first monitoring visits.

B. Non discrimination, the rights of minorities and equality of rights (articles 3, 25, 26 and 27 of the Covenant)

Reply to the issues raised in paragraph 5 of the List of Issues

45. Although the State of Uruguay has made significant efforts for gender equality, the INDDHH considers a priority to further develop actions for the promotion, protection and full enjoyment of women's human rights, especially in the more critical areas: violence against women in the domestic, work, institutional and public environments; women's participation in the public and political life; qualitative integration of women into the workforce.
46. Law N° 18,561 was passed on September 11th, 2009 to prevent and punish sexual harassment in the workplace and in teacher-student relationships. Uruguay has an appropriate regulatory framework in place that classifies the crimes of human trafficking, commercial sexual exploitation of children and teenagers and people smuggling. The INDDHH deems necessary to develop protocols, implement staff training processes, create services and establish assessment and follow-up mechanisms to ensure the appropriate enforcement of such legal framework.
47. Law N° 18,476 –and subsequent modification N° 18,487 – was passed on April 3rd, 2009 to declare of general interest the equal participation of women and men in the integration of elected government bodies at national and departmental levels and in the governing bodies of political parties. This was a very significant step forward. However, the INDDHH is concerned about the underrepresentation of women in the decision-making units within political parties, as in Parliament and holding decision-making positions in the Executive and Judiciary. The impact of this Law will depend on how strictly it is enforced, therefore it is vital that the Electoral Court implements appropriate checks and balances and that the Legislative evaluates the results obtained to judge whether to maintain or adopt new affirmative measures to achieve equality in women's political participation.
48. Although women in Uruguay have high levels of education, workplace segregation and an income gap are still persistent. The latter is particularly prevalent in the private sector, going against the principle of "Equal pay for equal work".

There are higher rates of under and unemployment among Women in Uruguay, which shows that discrimination is still in place. This is why it is still very important to continue to include gender equality clauses in collective bargaining agreements and increase awareness campaigns that foster changes in attitude and perception, both in women and men, when it comes to their roles in the household, within the family, the workplace and in society as a whole.

49. It is necessary to move forward in the development of a national care system, as this is a fundamental component of the social protection and welfare matrix. It will be impossible to eliminate the existing inequalities among women and men if we don't strengthen a family support system in care giving tasks that favors the joint responsibility among the State, families, men and women on equal grounds.
50. The INDDHH believes the State of Uruguay has taken a significant step forward with the passing of Law N° 18,426 on the Protection of Sexual and Reproductive Health Rights and Law N° 18,987 on the Voluntary Termination of Pregnancy. However, it is necessary to intensify training of healthcare staff, conduct educational campaigns, include sexual education in all three educational levels and monitor the enforcement of such regulations.
51. Additionally, it considers the integration of gender perspectives into the judiciary structure through the creation of specialized offices to be essential.
52. The INDDHH is concerned regarding the fact that, although women represent 67% of staff within the judiciary, only two women in the history of our country have been appointed as Supreme Court Justices. Therefore, it is important to emphasize the need to change this situation by modifying the judicial career to integrate gender perspectives.
53. It is also very important to further the actions towards integrating gender issues to the education and training curricula of civil servants, and to promote inter-institutional cooperation to address such issues.

Reply to the issues raised in paragraph 6 of the list of issues

54. Pursuant to sexual violence, the INDDHH considers is still pending the harmonization of national legislation to international standards that contemplate sexual freedom as a protected legal right.
55. The INDDHH considers the modification of the current Criminal Code to be imperative, in order to eliminate gender stereotypes and criminal provisions that discriminate against women by continuing to use concepts such as modesty, virtue and public scandal in the classification of sexual offences.

Reply to the issues raised in paragraph 7 of the list of issues

56. Law N° 18,651 was passed on February 2010 pursuant to “comprehensive protection of persons with disabilities”, aiming at ensuring equal opportunities to people with disabilities. It establishes, among others, an obligation for government entities and other nongovernmental public entities to allocate 4% of vacant positions to persons with disabilities. This Law has never been regulated by the Executive, which makes monitoring and enforcement difficult. Official information provided by the National Bureau of Civil Service states that only three agencies within the governmental structure and two public entities, have complied with hiring people with disabilities to fill at least 4% of their vacancies. Out of the people who have been hired, all suffer

from mobility impairments, 60% are men and 40% women. Furthermore, the State does not guarantee effective access of persons with disabilities in equal grounds to public transportation, health and other rights established under such provision, which needs to be regulated and implemented as soon as possible.

57. In addition, considering the issues raised on the complaints reported, the INDDHH believes the State should further adopt affirmative actions, to address the different groups of persons with disabilities, and especially, the needs of children and persons who suffer mental disorders.
58. On April 2013, the INDDHH presented a report pursuant to “the right to Vote of Uruguayans Living Abroad”, recommending the State to promote the necessary agreements to pass legislation that guarantees the right to vote to all Uruguayan citizens living abroad. This, in accordance with the provisions under the Constitution, and to eliminate the unfair discrimination expatriates are subjected to, being compelled to travel to the country to exercise their right.

Reply to the issues raised in paragraph 8 of the list of issues

59. Law N°18,620 was passed on October 25th, 2009 on the right to gender identity and to change the name and gender given on identity documents. This has enabled the Advisory Commission that reviews the identity documents change requests from the transgender population to issue favorable decisions in dozens of cases.
60. We would like to draw special attention to the enactment by Parliament of Law N° 19,075 on Same-Sex Marriage, on May 3rd, 2013. It is defined as “the permanent union, in accordance with the law, of two people of different or same sex”, setting a milestone in family law.
61. Although there have been significant regulatory developments, discrimination against the transgender community was made evident in 2012 through the murders of 5 women, which to this date have not been solved.

C. Right to life, prohibition of torture and cruel, inhuman and degrading treatment (arts. 3, 6 and 7)

Reply to the issues raised in paragraph 10 of the list of issues

62. On July 2nd, 2002, Law N° 17,514 was passed, which declares of general interest the activities aiming at the prevention, early detection, management and eradication of domestic violence and establishes specialized courts.
63. More Services have been implemented for the fight against domestic violence: three specialized courts were created; the number of specialized police units has been increased; advisory teams were established within the healthcare system; work has continued in the establishment of care services for women victims of violence and a temporary housing facility has been opened, under the scope of action of the Ministry of Social Development. However, many of the services provided do not have nationwide coverage and there are still difficulties in coordinating inter-institutional cooperation.
64. Notwithstanding the aforementioned measures, Uruguay has not yet been able to reduce the number of women who are killed as a result of domestic violence. As of June 2013, 16 women had been murdered. According to statistics provided by the Ministry of Public Health (MSP), one every four women in Uruguay reported having been victims of gender-based violence “every or almost every day”.

65. The INDDHH considers that it is essential for the State of Uruguay to provide and ensure nationwide reach of housing shelters and comprehensive care services for women victims of violence.
66. In addition, it is necessary to strengthen and improve the solutions provided by the judiciary, police, educational and health systems, in order to modify institutional practices that tend to make the problem “invisible” and eliminate those which re-victimize women.

D. Elimination of slavery, servitude and forced labor and the liberty of movement (art. 8)

Reply to the issues raised in paragraph 11 of the list of issues

67. The country has made significant progress in the modification of its legal framework, for it to be an effective tool to protect the human rights of migrant workers and members of their family.
68. In fact, Uruguay was the first country in the region to ratify ILO Convention No. 189 on Decent Work for Domestic Workers (Law No 18,899 of May 9th, 2012).
69. On October 10th, 2012 the INDDHH published a specialized report on migrant workers, human trafficking and labor exploitation (see Annex 11 – Thematic Report on Migrant Workers, Human Trafficking and Labor Exploitation). Among the many recommendations issued, it argued that the State should guarantee that workers can effectively appear before the justice system when their labor rights have been affected, making sure they have efficient resources at hand and provide due reparation. It also points out, that special attention must be drawn to those rights that are usually violated in the context of labor exploitation of migrant workers in an irregular situation, the rights to freedom of association, collective bargaining and fair wages for work performed, social security, judicial and administrative guarantees, a working day of reasonable length, adequate working conditions, rest and compensation. If there is any indication that there might be a situation of human trafficking, it should be immediately investigated by competent authorities and staff who have been especially trained to address said situations. It specifically states that these responsibilities fall under the scope of action of the Ministry of Internal Affairs (National Bureaus of Immigration and INTERPOL and Fight Against Organized Crime); the Ministry of Foreign Affairs (regarding training of diplomatic and consular staff appointed abroad); the Ministry of Labor and Social Security (in particular, the Office of the Inspector General of Labor); the Judiciary and General Office of the State Attorney (in particular, the judges with jurisdiction in the fight against organized crime). Finally, the INDDHH recommended the competent authorities to, in a framework of wide participation from all sectors involved, move forward with the design and implementations of a public policy on labor migration, as an indispensable tool for the fulfillment of their national and international obligations on human rights.

E. Right to Liberty and Security of Person and the Rights of Persons Deprived of their Liberty (arts. 9 and 10)

Reply to the issues raised in paragraph 12 of the list of issues

70. The INDDHH within the framework of its competencies handles complaints pursuant to the violation of the rights of persons deprived of liberty. In addition, as stated under Law N° 18,446, the INDDHH must coordinate their work with the Parliamentary Commissioner for the Prison System. In order to create synergies and integrate their activities, both institutions maximizing efforts have put in place a mechanism through which when the INDDHH receives a complaint about the detention system, it informs and transfers it to the Parliamentary Commissioner, who then, in turn reports to the INDDHH about the findings of the investigations conducted (See Annex 12 Performance Report and Evaluation of the National Prison System, 2012).
71. The INDDHH also carries out the functions of the National Preventive Mechanisms under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The systematic monitoring visits to the detention facilities contribute to the transparency of the information pursuant to the conditions of detention of those who have been deprived of liberty.

Reply to issues raised in paragraph 13 of the list of issues

72. The INDDHH acknowledges some progress made in the reform to the juvenile detention system, such as the creation of the Adolescent Criminal Responsibility System (SIRPA) as a transitional body until the Adolescent Criminal Responsibility Institute (IRPA) is established. SIRPA was established by Law N° 18,771 on July 1st, 2001, as a decentralized body in charge of the execution of socio-educational measures pertaining minors in conflict with the criminal law.
73. The INDDHH argues that, in addition to the institutional reforms, in order to execute these socio-educational measures, it is necessary to conduct a reform of the juvenile justice system, focusing on the prevention of crime and rehabilitation, using deprivation of liberty as a last resort, and that limits the use of preventive prison as much as possible, promoting the use of alternative measures to the deprivation of liberty.
74. It also understands that in practice, the method used for deprivation of liberty of adolescents is compulsory lockdown. During a visit to Colonia Berro's "SER" center, the INDDHH conducted interviews with teenagers, authorities and technical staff. It was able to confirm that minors remain in lockdown between 20 and 23 hours a day, without access to any kind of activity. They are allowed to get out of their cell to take a daily shower for approximately 15 minutes, they go out on the courtyard an average of an hour and a half twice a week, and receive visitors on Saturdays and Sundays in the morning and afternoon. Although authorities reported having allocated weekly teaching hours for elementary and secondary levels of education, the information collected through both the interviews and the visit itself shows that the chances to actually attend lessons are sporadic, disconnected, exceptional and unforeseeable.
75. The INDDHH is truly concerned about the high number of juvenile inmates in this center who consume prescribed psychoactive drugs. It is also concerned about the lack of regular medical evaluations, whether general or psychiatric.
76. It also notes that the programmed cohabitation regime as described by authorities of the Institute for Children and Adolescents of Uruguay (INAU) is not known by the inmates

or the non-technical staff. Therefore, punishments are discretionary and imposed with no grounds.

77. The criminalization of attempted theft and complicity in theft were approved in 2011. In addition, the period of time judges have to give final judgment in cases where detention is used as a precautionary measure was extended from 60 to 90 days. The INDDHH considers these modifications to the Code of Children and Adolescents to be steps backwards. In practice, due to the lack of alternatives, the number of adolescents that are deprived of liberty has increased.
78. On August 14th, 2012 the INDDHH presented before the Senate's Constitution and Legislation Committee a report on the draft bill that introduces modifications to the Code of Children and Adolescents (Law N° 17,823 of September 7th, 2004). The report stated the opinions and concerns regarding inconsistencies of the reform proposal with respect to international standards for protection, as well as considering it contrary to the regulatory developments achieved at national level (See Annex XX Report - Modifications to the CNA and criminal legislation).
79. The INDDHH expresses concern regarding the referendum to be held together with the national elections in 2014 to lower the age of criminal responsibility, since such measure is contrary to the *corpus juris* on children's rights, of which Uruguay is a State Party, and it would further exacerbate the structural problems of the national prison system.

Reply to the issues raised in paragraph 15 of the list of issues

80. According to the "Monthly statistical summary" by the National Institute of Rehabilitation, as of July 31st, 2013, the adult population deprived of liberty was of 9708 people. According to such source, out of the total number of people deprived of liberty, 58.6% are in preventive detention. Meanwhile, the numbers presented in the 2012 Parliamentary Commissioner's Report, state that 64.65% of people deprived of liberty have been prosecuted but not yet convicted

F. Due process and recognition of legal personality (articles 14 and 16 of the Covenant)

Reply to the issues raised in paragraph 16 of the list of issues

81. Although significant efforts have been made by the State of Uruguay regarding acknowledging responsibility and reparation remedies for the violations of human rights committed in the years before and during the civil-military dictatorship (June 27th, 1973 to February 15th, 1985), the INDDHH has expressed concern due to a series of actions that jeopardize the progress made so far.
82. To this date the Supreme Court of Justice has issued two judgments deeming articles 2° and 3° of Law N° 18,831 unconstitutional, which provide that no period of limitation or expiry shall apply to the period between 22 December 1986 and the entry into force of the Law with respect to the crimes committed during the dictatorship years and declare such crimes to be crimes against humanity.
83. It is the opinion of the INDDHH, coinciding with that of the Inter-American Court of Human Rights (Judgment *Gelman vs. Uruguay*), that the States must comply with international obligations in good faith, by virtue of the principles of international law, and they cannot appeal to reasons of national law nor interpretation – "including constitutional law or judicial decision" – to neglect their international responsibilities

(See Annexes 13 Statement of the National Human Rights Institute on the grounds for protection of human rights at national level, and 14 Statement of the National Human Rights Institute on the obligations of the State regarding compliance with the *Gelman vs. Uruguay* judgment).

84. In order to strengthen the investigation processes in the cases of crimes against humanity committed during the civil-military dictatorship, the INDDHH has, as per request of several organizations of the civil society, issued recommendations to the Ministry of Internal Affairs, The Judiciary and the General Office of the State Attorney, to establish Specialized Units to investigate such violations. The Ministry of Internal Affairs by Resolution dated July 26th, 2013, established a Specialized Unit – auxiliary to the Justice to address crimes of this nature.
85. On December 6th, 2012 the INDDHH recommended the Executive the modification of public policies with regards to Reparation remedies to victims of State terrorism, with the understanding that current legislation poses several constraints that are not consistent with international obligations in the matter (See Annex 15 INDDHH Recommendations on Reparations).
86. In addition, on February 21st 2013, the INDDHH issued a statement acknowledging the need to harmonize the scheme of transfers under the Charter of the Judiciary and Organization of Courts (Law N° 15750), to the provisions on human rights treaties. Especially, to article 14 of the International Covenant on Civil and Political Rights which demands the establishment of clear and transparent rules that ensure the independence and impartiality of judges (See Annex 16 Statement of the INDDHH on the administration of justice and human rights).