

## Rights of the Child

Signed: 26 January 1990; ratified: 20 November 1990. Uruguay's second periodic report was due 19 December 1997.

*Reservations and Declarations:* Paragraphs 2 and 3 of article 38.

## REPORTS TO TREATY BODIES

### Human Rights Committee

Uruguay's fourth periodic report (CCPR/C/95/Add.9, December 1996) was considered by the Committee at its March 1998 session. The report prepared by the government contains information on, *inter alia*: the constitutional prohibition of discrimination; reform of criminal procedure and regulations governing *habeas corpus*; equality between women and men, women in employment, participation in political and public life; violence against women, the Specialized Police Station for the Protection of Women and the Family (established in 1990), the Office of Technical Assistance to Victims of Domestic Violence (established in 1992); provisions related to states of emergency and derogation; the right to life and disappearances of Uruguayan citizens in Argentina between 1973 and 1983; prohibition of torture and ill treatment; medical experimentation and the Medical Ethics Code; liberty and security of person, pre-trial detention, preventive detention; the Police Organization Act and the treatment of prisoners; the Honorary Commission to advise the Executive on matters related to the improvement of the prison system; juvenile justice; due process of law and non-retroactivity of criminal law; the right to privacy; freedom of thought, religion, expression, opinion, peaceful assembly and association; trade unions and workers' rights, including the right to strike; the right to vote and be elected, the electoral process; and the rights of minorities.

The Committee's concluding observations and comments (CCPR/C/79/Add.90) welcomed: generally, the considerable progress related to the enactment of new laws and codes and the strengthening of democratic institutions and processes aimed at promoting and protecting human rights; the enactment of the new Code of Criminal Procedure (Act No. 16.893); the constitutional amendment of January 1997, which makes the electoral system more transparent and in conformity with international norms; various legislative acts to ensure equality between women and men and to prevent domestic violence, including that against women, children and the elderly; the steps taken to improve the training of law enforcement officers and wardens in detention centres; and the agreements between the Ministry of the Interior and the universities aimed at improving police training.

The principal subjects of concern identified by the Committee included, *inter alia*: the Ley de Caducidad de la Pretensión Punitiva del Estado (Expiry Law of the Punitive Powers of the State) and its implications with regard to the right to effective remedy through recourse to the competent judicial, administrative, legislative or other

authority; that in a number of cases the maintenance of the Expiry Law effectively excludes the possibility of investigation into past human rights abuses and prevents effective remedies to the victims of those abuses; that the Expiry Law violates article 16 of the Covenant in respect of the disappeared persons and article 7 in respect of their family members; the constitutional provisions relating to the declaration of a state of emergency.

Concerns were raised with respect to the new Code of Criminal Procedure, including that: article 55 allows suspects to be placed in "incommunicado" detention until a decision is taken as to whether they should be committed to stand trial and, during this period, allows the judge to restrict contact between a suspect and a lawyer; the regulations relating to pre-trial detention, both in respect of suspects (*imputados*) and accused, are not in conformity with article 9 of the Covenant; wide possibilities exist to restrict a suspect's liberty; under the new Code, the trial judge is the same judge who has supervised and/or ordered investigations, and who subsequently charged the defendant, raising serious concerns about possible impartiality of the trial; and articles 89 and 90 of the Code provide that the marriage to the accused of a victim of rape — even statutory rape — and of other criminal offences, extinguishes the criminal offence or the sentence handed down at the trial.

The Committee also expressed concern over: provisions in the new Press Law (Act No. 16,099) that might impede the full exercise of freedom of expression, including those relating to offences committed by the press or other media with regard to false information and slander through the media; inadequate guarantees of the right to seek information; the broad range of sanctions provided for under chapter IV of the Press Law which may hinder the full enjoyment of article 19 of the Covenant; the statement by the government that the future Code Relating to Minors (*Código del Menor*) will discriminate against female minors; provisions in the Code Relating to Minors concerning the protection of a newborn child, noting that unmarried minor mothers may register their children at any age and minor fathers may only do so from the age of 16 onwards; and the statement by the government that there are no minorities in Uruguay.

The Committee recommended that the government, *inter alia*:

- ♦ restrict provisions relating to the possibilities of declaring a state of emergency and constitutionally specify those Covenant rights which are non-derogable;
- ♦ revise detention procedures and other restrictions on the liberty of suspects and accused, with a view to facilitating full application of the rights provided for under the Covenant, having particular regard to the principle of the presumption of innocence;
- ♦ modify the provisions of the new Code of Criminal Procedure to conform with the Covenant;