

**Submission by the United Nations High Commissioner for Refugees
for the Office of the High Commissioner for Human Rights' Compilation Report**

Universal Periodic Review:

URUGUAY

I. BACKGROUND INFORMATION AND CURRENT CONDITIONS

Uruguay acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter the *1951 Convention*) in 1970. The domestic legal framework dealing with refugees is set out in Refugee Law N° 18.076, which was adopted in 2006 and which enshrines important provisions regarding the refugee status determination (RSD) procedure and durable solutions, such as local integration or resettlement. Moreover, Law N° 18.076 established a Refugee Commission (CORE), which is in charge of adjudicating asylum claims and finding durable solutions for refugees.

Uruguay acceded to the *1954 Convention relating to the Status of Stateless Persons* in 2004 and to the *1961 Convention on the Reduction of Statelessness* in 2001.

In 2007 Uruguay joined the Regional Solidarity Resettlement Programme, a component of the Mexico Plan of Action adopted in 2004 by 20 Latin American countries with the aim to strengthen protection and promote durable solutions for refugees in Latin America. The Regional Solidarity Resettlement Programme is inspired by the principles of solidarity and responsibility sharing, which is in line with the long and generous tradition in Latin America of welcoming refugees. A growing number of resettled refugees are finding protection in Uruguay as a result of the Memorandum of Understanding on Resettlement signed between the Government and UNHCR and the consequent planning and implementation of the Programme.

According to UNHCR's statistical data, as of December 2012 a total of 181 refugees and 39 asylum-seekers from several different countries lived in Uruguay. The great majority of them originate from Colombia. Approximately 34 per cent are refugee and asylum-seeking women. As a result of UNHCR's Regional Solidarity Resettlement Programme, to date 45 Colombian refugees have found protection in Uruguay through resettlement.

UNHCR's programme in Uruguay is focused on providing support to refugees and asylum-seekers with a view to facilitating their local integration and promoting their self-sufficiency. UNHCR also supports the work of CORE, providing technical advice, regular training and capacity-building support.

II. ACHIEVEMENTS AND BEST PRACTICES

UNHCR welcomes the following achievements of the Government of Uruguay:

1. Pledges made during the December 2011 Ministerial Event

Uruguay made several pledges during the Ministerial Intergovernmental Event on Refugees and Stateless Persons held in Geneva in December 2011¹, committing itself to adopt a formal statelessness status determination procedure, and to build the capacity of the Permanent Secretariat of the Commission for Refugees, which is the body responsible for processing asylum applications and issuing technical recommendations to the Refugee Commission.

In order to complement its activities in the framework of the Regional Solidarity Resettlement Programme, the Government of Uruguay also pledged to launch a pilot resettlement programme in rural settings to benefit refugees with such profiles and to boost their potential for local integration and self-reliance. The programme is currently in the final stages of design and will start being implemented in 2013 with the arrival of three Colombian families recognized as refugees in Ecuador. Uruguay will provide free housing as well as access to employment, health and education.

2. The adoption of Refugee Law N° 18.076 and the establishment of the Refugee Commission (CORE)

Refugee Law N° 18.076, adopted in 2006, guarantees several important protection principles such as, *inter alia*, *non-refoulement*, abolition of sanctions for illegal entry into the country, confidentiality, family reunification and non-discrimination. It also includes the refugee definition contained in the 1951 Convention as well as the extended definition from the 1984 Cartagena Declaration, which means that most persons in need of international protection can be recognized as refugees in Uruguay. In 2012, UNHCR implemented a capacity-building project together with the Ministry of Foreign Affairs strengthening the Permanent Secretariat of the Commission for Refugees, and thereby enhancing the assessment of asylum claims.

3. The inclusion of important safeguards for refugee protection in the Migration Law N° 18.250

Migration Law N° 18.250, adopted in 2007, incorporates a human-rights based approach in its migration policy, includes provisions on human trafficking and smuggling, and relevant safeguards for refugees and asylum-seekers, such as the right to family reunification and the equality of rights between national and foreigners. The law recognizes the rights of migrants and their families regardless of their legal status in the country and provides that persons in need of international protection, who are not recognized as refugees, may obtain legal residence on humanitarian grounds. The standard of treatment of every foreigner (including refugees and asylum-seekers) is the one given to nationals, without any kind of discrimination.

¹ UN High Commissioner for Refugees, Ministerial Intergovernmental Event on Refugees and Stateless Persons - Pledges 2011, October 2012, available at: <http://www.unhcr.org/refworld/docid/50aca612.html>

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Gender and child-sensitive approach to RSD procedures

In spite of the enactment of Refugee Law N° 18.076 and Migration Law N° 18.250, Uruguay has not yet adopted all the necessary internal regulations to facilitate their effective implementation. For example, special procedures for women applying for refugee status, as foreseen in section 38 of the Refugee Law, have not yet been adopted. There is also a need to apply a more gender-sensitive approach in the RSD procedures to ensure that asylum claims submitted by women are examined in a manner that responds to their specific protection needs.

Standard Operating Procedures for Prevention and Response to Sexual Gender Based Violence and for cases of unaccompanied or separated children with international protection needs also still need to be developed.

As indicated in UNHCR's Guidelines on gender-related persecution, "persons raising gender-related refugee claims, and survivors of torture or trauma in particular, require a supportive environment where they can be reassured of the confidentiality of their claim. Some claimants, because of the shame they feel over what has happened to them, or due to trauma, may be reluctant to identify the true extent of the persecution suffered or feared. They may continue to fear persons in authority, or they may fear rejection and/or reprisals from their family and/or community."² The guidelines set out a number of measures to ensure that gender-related claims, of women in particular, are properly considered in the RSD process, *inter alia*, ensuring individual interviews of female claimants and access to a female interviewer and interpreter.

RSD procedures should also incorporate child-sensitive elements; special attention should be given to unaccompanied and separated children. UNHCR's Guidelines on child asylum claims offer substantive and procedural guidance on conducting RSD in a child-sensitive manner.³

Recommendations:

- Ensure that the RSD procedure promptly identifies women and girls at risk and that their specific protection needs are addressed in a systematic manner.
- Complete the refugee and migratory legal framework with the adoption of rules of procedure and internal regulations to facilitate their effective implementation.
- Ensure that gender-related claims are properly considered, notably by taking into consideration the particularities of these types of asylum claims and the need to incorporate gender-sensitive elements both in the formalization of the asylum claim and during its assessment.
- Incorporate child-sensitive elements into the RSD procedure.
- Establish and implement Standard Operating Procedures for Prevention and Response to Sexual Gender Based Violence.

² UN High Commissioner for Refugees, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/01, available at: <http://www.unhcr.org/refworld/docid/3d36f1c64.html>

³ UN High Commissioner for Refugees, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08, available at: <http://www.unhcr.org/refworld/docid/4b2f4f6d2.html>.

Issue 2: Prevention of human trafficking and identification of victims who may be in need of international protection

Refugees and asylum-seekers are particularly at risk of falling victim to trafficking or smuggling due to the vulnerable and volatile situations they often face. The social situation of asylum-seekers and refugees and the absence of special programs to facilitate their local integration in the country make refugees, particularly refugee women, especially vulnerable to human trafficking for sexual exploitation. No special provisions have been adopted to prevent refugees, asylum-seekers and other persons of concern from being trafficked.

The Government should also take into account the fact that victims or potential victims of human trafficking who are at risk of persecution, if returned to their countries of origin, may qualify as refugees within the meaning of the *1951 Convention*.

A proper referral system to the RSD procedures needs to be established, to ensure that the trafficking victim's right to seek and be granted asylum is fully and duly respected. In particular, Uruguay should adopt proper measures, including the development of standard operating procedures, to facilitate their prompt identification and referral to the asylum system, when appropriate. Moreover, RSD procedures should be improved to ensure that asylum claims from victims of trafficking are fairly and appropriately examined in line with international standards. Additionally, specialized programs and policies to protect and support victims who cannot return to their countries of origin should be adopted.

In this respect, the Committee on the Elimination of Discrimination against Women encouraged Uruguay *“to intensify its efforts to combat trafficking in women and girls, study its scope, causes, consequences and purposes, and systematically compile information with a view to formulating a comprehensive strategy that includes (...) measures to protect and rehabilitate victims and reintegrate them into society.”*⁴

Recommendations:

- Establish a referral mechanism for victims of trafficking to enable them to apply for asylum, whenever appropriate;
- Develop a standard operating procedure for the identification of victims of trafficking and those who may be in need of international protection.

Issue 3: State policies and strategies for the integration of refugees

Despite the political commitment of countries of the region, including Uruguay, the difficult socio-economic context in most of the Latin-American countries represents a serious obstacle to the successful local integration of refugees.

The provision of humanitarian assistance to new asylum-seekers and the development of programmes for the local integration of refugees remain important challenges. The process of

⁴UN Committee on the Elimination of Discrimination Against Women (CEDAW), *Concluding observations of the Committee on the Elimination of Discrimination against Women: Uruguay*, 14 November 2008, CEDAW/C/URY/CO/7, available at: <http://www.refworld.org/docid/494ba8d30.html>

local integration is primarily supported through the efforts of UNHCR and its local implementing partner agency (*Servicio Ecuménico para la Dignidad Humana*). There is a need for the direct and more active involvement of governmental institutions in the integration processes of refugees and in the response to the basic needs of asylum-seekers.

Recommendations:

- Promote the sustainable integration of refugees by ensuring their access to fundamental socio-economic rights, in particular healthcare, employment and education.
- Assume responsibility for the local integration of refugees and allow UNHCR to gradually phase out its activities in this sector.

Issue 4: Legal framework for the protection of stateless persons

Establishing a statelessness determination procedure is the most efficient means for States party to the 1954 *Convention relating to the Status of Stateless Persons (1954 Convention)* to identify the beneficiaries of the Convention with the view to providing them with appropriate protection. At the Ministerial Meeting in December 2011, Uruguay pledged to adopt domestic legislation on statelessness, including the adoption of a formal statelessness status determination procedure.⁵ With UNHCR technical support, a proposal for a law on statelessness was drafted by the Refugee Commission in 2012 and is currently under revision with of Uruguay's National Congress.

Recommendations:

- Adopt and implement a statelessness determination procedure to ensure the protection of stateless persons who are not refugees.
- Implement legislation that codifies the protections guaranteed in the *1954 Convention* in national legislation.

**Human Rights Liaison Unit
Division of International Protection
UNHCR
June 2013**

⁵ UN High Commissioner for Refugees, *Ministerial Intergovernmental Event on Refugees and Stateless Persons - Pledges 2011*, October 2012, available at: <http://www.refworld.org/docid/50aca6112.html>

ANNEX

Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies and Reports from Special Procedures

Universal Periodic Review:

Uruguay

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations and Special Procedures' reports relating to issues of interest and persons of concern to UNHCR with regards to Uruguay.

Treaty Bodies

Committee on the Elimination of Racial Discrimination

CERD/C/URY/CO/16-20, 78th Session

10 March 2011

14. The Committee is concerned that, despite the some measures taken by the State party, people of African descent continue to be victims of inequalities, particularly in employment where they occupy low-skill jobs; in housing where they continue to live in the poorest neighbourhoods on the outskirts of the city; and in education, where drop-out rates of children of African descent remain high compared to other ethnic groups in the population of the State party. (art.5)

The Committee recommends that the State party strengthen its efforts, including by undertaking special measures in favour of people of African descent and indigenous origin, in order to reduce inequalities and to improve their effective integration in the Uruguayan society. In particular, the State party should:

- (a) promote the representation of people of African descent and indigenous origin in parliament and other State institutions, as well as their employment in public administration and private enterprises as appropriate, including in high level positions; and operationalize the proposed Tripartite Commission for the promotion of racial equity and providing it with sufficient resources to fulfil its mandate;**
- (b) ensure adequate housing to people previously evicted from their homes during the earlier dictatorship and integrate the ethnic or racial dimension in housing programmes;**
- (c) implement the 2008 law on education and strengthen special measures aimed, inter alia, at reducing the school drop-out rates of children of African descent and indigenous origin, and at sensitizing their parents to the benefits of education.**

Committee on Economic, Social and Cultural Rights

E/C.12/URY/CO/3-4, 45th Session

1 December 2010

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.

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.

Committee on the Elimination of Discrimination against Women

CEDAW/C/URY/CO/7, 42nd Session

14 November 2008

Trafficking

28. While welcoming the State party's participation in the 2006 MERCOSUR action plan against trafficking and the 2007 national action plan for the eradication of commercial and non-commercial sexual exploitation, the Committee is deeply concerned about the persistence of trafficking in women and girls from and into the State party for the purposes of sexual exploitation. It regrets that there are no official records or statistical data and that no research has been undertaken to assess the incidence of this phenomenon. The Committee is also concerned at the lack of sufficient and effective measures to address trafficking in human beings.

29. The Committee urges the State party to intensify its efforts to combat trafficking in women and girls, study its scope, causes, consequences and purposes, and systematically compile information with a view to formulating a comprehensive strategy that includes measures of prevention, prosecution and punishment of offenders, as well as measures to protect and rehabilitate victims and reintegrate them into society. It also recommends that the State party conduct nationwide awareness-raising campaigns on the risks and

consequences of trafficking targeted at women and girls and train law enforcement, migration and border police officials on the causes, consequences and incidence of trafficking in women and girls. The Committee requests that the State party carefully monitor the impact of measures taken and provide information on the results achieved.

Special Procedures

Report of the Special Rapporteur on human trafficking, especially women and children, Joy Ngozi Ezeilo

Addendum: Mission to Uruguay
Human Rights Council, 17th Session
A/HRC/17/35/Add.3, 26 May 2011

76. The Government should consider the establishment of a central agency to address human trafficking that will enhance coordination, not only among central authorities, but also between them and authorities at local levels.

77. Training and capacity-building should be continually provided to all State authorities in particular the police, judiciary, prosecutors, immigration and labour inspectors. Furthermore, specific trainings should be conducted for consular officials, especially in Italy and Spain, other main countries of destination of victims of trafficking, to enhance their capacity to detect, identify and provide assistance including making necessary referrals.

78. The judiciary should establish adequate mechanisms for witness protection and access to justice for victims, their families and civil society actors who might be assisting them.

79. The Government should strengthen its efforts to tackle the root causes that make potential victims more vulnerable to human trafficking such as social exclusion and discrimination against adolescents, high rates of school dropout amongst them and adolescents working in unregulated and exploitative conditions.