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Visit to Uruguay

Report of the Working Group on Enforced or Involuntary Disappearances*

Summary

At the invitation of the Government of Uruguay, the Working Group visited the country from 7 to 14 July 2022. The purpose of the visit was to obtain first-hand information on the human rights situation in the country, in the area of enforced disappearance, with a view to identifying the progress made in applying international standards in this area and ensuring the enjoyment of the rights to truth, justice, reparation and memory, as well as the main challenges currently facing the country, including with regard to prevention. The Working Group mainly focused on the enforced disappearances that took place between 1968 and 1985 and the corresponding obligations of the State. It also received information on disappearances occurring at the present time, particularly those involving persons belonging to especially vulnerable groups (children, adolescents and women).

In general terms, following the restoration of democracy in 1985, Uruguay has made significant progress in protecting human rights, having ratified to date all the international human rights treaties of the United Nations, progressively bringing its national laws into compliance with international human rights standards and thereby becoming a model country at the international level. It must also be acknowledged that some progress has been made in promoting justice and combating impunity for crimes committed during the period of illegitimate action of the State and the dictatorship, i.e., between 1968 and 1985. For example, the Expiry of Punitive Powers of the State Act (No. 15848) has been repealed, the Office of the Special Prosecutor for Crimes against Humanity has been established, enforced disappearance was defined as an offence in 2006 and the responsibility of the State for its criminal and illegitimate action during this period has been officially recognized.

The Working Group notes that the progress achieved is undoubtedly due to the tenacious efforts made over five decades by victims and the relatives of disappeared persons, along with their commitment and courage in searching for their loved ones, identifying and prosecuting the persons responsible, preserving memory and ensuring guarantees of non-repetition.

* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission only.



However, the Working Group has noted that the search and justice processes relating to enforced disappearance have faced serious institutional obstacles that have resulted in long delays. In this connection, the relatives with whom the Working Group met expressed their anguish about the failure to obtain any substantial results after such a long time. The Working Group is deeply concerned to note that, in recent years, many people have died without ever learning the truth about the fate of their loved ones or obtaining justice.

The Working Group considers that the State should fully assume the sense of urgency that relatives have felt at every moment of the last 50 years and that the State's highest authorities should send a clear and unequivocal message to the whole of Uruguayan society that this task should be taken on jointly with a sense of seriousness, proactivity and urgency.

Lastly, the Working Group formulates a series of recommendations relating to the prevention, investigation, punishment and reparation of the harm suffered by the victims of enforced disappearance and the protection of groups in situations of particular vulnerability.

Annex

Report of the Working Group on Enforced or Involuntary Disappearances on its visit to Uruguay

I. Introduction

1. The Working Group visited Uruguay from 7 to 14 July 2022 at the invitation of the Government. The Working Group would like to thank the Government for the invitation and for its positive cooperation before and during the mission and its openness to dialogue. It also wishes to thank the associations of relatives of disappeared persons, civil society organizations and, in particular, the victims of serious human rights violations and their relatives for the information and testimonies that they provided. The Working Group would like to thank the United Nations country team in Uruguay for providing valuable logistical and substantive support in organizing the visit.

2. The Working Group commends Uruguay on having ratified all the human rights treaties of the United Nations system, including the International Convention for the Protection of All Persons from Enforced Disappearance and the Inter-American Convention on Forced Disappearance of Persons. It also commends Uruguay for having issued a standing invitation to all United Nations special procedures mandate holders.

3. The Working Group was represented by Aua Baldé, Gabriella Citroni and Luciano Hazan. The purpose of the visit was to obtain first-hand information on the human rights situation in the country, in the area of enforced disappearance, with a view to identifying the progress made in applying international standards in this area and ensuring the enjoyment of the rights to truth, justice, reparation and memory, as well as the main challenges currently facing the country, including with regard to prevention.

4. The Working Group held meetings with various State authorities and institutions, including the Minister of Defence, the Minister of the Interior, the Minister of Education and Culture, the Chief Public Prosecutor and Attorney General of the Nation, the President of the Supreme Court, the Director of the Human Rights Secretariat for the Recent Past, the Office of the Undersecretary for Foreign Affairs of the Ministry of Foreign Affairs, the Office of the Special Prosecutor for Crimes against Humanity, the Director of the Victims and Witnesses Unit of the Office of the Attorney General of the Nation, the Director of the State Secretariat for Strategic Intelligence, as well as parliamentary representatives from different political parties and the Parliamentary Commissioner for the Prison System. The Working Group also met with the National Human Rights Institution and Office of the Ombudsman. The Working Group visited the Memorial for Disappeared Prisoners in Cerro de Montevideo, the Museum of Memory Cultural Centre, the Tablada remembrance site, the former headquarters of the Defence Information Service, the “300 Carlos” former secret detention centre at the army’s Materials and Weapons Service, the remembrance site of the former Punta Carretas Prison and the remembrance sites in Toledo (Canelones), including the secret burial sites of Julio Castro Pérez and Ricardo Blanco Valiente.

5. During its visit, the Working Group mainly focused on enforced disappearances that took place between 1968 and 1985 and the corresponding obligations of the State. It also received information on disappearances occurring at the present time, particularly those involving persons belonging to especially vulnerable groups (children, adolescents and women).

6. To date, a total of 20 cases of enforced disappearance relating to Uruguay have been submitted to the Working Group. Of these, 19 are still pending resolution. However, this figure does not reflect the total number of enforced disappearances perpetrated between 1968 and 1985. The figure officially recognized by associations of relatives of disappeared persons and the Uruguayan authorities is 197, which includes disappearances registered in Uruguay

and those registered in the other Southern Cone States that participated in Operation Condor,¹ the majority of which took place in Argentina.² The fate and whereabouts of the persons concerned are unknown to date.

7. During the interviews with victims and relatives, the Working Group noted that some of the interviewees had also been detained and, in many cases, subjected to enforced disappearance for a few days, weeks or months before they were released or their relatives were informed of their detention. However, these enforced disappearances are not recognized as such and the persons subjected to them do not usually identify themselves as victims of enforced disappearance. It should be noted that, during their detention, most of these victims were also subjected to torture and other cruel, inhuman or degrading treatment, including sexual violence.

8. The Working Group reiterates that the detention of persons by State authorities, accompanied by a refusal to acknowledge the deprivation of liberty or to disclose the location, constitutes an enforced disappearance under international human rights law, irrespective of the duration of the detention or whether the persons concerned were subsequently released. In the light of the above, the number of victims of enforced disappearance between 1968 and 1985 exceeds the figure of 197 established by associations of relatives and the authorities. The Working Group therefore encourages the State to take this fact into account and reflect it in the official discourse, the law, and the measures taken to recognize the rights of all victims of enforced disappearance and their relatives.

9. The Working Group also received information relating to the underreporting of recent disappearances. This has several causes, including ignorance of the mechanisms available for reporting a disappearance at the international level. During its visit, however, the Working Group received information relating to the disappearances of children, adolescents and women that had not been adequately investigated with a view to ruling out the possibility that they were enforced disappearances.³

10. The Working Group has specified that a potential enforced disappearance may be ruled out only by conducting an independent, impartial and thorough investigation. Therefore, the number of cases of enforced disappearance cannot be accurately established without a proper investigation.⁴ These considerations also apply to the case of Uruguay. The Working Group therefore encourages the State to conduct wide-ranging campaigns to raise awareness of enforced disappearance, existing reporting mechanisms and the corresponding obligations. The campaigns should be aimed at civil society, military and civilian law enforcement personnel, health-care workers and officials who may be involved in the custody or treatment of persons deprived of their liberty and, especially, of indigent persons and persons living with addictions or in shelters for children in situations of vulnerability.

II. Right to truth

11. The right to know the truth, for individuals and groups, encompasses both the determination of the fate and whereabouts of the disappeared person and the progress and results of the investigation. It also concerns the circumstances in which an enforced disappearance occurred and the reasons that led to the perpetration of this and other heinous crimes, especially when they are committed as part of mass or systematic violations. Therefore, the search for disappeared persons seeks to address a fundamental aspect of the right to the truth, which, however, has a broader dimension.

12. The Working Group has noted that, in Uruguay, no comprehensive exercise has been carried out to clarify and reconstruct the truth about the human rights violations committed between 1968 and 1985. Although the restoral of democracy in Uruguay in 1985 raised victims' expectations that the right to truth and justice would be realised, these expectations

¹ See paragraphs 13–14, 33 and 66–69.

² Inter-American Court of Human Rights, *Julien Grisonas Family v. Argentina*, judgment of 23 September 2021, paras. 67 and 88.

³ See paras. 70–74.

⁴ [A/HRC/19/58/Add.2](#), para. 21.

were dashed following the adoption of the Expiry of Punitive Powers of the State Act (No. 15848) on 22 December 1986 and the establishment of a series of mechanisms that fostered a pattern of silence and impunity.⁵ In this regard, the Working Group has received reports of tacit agreements between political forces during the transition to democracy that had an adverse impact on efforts to clarify and reconstruct the truth. The Working Group recalls that the full and effective exercise of the right to the truth is essential to prevent the recurrence of crimes.

13. A large proportion of the enforced disappearances perpetrated between 1968 and 1985 were committed as part of Operation Condor, the code name given to the alliance established between the security forces and intelligence services of the Southern Cone dictatorships (in particular, Argentina, the Plurinational State of Bolivia, Brazil, Chile, Paraguay and Peru), with the support of the United States of America, in order to repress persons designated as “subversive elements”.⁶ Against this backdrop, military regimes in South America coordinated with each other to locate and capture political refugees and migrants, sometimes allowing foreign agents to enter their territory to capture their fellow nationals and, in many cases, subject them to enforced disappearance.⁷

14. Thus, the figure of 197 persons disappeared between 1968 and 1985 includes nationals of Uruguay and other States who were abducted in Uruguay and either kept there or detained there for an initial period before being transferred elsewhere. It also includes Uruguayan nationals abducted in Argentina, who comprise the majority of cases to date (154 victims); Uruguayan nationals abducted in other countries in the region, such as the Plurinational State of Bolivia, Chile, Colombia or Paraguay; and the partners and relatives of victims and children abducted jointly or subsequently, as well as children abducted or born in detention.⁸

15. In Uruguay, the search for disappeared persons is currently guaranteed by Act No. 19.822 of 18 September 2019, under which this mission is entrusted to the National Human Rights Institution and Office of the Ombudsman (art. 1). The Act grants this institution broad powers that include unrestricted access to the archives of the intelligence services and other public and private institutions (art. 6), and access to all public or private places and establishments that the institution deems relevant to ongoing investigations (art. 7). The Institution is also empowered to summon both State officials and private individuals to testify (art. 8).

16. Before the adoption of Act No. 19.822, an interministerial commission established in 2012⁹ had been responsible for conducting investigations to determine what happened during the dictatorship and to advance the search for disappeared persons, among other tasks. Subsequently, these powers were assigned to the Working Group for Truth and Justice, which was established in May 2015 within the Human Rights Secretariat for the Recent Past. Together with the justice system, the Working Group for Truth and Justice was responsible for the various tasks relating to the search for disappeared persons, with limited results. On 6 November 2019, the Working Group for Truth and Justice presented the final report of its administration for the period between 2015 and 2019, thus ending its mandate. On 28 February 2020, the process of transferring materials and information from the Working Group for Truth and Justice to the National Human Rights Institution and Office of the Ombudsman was completed.¹⁰

⁵ See paras. 28–44.

⁶ Inter alia, Inter-American Court of Human Rights, *Gelman et al. v. Uruguay*, judgment of 24 February 2011, paras. 49–61; *Maidanik et al. v. Uruguay*, judgment of 15 November 2021, para. 31; and *Julien Grisonas Family v. Argentina*, paras. 61–65.

⁷ [A/HRC/33/51](#), para. 56.

⁸ Figures obtained by civil society organizations based on lists drawn up by the Human Rights Secretariat for the Recent Past of the Office of the President of the Republic.

⁹ In compliance with the judgment of the Inter-American Court of Human Rights in the case of *Gelman et al. v. Uruguay*, decision No. 450/011 was issued.

¹⁰ National Human Rights Institution and Office of the Ombudsman, *Primer informe sobre la búsqueda de detenidos desaparecidos* (Initial report on the search for disappeared prisoners), May 2020, para. 29.

17. During its visit, the Working Group noted that the work carried out by the National Human Rights Institution and Office of the Ombudsman enjoyed a high degree of credibility and trust among victims and search collectives. This was largely due to its independence, which is in line with the criteria established in the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Its independence has also been formally recognized by the Global Alliance of National Human Rights Institutions, which granted it category A status, enabling it to effectively monitor the various branches of Government. The Working Group also welcomed the fact that the Institution was able to carry out its mandate swiftly and independently, with human, financial and technological resources that were acceptable but not always sufficient, given the size and urgency of the task.

18. However, the Working Group was concerned to have learned that political figures had repeatedly made statements discrediting or publicly questioning the Institution and its current or former members and that these statements had been echoed by some media outlets. Such statements may hinder the Institution's ability to perform its functions, including tasks relating to searches. The Working Group considers it unacceptable for any attacks, threats or acts of intimidation to be carried out that undermine the personal and professional integrity of the members of the Institution with the intention of calling into question the task of searching for disappeared persons and protecting human rights.

19. The visit took place a few weeks before the process of restructuring the Institution's steering committee, which was completed in August 2022. The Working Group expressed its concern about reports indicating that certain political factions in the country intended to use the election of the new steering committee to control and politicize the Institution. The Working Group insisted on the need to ensure that no hierarchical or institutional link existed between the candidates and the persons proposing them and that candidates and appointees were independent for all practical purposes.

20. The Working Group finds it regrettable that its preliminary recommendations were not applied to the election of the new members and reiterates that the Institution's independence is an essential factor in maintaining the trust of the victims and public and ensuring that it adheres to the rule of law.

21. The Working Group wishes to stress that, even though searching for disappeared persons falls under the competence of the National Human Rights Institution and Office of the Ombudsman, this task is an international obligation of the State. Therefore, the executive and parliamentary authorities must ensure that the Institution continues to receive sufficient human, financial and technical resources to carry out its mandate, including all the available technology required to detect and exhume human remains. By way of example, the Working Group received reports about obstacles and delays in obtaining laser identification and ranging equipment, which was loaned by Argentina, although it later came to light that this equipment was allocated to the armed forces in Uruguay and could have been used earlier.

22. Some victims' associations and civil society organizations have complained that the Institution lacks a clear and well-organized strategy and that, for example, isolated excavations are carried out at different sites. There is also a lack of clarity surrounding the mechanisms for coordinating the search and location work carried out by the Institution and the measures taken by the Office of the Special Prosecutor for Crimes against Humanity to investigate and identify the perpetrators. In this regard, the associations of victims' families have emphasized the need for a comprehensive, transparent search plan that guarantees the participation of victims and is implemented in an interdisciplinary manner. The Working Group urges the State to ensure that this obligation is fulfilled in accordance with the Guiding Principles for the Search for Disappeared Persons of the Committee on Enforced Disappearances.

23. Another key aspect of the search for disappeared persons is the need to ensure access to archives that may contain information on such persons' fate or whereabouts. In Uruguay, however, the authorities have not made coordinated and systematic efforts to identify and recover the existing archives or to determine how many there are in total.

24. Groups of relatives and civil society organizations insist that the use of archives is essential in the search for the truth. The discovery and seizure of a significant number of

microfilms in 2006¹¹ suggests that other documentary repositories of military origin might exist that would help to shed light on enforced disappearances in Uruguay.

25. Families have filed requests for access to the information in this and other archives. However, they point out that they are sometimes provided with meaningless documents or told that it is not possible to find the information they are requesting. According to civil society organizations, the difficulty of accessing archives is made worse by the persistence of a military ideology that still perceives persons who demand the truth as “internal enemies”, which prevents information from being provided.

26. According to the information received, the National Human Rights Institution and Office of the Ombudsman has proposed establishing a State policy on locating and reviewing all military archives, which should be governed by the principles of proactivity, systematicity and speed to ensure that swift and orderly progress is made in this important area.

27. The Working Group encourages the State to take all necessary measures to ensure access to all relevant information, including that contained in the records and archives of military, police and intelligence agencies. It also insists that policies in this area provide for the human and material resources needed to assess the information in the archives and that such assessments be carried out by specialized professionals who are independent of the authorities of the institution that may be affected by the information disclosed.¹²

III. Right to justice

28. During the visit, the Working Group noted the consequences of the State’s inadequate legal framework, the amnesty law that is the Expiry of Punitive Powers of the State Act (No. 15848), and a judiciary that has failed to interpret the law in the light of international law, which has facilitated a pattern of impunity for enforced disappearances committed between 1968 and 1975.

29. This decades-long pattern of impunity has meant that many victims and their families, who have been the sole providers of key information about the events for years, have not seen any progress in the criminal proceedings, while many perpetrators have not been punished because they died before a final judgment was issued. Although the legislative and institutional reforms implemented in the last decade have allowed some progress to be made, the investigations and trials under way, which are conducted in accordance with the old inquisitorial procedure, move at an extremely slow pace.

30. During the visit, however, the Working Group noted a number of significant advances in the fight against impunity, including the repeal of the Expiry of Punitive Powers of the State Act, the establishment of enforced disappearance as a criminal offence in 2006, the official recognition of the State’s responsibility for its criminal and illegitimate actions between 1968 and 1975, and in particular, the establishment of the Office of the Special Prosecutor for Crimes against Humanity, whose work was unanimously praised by the persons who spoke to the Working Group, including the victims. Although the current members of the Supreme Court have reportedly been harmonizing case law and making use of the early decision mechanism to overcome some of the legal obstacles that have aggravated delays in criminal proceedings, the Working Group is concerned that, in the absence of a solid legal framework that endures over time, the progress of cases depends on the circumstantial composition of the Supreme Court.

31. Reports have been received that the Office of the Special Prosecutor for Crimes against Humanity has been attacked and criticized for “stirring up the past”. Furthermore, the Office has limited resources with which to handle a large number of cases, which are complex in that they are State crimes committed over the last five decades, with multiple victims and perpetrators. The Working Group is concerned to note that the Office does not have a legal

¹¹ The Berruti archive is made up of around 1,500 rolls of microfilm, each containing an average of thousands of pages of documents dating from between 1968 and 2000, approximately.

¹² [A/HRC/45/13/Add.3](#), paras. 24–26, 77–78.

foundation, so its continuity depends on the will of whoever is in charge of the Office of the Attorney General of the Nation.

32. Therefore, the Working Group endorses the paragraphs concerning the strengthening of the capacity of the Office of the Special Prosecutor for Crimes against Humanity in the judgment issued by the Inter-American Court of Human Rights in the case of *Maidanik et al. v. Uruguay*.¹³ The Working Group stresses that the State must guarantee the stability of the Office and ensure that it has sufficient human, technical and financial resources.

33. The Working Group insists that recognition be granted to the tireless struggle of the families of disappeared persons, who have not only provided key information for investigations but also, in view of the climate of impunity that prevails in the country, initiated legal proceedings in Italy and made significant contributions to trials in Argentina, both in the Operation Condor mega-case and in other trials held to try acts that took place in secret detention centres, such as Pozo de Banfield, Pozo de Quilmes and Automotores Orletti.¹⁴

34. However, the Working Group has received reports that Uruguay does not routinely provide the necessary facilities and assistance to relatives of disappeared Uruguayan nationals who wish to participate in such proceedings as witnesses, civil parties or victims. Furthermore, a proactive approach is generally not taken to requests for the extradition of Uruguayan nationals who have been convicted or tried in connection with these cases and are currently on the run, although their presence has been reported in States bordering Uruguay and, on occasion, in Uruguay itself.

35. The lack of accountability, over the course of several decades, has left indelible marks on victims and society, and should therefore be the basis on which to develop policies for investigating, prosecuting and punishing perpetrators. Such policies should be treated as a priority within State policy on criminal matters.

36. The Working Group has been informed that new cases involving crimes against humanity are being brought to trial and welcomes the fact that the first oral hearing within this framework has taken place as it has the potential to ensure publicity, access to information, reconstruction of the truth and the establishment of guarantees of non-repetition.¹⁵ The new challenges arising from these trials require the provision of psychosocial, logistical and financial support to adequately guarantee access to justice for victims and witnesses and to protect their rights.

37. Victims have been found to have difficulty accessing justice. In particular, they have difficulty obtaining information on the progress of investigations, putting forward evidence, controlling how evidence is presented and appealing against measures that affect them. The Working Group urges the State to provide all guarantees of access to justice even in those cases tried under the former criminal procedure. In particular, free legal representation for victims should be ensured, including by strengthening the Public Defence Service.

38. Ensuring the active participation of victims and their families in legal proceedings is also the best means of guaranteeing transparency and accountability in the investigation process. In this connection, victims and their families, together with civil society and other non-governmental organizations, have often played a key role in obtaining evidence and have achieved significant advances by participating in legal proceedings relating to reports of enforced disappearance.¹⁶

39. The Working Group has been informed of complaints filed in 2011 by 28 women who were victims of sexual violence while they were subjected to enforced disappearance in secret detention centres throughout the country. The rapes were perpetrated in a generalized manner

¹³ Paragraphs 254–255.

¹⁴ See, inter alia, Francesca Lessa, *The Condor Trials: Transnational Repression and Human Rights in South America* (London, 2022).

¹⁵ In March 2023, a conviction was handed down for the crimes committed at Los Vagones secret centre.

¹⁶ A/HRC/45/13/Add.3, paras. 60–61.

against the abducted women and no attention had been paid to them until the women took the courageous decision to report what had happened.

40. However, the Working Group finds it regrettable that little progress has been made in the case. Despite the fact that more than 100 perpetrators were initially identified, only two defendants have been prosecuted and convicted. In the processing of the case, the case file was referred to three different judges and the victims were subjected to retraumatizing experiences when they made their statements and underwent expert examinations with no consideration being given to their need for care and reparation.

41. Women subjected to enforced disappearance are particularly vulnerable to sexual violence, including rape, forced pregnancy and various forms of humiliation and physical and mental harm, which can also be considered forms of torture.¹⁷ It has therefore been recommended that a gender-based approach be adopted in investigations and that this should include the use of specific protocols, questionnaires and guidelines for interviewing victims and witnesses. The special evidentiary weight of such victims' testimonies should also be taken into account. Furthermore, mechanisms should be established to allow women to report their experiences in a framework of respect and privacy and, when required, to receive psychosocial support.¹⁸

42. The Working Group has established that, in order for criminal proceedings to be reparative, unwarranted delays must be avoided. Furthermore, it is essential to ensure that crimes of a sexual nature committed in the context of disappearances be attributed autonomously to enforced disappearances and torture and that the differential impact be reflected in the seriousness of the penalties provided for in the legislation.¹⁹

43. The Working Group was concerned to have received reports that high-level State authorities have participated in meetings with organizations that defend the rights of persons accused or convicted of committing serious human rights violations when no such attention has been paid to victims' claims. The Working Group would like to draw attention to the importance of public support for victims and the adoption by the highest State authorities of an approach that clearly condemns enforced disappearance and promotes the fight against impunity as a means of ensuring that such acts are not repeated. In the experience of the Working Group, symbolic and political messages have a positive influence on the different areas for which the State is responsible and on society as a whole.

44. The fact that the parliament is considering a bill on replacing custodial sentences with a system of house arrest for defendants and convicted persons over 65 years of age, at the instigation of one of the parties in the government coalition, is also considered by the Working Group to be a step backwards in the fight against impunity. This is because the bill would be contrary to international human rights law and, in particular, to restrictions imposed on granting amnesties, pardons, remissions or dispensations in the enforcement of sentences, or other similar measures, to persons accused and convicted of serious human rights violations and international crimes, including enforced disappearance.²⁰

45. Article 18 of the Declaration on the Protection of All Persons from Enforced Disappearance establishes that persons who have or are alleged to have committed enforced disappearances may not benefit from any special amnesty law or similar measures that might have the effect of exempting them from any criminal proceedings or sanction. Such measures constitute a direct violation of family members' rights to justice and the truth.²¹ Since there are legal mechanisms in criminal procedure that guarantee the right to house arrest for accused and convicted persons, the consideration of the bill is unnecessary and serves only to send out a social message that affects the process of memory, truth and justice in the country. For this reason, it is imperative that the parliamentary authorities quash the bill as soon as possible.

¹⁷ A/HRC/WGEID/98/2, preamble.

¹⁸ A/HRC/45/13/Add.3, paras. 83–84.

¹⁹ Ibid., para. 85.

²⁰ See communication URY 2/2021, available at <https://spcommreports.ohchr.org/tmsearch/TMDocuments>.

²¹ A/HRC/45/13/Add.3, para. 30.

46. The Working Group has also been informed that perpetrators have received certain privileges, such as being allowed to maintain their positions in the military and continue receiving their pensions, even in cases where the persons concerned have been convicted or are fugitives from justice, all of which fuels a sense of injustice and fosters a climate of impunity.

IV. Right to reparations

47. Article 19 of the Declaration on the Protection of All Persons from Enforced Disappearance imposes on States the obligation to provide reparation and adequate compensation²² to victims and their families in cases of enforced disappearance.

48. On 9 October 2009, the Reparations Act (No. 18.596) was adopted. This Act recognizes the responsibility of Uruguay for human rights violations committed against victims of the “illegitimate action of the State” between 13 June 1968 and 26 June 1973, as well as victims of “State terrorism” between 27 June 1973 and 28 February 1985. The victims in question are persons who “have suffered a violation of their right to life, their mental and physical integrity or their freedom for reasons relating to their political views, ideology or trade union activity”. The Act also establishes that such violations must have been committed by agents of the State or persons acting with its authorization, support or acquiescence (arts. 4–5).

49. Act No. 18.596 establishes that certain victims are entitled to a special compensatory pension, a one-off compensation payment, and the right to receive free comprehensive health care. While the adoption of this Act represented a significant step forwards in the process of recognizing victims of State terrorism, the Working Group has been informed that the criteria for receiving reparations do not conform to international human rights standards.

50. With regard to harm suffered, the Act provides that reparations may be granted only to victims who have suffered a “very serious injury” (art. 11(B)), leaving aside, for example, persons who suffer from chronic health problems resulting from the systematic use of torture or persons living with psychological conditions. The Working Group has been informed that even those persons who receive care may do so only through public health-care providers, which affects persons who were already receiving private care. Decree No. 297/010 extends the right to health care to the children and grandchildren of direct victims, but excludes the spouses or cohabiting partners of certain victims, such as persons who have been persecuted for political reasons or driven into exile.

51. Act No. 18.596 also restricts the right to reparations in accordance with the duration of the violations suffered, limiting them, for example, to persons who have spent longer than six months in detention (arts. 9–10). Furthermore, victims are required to prove that they have been victims, with the burden of proof falling disproportionately on them.

52. The Working Group has been informed that victims are obliged to choose between receiving reparations under Act No. 18.596 and any other retirement pension or disability allowance to which they would have been entitled as workers, irrespective of their status as victims (Decree No. 106/007, art. 5). The Working Group reiterates that monetary compensation and reparations should be clearly distinguished from social protection benefits and other measures intended to help families cope with the terrible consequences of enforced disappearance.

53. Act No. 18.596 also establishes conditions relating to persons forced into exile but article 1 of Decree No. 106/007 provides that such persons must have returned to the country on a permanent basis before March 1995. Also, under the Decree, the pension is granted only to persons arrested and prosecuted by the military justice system between 1973 and 1985 but not to those arrested and prosecuted prior to the institutional breakdown that began in 1968, or those who were not formally prosecuted by the military justice system because their detention was clandestine.

²² A/HRC/22/45, para. 46–68.

54. The Working Group is concerned to note that the laws on reparations do not include children and adolescents as direct victims of human rights violations between 1968 and 1985. Thousands of people suffered violations by the State when they were minors, including persecution, raids, detention with their parents, exile, birth in captivity, discrimination or stigmatization at school and/or loss of student status, traumatizing experiences in prisons during long visits, and enforced disappearances.

55. After the establishment of democracy, an adult-centric and patriarchal vision prevailed, and it was not until years later that human rights violations committed against women and, eventually, the children of political prisoners began to be discussed. However, this group actually includes children, grandchildren and nieces and nephews as victims in their own right.

56. On 6 August 2019, the National Human Rights Institution and Office of the Ombudsman issued decision No. 751, recommending that the State recognize persons who were direct victims of State terrorism when they were children or adolescents.²³

57. Following the visit, the Working Group was concerned to hear about a bill adopted in the Senate that provides for compensation to be granted to victims and families for acts committed between 1962 and 1976 by “members of armed groups of an ideological nature”. The initiative proposes a system of privileges and concessions different from the special compensatory pension and is being put forward on the grounds that victims of non-State violence during that period had not yet received reparations. However, the Working Group has been informed that a legal framework for providing reparations to military personnel has been in force since 1973²⁴ and fears that this initiative is intended to dilute responsibility for crimes committed by the State.

V. Right to memory

58. The Working Group notes that Uruguay has taken significant steps towards coming to terms with the past through memorialization. Memorials, remembrance sites and public acts of recognition are fundamental forms of individual and collective reparation, representing society’s rejection and condemnation of the human rights violations committed.²⁵ Several legislative and commemorative initiatives have been taken to preserve memory, pay tribute to victims and address the serious human rights violations committed in Uruguay.

59. In December 2008, Uruguay adopted Act No. 18.435 on the Establishment of the National Memory Archive in order to recognize the right to individual and collective truth and to collect, organize and disseminate documents relating to human rights violations committed by the State between 9 February 1973 and 1 March 1985. Under Act No. 18.596, which concerns reparations for victims of the illegitimate action of the State, measures were taken to honour the historical memory of victims of terrorism, including by placing plaques in all public places where human rights violations had occurred as a way of remembering them. More recently, in July 2018, Uruguay adopted Act No. 19.641 on the Declaration and Establishment of Sites to Commemorate Recent History, under which the National Honorary Commission for Remembrance Sites was established. The Commission is made up of government and civil society representatives and its fundamental task is to receive and rule on requests to declare and establish sites of historical memory and to publicize them and ensure their effective preservation and accessibility.

60. The Working Group wishes to highlight the significance of the fact that the building that formerly housed the Defence Intelligence Service (a place that was part of the framework of social control and repression during the dictatorship and was used for the planning and commission of serious human rights violations) has been converted into the headquarters of

²³ See <https://www.gub.uy/institucion-nacional-derechos-humanos-uruguay/sites/institucion-nacional-derechos-humanos-uruguay/files/documentos/noticias/Resoluci%C3%B3n-751-2019-023-19%20%281%29.pdf>.

²⁴ Article 115 of Act No. 14.106 of 1973; and Decree Law No. 14.265, enacted in 1974.

²⁵ A/HRC/22/45, paras. 63–64 and 66.

the National Human Rights Institution and Office of the Ombudsman. The building features a remembrance site to recognize and serve as a visible reminder of the serious human rights violations committed there. The site has been recovered and is open to the public as a way of recognizing the past, honouring the victims and making reparations to them.

61. The Working Group welcomes the growing social consensus around the need to condemn the crimes committed during the dictatorship and the ongoing efforts being made to strengthen the message that they must never happen again, the best example of which is the silent mass march held in May every year, which brings together a range of political and social voices and views in Uruguay.

62. The Working Group notes that measures to preserve memory and symbolic acts of reparation, including the ongoing efforts to establish the “never again” narrative, have generally been led by victims, family members and civil society organizations. The Working Group celebrates their courage, resilience and tireless efforts, while stressing that it is the duty of the State to preserve memory in a comprehensive and inclusive manner.²⁶

63. The Working Group visited several remembrance sites and memorials²⁷ and also took note of the plaques and other public ways of commemorating the victims of State terrorism throughout Montevideo and Canelones. However, despite the growing number of initiatives to preserve historical memory, significant challenges remain. The Working Group is concerned to have received reports about the vandalization of remembrance and commemoration sites. After the visit, it was dismayed to learn of the attack on, and partial destruction of, the Memorial to the Disappeared in Cerro de Montevideo on 30 August 2022, the International Day of the Victims of Enforced Disappearances. The fact that the attack happened on a day intended to remember and honour the victims of enforced disappearance, only weeks after the Working Group had conducted its visit and shared its preliminary report, is a clear sign that denialist discourses exist in Uruguayan society. Countering such voices and narratives will require the full commitment and participation of State authorities at the highest level.

64. It is the responsibility of the State to establish, maintain and protect remembrance sites.²⁸ However, the Working Group notes that the efforts made to maintain, protect and ensure the accessibility of sites intended to commemorate and foster reflection on past events vary from place to place. For example, the “300 Carlos” storehouse, which functioned as a secret detention and torture centre during the civil-military dictatorship and was used to detain and torture at least 600 people, is not easily accessible and continues to be used as a military storage facility. Therefore, it does not adequately reflect the gravity of the violations committed there. Likewise, the Tablada remembrance site is in a poor state of conservation owing to the lack of resources, despite its significance as a place where documented acts of sexual and gender-based violence were committed. The Working Group has underlined the State’s responsibility for recognizing the specific harm caused to women victims of gender-based enforced disappearance.²⁹

65. The Working Group was disappointed to hear that obstacles have been placed in the way of initiatives taken by some teachers to raise young people’s awareness of the crimes of the dictatorship and other relevant human rights issues. In order to create an environment where human rights are respected and the dignity of victims of serious human rights violations is ensured, appropriate measures should be taken in the spheres of formal and informal education, culture, memorialization and human rights training. It is also necessary to provide human rights education and training to all members of society – both civilians and military personnel – and to teach future generations about the past and the abuses committed in order to prevent them from being repeated.

²⁶ E/CN.4/2005/102/Add.1.

²⁷ See para. 4.

²⁸ A/HRC/22/45, para. 64.

²⁹ A/HRC/WGEID/98/2, paras. 5 and 8.

VI. International cooperation

66. Recognizing the transnational scope of the acts of enforced disappearance committed between 1968 and 1985, within the framework of Operation Condor, is essential to understanding the nature of the events and to ensuring the effective conduct of searches for disappeared persons and the pursuit of justice. In this regard, the Working Group welcomes the fact that the National Human Rights Institution and Office of the Ombudsman has an investigator in Buenos Aires who is specifically responsible for reviewing documents that could help to clarify the fate and whereabouts of Uruguayan nationals who disappeared in Argentina within the context of Operation Condor.

67. In October 2022, following the Working Group's visit, a match was found between the fingerprints of Héctor Orlando Giordano Cortazzo, a Uruguayan citizen who disappeared in Buenos Aires in 1978, and a body found in the area of El Palomar in 1978, which had been buried without being identified (marked as "NN") in Morón cemetery in the province of Buenos Aires. This case is a concrete example of the results that can be achieved through international cooperation in the search for disappeared persons, which should therefore be encouraged and further strengthened.

68. Uruguay has international obligations towards persons whose disappearance involved Uruguayan State officials and must include such persons in searches and investigations and in measures taken to pursue justice and provide reparations. Therefore, the National Human Rights Institution and Office of the Ombudsman should establish a focal point who can be contacted by foreign nationals whose loved ones disappeared as part of Operation Condor and who may have passed through Uruguay or ended up there.

69. It is also essential to preserve and ensure access to the archives of the different States involved in Operation Condor so that information can be systematized and cross-checked in a strategic manner.

VII. Prevention and disappearances today

70. According to the testimonies gathered during the visit, certain sectors of the population face a greater risk of being disappeared. The Working Group has received reports about the disappearances of children and adolescents during or after periods spent in State care and protection centres, as well as the disappearances of women and girls, possibly in connection with sexual exploitation and trafficking in persons. According to the information received, these disappearances were perpetrated by individuals or criminal gangs. However, owing to the lack of effective investigations into these cases, the possibility that State agents were directly or indirectly involved in their commission cannot be ruled out. The mandate of the Working Group relates to enforced disappearance as defined in the Declaration on the Protection of All Persons from Enforced Disappearance. However, the Working Group condemns all acts of disappearance, regardless of the perpetrator, and reiterates that a potential enforced disappearance may be ruled out only by conducting an independent, impartial and thorough investigation.

71. According to the testimonies received, the victims of these disappearances are often children, adolescents and women living in poverty or other situations of vulnerability, including persons subjected to abandonment, violence, exploitation or psychophysical trauma or those who consume or are addicted to psychoactive substances or are in conflict with the law. These cases reportedly occur more frequently in certain parts of Montevideo and in some rural areas of the State. The phenomenon has generally been rendered invisible and, when cases become public knowledge, a climate of stigmatization surrounds the victims, their families and those who support them.

72. According to the information received, when disappearances of this nature occur, the authorities do not launch an early warning system or use protocols on immediate searches but instead ask the person reporting the disappearance to wait for 24 or 48 hours before the report is formally received and search operations are initiated. However, this period of time is essential for obtaining information on the fate and whereabouts of the disappeared person and for preventing the commission of further offences. At present, Uruguay does not have

effective preventive measures, search mechanisms or policies aimed specifically at this group of people, such as the Amber Alert or the Alba Protocol. The Working Group has been informed of a bill to introduce the Amber Alert in Uruguay, but this initiative does not seem to have borne fruit yet.

73. The Working Group was informed that, when complaints relating to disappearances of the most vulnerable persons are finally registered, the victims are recorded as missing persons rather than as disappeared persons, without any thorough and effective investigation being conducted to rule out a potential enforced disappearance. In this regard, the Working Group has learned that the web page of the Ministry of the Interior dedicated to missing persons is not updated,³⁰ which makes it difficult or impossible to effectively search for the persons concerned and carry out the corresponding investigations. The Working Group has also learned that, when these cases are finally officially registered, the authorities do not adopt a proactive approach but allow the relatives of the disappeared persons and those supporting them to take responsibility for the search and investigation, which mainly depend on their initiatives.

74. In addition, the relatives of disappeared persons have difficulty accessing free legal representation and psychosocial support. The Working Group would like to emphasize the importance of guaranteeing access to free legal representation and strengthening the Victims and Witnesses Unit of the Office of the Attorney General of the Nation to ensure that it has adequate human, financial and technical resources and properly trained and sensitized staff.

75. The Working Group is concerned to note the amendments made under article 43 of Act No. 19.889, adopted under the fast-track legislative procedure, which increases from two to four hours the time limit for reporting a detention to the Office of the Attorney General of the Nation. It is also concerned about allegations of delays in access to legal counsel. The issue of delays was subsequently complicated by the application of section 21 of the omnibus law adopted under the fast-track legislative procedure concerning the power of the police to decide, on their own initiative, to question individuals in order to obtain information for an investigation. These measures are considered to undermine the effective prevention of enforced disappearance.

VIII. Concluding observations

76. Following the restoration of democracy in 1985, Uruguay made significant progress in the protection of human rights. In particular, it must be acknowledged that some progress has been made in promoting justice and combating impunity for crimes committed during the period of illegitimate action of the State and the civil-military dictatorship between 1968 and 1985.

77. During the visit, the Working Group noted the high level of public support for the notion of “never again” and the importance accorded to the search for disappeared persons. These attitudes are clearly represented in the silent march and the public slogans that can be seen in murals on urban streets, which are the result of decades of collective struggle, led with wisdom and courage by victims and their families.

78. However, the Working Group noted that the search and justice processes relating to enforced disappearance have faced serious institutional obstacles that have resulted in long delays. In this connection, the family members with whom the Working Group met expressed their anguish about the failure to obtain any substantial results after so long. The Working Group is deeply concerned to note that, in recent years, many people have died without ever obtaining justice or learning the truth about the fate of their loved ones.

79. The Working Group considers that the State should fully assume the sense of urgency experienced at every moment of the last 50 years by family members and that the State’s highest authorities should send a clear and unequivocal message to the whole of Uruguayan

³⁰ See <https://www.minterior.gub.uy/index.php/ausentes#:~:text=%20In%20the%20case%,20de%20tener,deber%C3%A1%20llamar%20al%200800%209942>.

society that this task should be taken on jointly with a sense of seriousness, proactivity and urgency.

IX. Recommendations

80. On the basis of the above considerations, the Working Group recommends that Uruguay:

(a) Acknowledge that the detention of persons by State authorities, accompanied by a refusal to acknowledge their detention or disclose their whereabouts, constitutes an enforced disappearance under international human rights law, irrespective of the duration of the detention; in this regard, it is recommended that the State reflect this acknowledgement in the official discourse, the law and the measures taken to recognize the rights of all victims of enforced disappearance, including their relatives;

(b) Raise awareness, among civil society and State officials, of the phenomenon of enforced disappearance, existing reporting mechanisms and the corresponding obligations;

(c) Ensure that all political and social sectors send out a clear message supporting victims and condemning enforced disappearance and other serious human rights violations, developing State policy on the basis of these foundations;

(d) Ensure that the executive and parliamentary authorities guarantee that the National Human Rights Institution and Office of the Ombudsman complies with all the requirements established in the Paris Principles, particularly those relating to its suitability and independence as a body responsible for searching for disappeared persons; the authorities should also ensure that it has sufficient human, financial and technical resources;

(e) Take measures to endow the National Human Rights Institution and Office of the Ombudsman with solid institutional stability that transcends the mandates of the directors and other staff, as well as mechanisms for assessing and ensuring accountability for searches in which the victims also participate;

(f) Develop and implement comprehensive policies on the preservation, analysis and dissemination of the information contained in the archives of military, police and intelligence agencies, providing the human and material resources required to assess the information and ensuring that assessments are carried out by specialized professionals;

(g) Ensure that the National Human Rights Institution and Office of the Ombudsman continues to receive sufficient human, financial and technical resources to carry out its mandate swiftly and independently and that it has access to all the available technology required to detect and exhume human remains;

(h) Take legislative measures to overcome obstacles and delays in criminal proceedings brought in connection with enforced disappearances and other serious human rights violations, including measures to prevent multiple appeals from halting proceedings, to digitize files and to ensure the routine use of the early decision mechanism by the competent judicial bodies in the resolution of the corresponding appeals;

(i) Strengthen the capacities of the Office of the Special Prosecutor for Crimes against Humanity, endowing the Office with regulatory stability and guaranteeing that it has sufficient human, technical and financial resources;

(j) Ensure the provision of the psychosocial, logistical and financial support necessary to enable oral hearings to be held for serious human rights violations, including enforced disappearances, and provide for the necessary protection measures for victims, witnesses and all those involved in the proceedings;

(k) Guarantee access to justice for victims so that they can participate actively in the proceedings, including by providing for mechanisms to grant free legal representation to those who require it;

(l) Adopt a gender perspective in investigations and prosecutions relating to enforced disappearances, in particular when the victims are women who have been subjected to sexual violence; in this regard, the State is urged to develop specific protocols, questionnaires and guidelines for interviewing such victims;

(m) Quash the bill that seeks to replace custodial sentences with house arrest for defendants and convicted persons over 65 years of age; and eliminate all privileges for perpetrators, such as the ability of convicted persons and fugitives from justice to retain military positions and pensions;

(n) Fully comply with decision No. 751 of 6 August 2019 of the National Human Rights Institution and Office of the Ombudsman, which recommends that the State of Uruguay perform a public act of acknowledgement of responsibility that includes an apology issued to persons who, as children or adolescents during the de facto period, suffered direct harm as a result of the enforced disappearances perpetrated;

(o) Design a comprehensive reparations plan for victims of enforced disappearance that is exhaustive, equitable and efficient and that includes measures relating to acts of sexual violence and gender discrimination;

(p) Strengthen remembrance policies, guaranteeing the preservation and protection of each remembrance and memorial site and allocating them the necessary budgetary resources;

(q) Take measures to restore and protect damaged remembrance sites, including the Memorial for Disappeared Prisoners in Cerro de Montevideo, and investigate the attacks and identify, prosecute and punish the perpetrators;

(r) Amend educational curricula, from the primary to the higher education levels, to include chapters specifically dedicated to the civil-military dictatorship and the serious violations committed, using the appropriate language for each age group;

(s) Support the efforts made by civil society to promote remembrance sites and develop policies to incorporate a gender perspective, particularly in relation to places such as La Tablada and Punta Rieles prison, where women were subjected to sexual abuse; the perspective must be inclusive, ensure women's participation and empowerment, and reflect the violations committed against them, while celebrating the history of their resistance;

(t) Comprehensively restore the "300 Carlos" former secret detention centre, located in the army's Materials and Weapons Service, and convert it into a remembrance site that honours the 600 people subjected to enforced disappearance and other crimes committed there and reflects their lives, their stories and the violence committed against them, and provide the general public with unobstructed access to the site;

(u) Strengthen cooperation with other States to ensure that the greatest measure of mutual assistance is afforded with a view to assisting the families of persons who disappeared in the context of Operation Condor, and in searching for, locating and releasing disappeared persons and, in the event of death, exhuming and identifying them and returning their remains;

(v) Ensure that the National Human Rights Institution and Office of the Ombudsman establishes a focal point who can be contacted by foreign nationals whose loved ones disappeared as part of Operation Condor and who may have passed through Uruguay or ended up there, and publicize this measure, including through the relevant diplomatic and consular channels;

(w) Preserve and make available any archives that may contain relevant information on the enforced disappearances perpetrated as part of Operation Condor

and make them more easily available for consultation, coordinating with the other States involved to achieve this goal and establishing a methodology that allows information to be systematically and strategically cross-checked;

(x) Redouble efforts – especially in cases where Uruguayan nationals are victims – in the area of international judicial assistance for any criminal proceedings relating to a crime of enforced disappearance, and cooperate proactively with other States;

(y) Take every necessary legal and diplomatic measure to prosecute and punish all those responsible for enforced disappearances, including by using every available means to push forward the corresponding extradition requests; the lack of an extradition treaty does not constitute a sufficient basis or justification for not pursuing an extradition request;

(z) In compliance with the order issued by the Inter-American Court of Human Rights in a judgment relating to enforced disappearances perpetrated as part of Operation Condor,³¹ support the establishment of a joint working group that will coordinate possible efforts to carry out the tasks necessary to investigate, extradite, prosecute, and, where appropriate, punish those responsible for the crimes committed;

(aa) Routinely provide the necessary facilities, assistance and support to persons who wish to participate, either as witnesses, civil parties or victims, in proceedings carried out abroad relating to Uruguayan relatives of theirs who disappeared within the framework of Operation Condor;

(bb) Acknowledge that disappearances are currently taking place, mostly involving children, adolescents and women, as this is the first step necessary for developing comprehensive and effective measures to eliminate such crimes;

(cc) Develop and maintain an updated database that contains statistical data disaggregated by the sex, age and geographic location of disappeared persons, among other characteristics;

(dd) Act with due diligence in searches for, and investigations into, the disappearances of children, adolescents and women, ensuring that adequate context analysis is carried out, particularly with regard to the possible commission of crimes and the involvement of the authorities in their commission;

(ee) Adopt without further delay search policies and programmes aimed specifically at this group of disappeared persons, such as the Amber Alert and the Alba Protocol, and ensure that searches are initiated ex officio and without delay, in accordance with the Guiding Principles for the Search for Disappeared Persons, and in particular principle 4, on the search for persons in situations of vulnerability;

(ff) Ensure that people in general, and the families of disappeared children, adolescents and women in particular, have access to free legal representation and strengthen the Victims and Witnesses Unit of the Office of the Attorney General of the Nation so that it has adequate human, financial and technical resources and properly trained and sensitized staff;

(gg) Adopt ongoing awareness-raising and training programmes in human rights for military and civilian law enforcement personnel and for health-care workers, civil servants and other persons who may be involved in the custody or treatment of persons deprived of their liberty or held in custody;

(hh) Amend the applicable legislation to ensure that all persons arrested or detained on a criminal charge are brought promptly before a judge or other officer authorized by law to exercise judicial power and ensure that they have access to legal counsel without delay;

(ii) The Working Group encourages Uruguay to continue cooperating with other international mechanisms – at the United Nations and the regional levels – that

³¹ Julien Grisonas Family v. Argentina, para. 288.

work to protect human rights within their respective mandates. In particular, the Working Group recommends that Uruguay fully implement the orders set out in the judgments of the Inter-American Court of Human Rights relating to cases of enforced disappearance, as well as the recommendations contained in the concluding observations of the Committee on Enforced Disappearances, the Human Rights Committee and the Committee against Torture;

(jj) The Working Group invites the Government of Uruguay to submit, within 90 days of the date of publication of this report, a schedule specifying the measures that will be taken to implement the Working Group's recommendations and the dates on each of these measures will be implemented.
