

AFFIRMATIVE ACTIONS: THE CASE OF THE URUGUAY SOCIAL CARD  
FOR TRANS POPULATION<sup>1</sup>

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ABSTRACT

SINCE 2010, URUGUAY HAS BEEN DEVELOPING PUBLIC POLICIES WITH A HUMAN RIGHTS PERSPECTIVE. IN THIS FRAMEWORK, AFFIRMATIVE ACTIONS HAVE BECOME A MEANS TO ACHIEVE RECOGNITION AND THE BEGINNING OF THE REDISTRIBUTION OF SOCIAL POWER FOR CERTAIN EXCLUDED GROUPS SUCH AS THE SEXUAL DIVERSITY GROUP. THIS ARTICLE NARRATES THE PROCESS OF PROVIDING SOCIAL BENEFITS THROUGH THE URUGUAY SOCIAL CARD (TUS, ITS SPANISH ACRONYM) FOR TRANS POPULATION IN URUGUAY. FIRST, IT DESCRIBES THE NEW URUGUAYAN

SCENARIO REGARDING PUBLIC POLICIES IMPLEMENTED IN TERMS OF SEXUAL DIVERSITY AND, SECONDLY, THE GRANTING OF TUS-TRANS AS A FORM OF ACKNOWLEDGING THE RIGHTS OF THE POPULATION. THIRDLY, IT CHARACTERIZES THE TRANS POPULATION IN URUGUAY ACCORDING TO DATA PROVIDED BY THE PROGRAM ITSELF. FINALLY, IT ANALYZES THE SCOPE OF TUS-TRANS AS AN AFFIRMATIVE ACTION.

KEY WORDS: PUBLIC POLICIES FOR SEXUAL DIVERSITY, AFFIRMATIVE ACTION, TRANS POPULATION, REDISTRIBUTION

## INTRODUCTION

This work identifies the conceptual framework of the new social policies of the Uruguayan State conceived on the basis of a human rights perspective. First of all, it describes the new public policies towards sexual diversity that have been implemented and, secondly, the process of granting TUS-Trans as a means to recognize the rights of the population, the conflicts that have emerged and the solutions provided. Thirdly, it characterizes the trans population in Uruguay according to the data provided by the program itself and, finally, it analyzes the scope of the TUS-Trans as an affirmative action.

### 1. HUMAN RIGHTS AS A CONCEPTUAL AND ETHICAL FRAMEWORK

The human rights approach provides a clear policy framework as well as guiding criteria and principles for action. To act in accordance with this approach enables the establishment of clear rules and procedures limiting the discretionary power of the State action and particularly of its civil servants while contributing to the design of comprehensive action plans based on justice and equity criteria (1).

International commitments undertaken by the Uruguayan State imply the responsibility to make every effort so that everybody in the national territory may freely exercise their rights. Once these rights have been established it is the State's obligation to respect, protect, and enforce such rights.

The fact that human rights are universal, indivisible and interdependent implies that social policies should be construed as comprehensive, articulate and intersectorial policies. Social policies should be articulated into comprehensive, sustainable and universal social protection systems.

The Uruguayan State complies with its obligation to implement universal and concrete actions aimed at reducing and eradicating poverty and marginality indexes affecting the population at large. In this process, the importance of addressing aspects related to the structural discrimination of populations with high social vulnerability due to gender identity, ethnic/racial identity, national origin, territorial location, disability or other reasons has become evident.

#### Public policies with a human rights perspective

In fulfilling its obligations, the State must develop public policies that protect citizens and ensure the enjoyment of their rights. J. Subirats et al. define public policies as:

A set of intentionally coherent decisions or actions by different actors—public and sometimes non-public, whose resources, institutional links and interests vary—in order to solve in a timely manner a political problem defined as a collective problem. This set of decisions and actions lead to formal acts with a varying compulsory degree that tend to modify the behavior of social groups which supposedly originated the collective

problem to be solved (target-group) in the interest of those social groups who suffer the negative consequences of the problem in question (end-beneficiaries) [2].

Changes experienced by public policies in the day-to-day practice to incorporate a human rights perspective are as follows:

- right and not need must be the starting point;
- persons are subjects of law and not assistance beneficiaries;
- social participation is an indispensable tool for building citizenship;
- the State has an obligation to fulfill its commitments under the international human rights system.

Affirmative actions: a path towards recognition and redistribution

In Uruguay there is a debate about where the emphasis should be placed. Some feel that emphasis should be placed on economic redistribution to mitigate the injustice expressed in the differences between social classes. Others feel that this economic inequality is compounded by the existing mechanisms of domination harboring discrimination in its diverse dimensions. On this issue, some authors like Frase and Honneth, state the existing dilemma between recognition and redistribution (3). The National Sociocultural Promotion Directorate (DNPS, its acronym in Spanish) of the Ministry of Social Development (MIDES, its Spanish acronym) represents the second line of thought and that is why this exchange with Cuba is so important for us since it is a case that shows that the lack of material injustices does not ensure the eradication of discrimination.

A first step to empower a population in order to demand their rights is recognition. Certain populations that have been expelled from social structures, with a high degree of non-

affiliation, will not incorporate themselves into the system immediately just because the State has changed its discourse. There must be signs of a new dynamic, recognizing the historic backwardness and the problems created by it so as to propose, as a form of redistribution of the social power, concrete steps that will ensure that they will cover the whole target-population.

The concept of affirmative action is a potential response, specifically aimed at fighting discrimination and the persistence of inequalities. In this regard, affirmative actions (or positive actions)<sup>2</sup> are specially valuable and should be considered as crosscutting actions in State initiatives. The purpose of any affirmative action is to readdress<sup>3</sup> (4) the exercise of power (social status, economic and political power), seeking results that will eradicate the historically accumulated exclusion and inequalities.

The concept of affirmative action is:

a set of coherent measures of a temporary nature specifically aimed at remedying the situation of the members of a target-group regarding an aspect or several aspects of their social life in order to attain effective equality [5].

State and social recognition is the first step towards the abolition of the different forms of discrimination. Building a society that recognizes all its members is necessary to enable not only economic redistribution but also a redistribution of power and social status.

Currently in Uruguay, the Ministry of Social Development (MIDES), or rather, some sectors within MIDES, are working in this direction, building a new reality for national social policies. There is still a long way to go and it should involve all sectors of the Ministry and, in the long run, the State.

## Against discrimination

To fight discrimination and its consequences on the economic, social, and cultural rights of the people, it is essential to work in two levels: the institutional level (public agencies) and society at large.

In this regard, MIDES, as coordinator of State public policies and in the framework of the Social Reform (6), has given priority to the exercise of rights of all persons, recognizing that for a true equitable reform work must focus on those groups that given their characteristics and/or identities are more socially vulnerable.

It is essential to point out the role of discrimination as the main obstacle for the exercise of human rights, particularly the economic, social, and cultural rights.

Basic concepts: gender identity, sexual orientation, and trans

The term trans designates in an inclusive and generic manner transvestites, transsexuals and/or transgender. Persons who live a gender that does not coincide with the socially attributed gender to their sex, can resort to surgery and/or hormone treatment.

[Transvestites] are identified with a culturally intelligible version of the feminine; they dress—more or less permanently—with clothes of the opposite sex but do not wish to surgically modify their genitals and may or may not have modified their bodies through silicone prosthesis, hormones, etc. [7].

[Transsexuals are characterized by] the long-standing conviction of belonging to the sex opposite to the one assigned by birth; discomfort and total rejection of their own body; persistent desire to undertake a

sex-reassignment surgery and hormone treatments as well as a dependence on the biomedical system....Though many transsexuals choose to identify themselves as men or women once the transition has been completed, there are many who prefer to continue identifying themselves as transsexual men or women or trans [8].

[Likewise, transgender persons] are those . . . [who experience] migrations of their gender identity, but are still under the process and do not have a clear nor defined idea of what they want to be [8].

The common denominator of all these three identities is that they experience a sort of gender identity migration in a more or less permanent manner.

It should also be pointed out that the trans designation does not imply in itself any sexual orientation, since it makes reference to the person's gender identity, i.e., it makes no reference to the object of his/her desire and affection. Hence, trans persons can be heterosexuals, homosexuals, bisexuals, etc.

#### Current status of the trans population in Uruguay

In Uruguay, trans people experience

a situation of serious social, economic, and culture exclusion; they are discriminated in study and health centers; and they are victims of police abuse. Many of these persons experience an early separation from their families and the institutions due to their gender identity conflict, making it difficult for them to find a job. Accordingly, most of them find themselves working as sexual workers [9].

Likewise, many of them, particularly those who are adults or old, were victims of institutional discrimination by the State in terms of access to their rights, fully expressing their gender identity or living without violence. Therefore, some of them are highly distrustful of the State. We must point out, however, that the experiences of the new generations are changing.

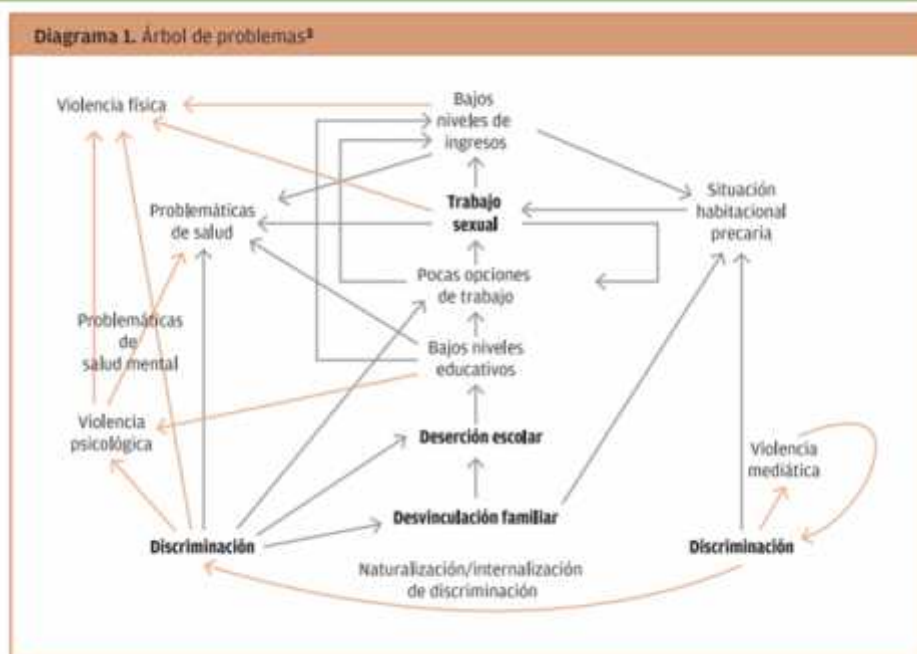


DIAGRAM 1. PROBLEM TREE

Physical violence	Low income levels	
Health problems	Sexual work	Precarious living situation
	Few work options	
Mental health problems	Low educational levels	
Psychological violence	School dropout	Media violence



Discrimination

Family detachment

Discrimination

Naturalization/internalization

of discrimination

Source: Lukomnik (9).

The problem tree (see diagram) is a tool that attempts to expose the complexity of social problems. Though it is read from bottom to top, where in theory we find the consequences of said problems, it also shows certain degree of feedback and mutual influence between the problems and the consequences. Causes are expressed by the arrows used in the diagram. The effectiveness lies in visualizing the connection and supremacy of certain problems—in this case lack of family ties—that though it does not explain nor justify the different dissociations suffered by the person, emphasizes the importance of the immediate action by the State after identifying a case.

## 2. THE TUS-TRANS PROCESS

### Uruguay Social Card (TUS)

The Uruguay Social Card is a tool of the national government co-managed by the Ministry of Social Development (MIDES) and the Ministry of Labor and Social Security (MTSS, its acronym in Spanish) through the National Food Institute (INDA, its Spanish acronym), the Ministry of Public Health (MSP, its Spanish acronym) and the State Health Services Administration (ASSE, its Spanish acronym), which make up the Central Inter-Institutional Commission of the Food Component of the Social Cabinet (CICCA, its Spanish acronym) under a Covenant signed in 2009 as its policy framework.

The food component of the Uruguay Social Card is a tool that contributes to reduce food insecurity by improving access to food by socioeconomic vulnerable groups. It aims at

improving access to food, allowing for selection according to taste, needs and characteristics of each household as well as access to personal and household hygiene products and other basic goods and services. It also contributes to food and nutritional security in key life stages (10).

Based on the Critical Lack of Resources Index (ICC, its Spanish acronym), MIDES determines whether a household has the socioeconomic characteristics required to receive this benefit.<sup>5</sup>

The Uruguay Social Card for trans people as an affirmative action

It is the State's responsibility to provide opportunities for participation, recognize the different participatory practices and paths of the organized civil society and institutionalize spaces for dialogue between the public sector and civil society, in the understanding that the strategy to build true participation is power redistribution.

In accordance with the foregoing, the DNPS generated spaces to establish a dialogue with the organized civil society of the different target-groups: Afro-descendants, migrants<sup>6</sup> and sexual diversity. In this framework, a number of regular meetings took place in 2011 and 2012 aimed at giving priority to measures that would allow transforming the reality of these populations.

These entities worked on a list of priority actions and it was decided that MIDES would immediately carry on the following actions:

- expand the specification of the gender data to include trans woman and trans man in the data-collection forms of MIDES, in the records of each program and in information systems at large;
- implement affirmative actions in MIDES social and labor programs;

- remove the requirement of having under age dependents to provide the food component of the Uruguay Social Card to persons living in extreme poverty, which would allow access of trans person to it;
- contribute to the implementation of Law 18.620 "Right to gender identity and to change the name and sex in identity documents";
- enter an agreement with the University of the Republic for the purpose of "awareness raising and generation of information for mainstreaming the non-discrimination and sexual diversity perspectives in MIDES social policies".

The Uruguay Social Card is the result of a concrete demand by organized trans persons, understood, first and foremost, as a recognition by the Uruguayan State of their social vulnerability and, secondly, as the materialization of the right to a social and economic benefit they did not have till now.

It should be pointed out that this policy, understood as an affirmative action, once implemented will no longer be considered as a benefit from which the requirement of "having under age dependents" was removed so that trans persons could have access to it and will be granted to all trans persons without exception and merely on the ground of being part of that group.

#### Objectives of the TUS-Trans

- Recognition by the Uruguayan State of trans persons as subjects of law.
- Recognition by the State of their social exclusion and vulnerability due to systematic discrimination.
- Contribute to improve the living conditions of trans persons through monetary income.
- Include the trans population in the social benefits and protection system.

- Favor their institutional reinsertion by an initial link with MIDES.
- Increase knowledge by gathering information about the beneficiaries.

#### TUS-Trans concept and design

In designing the policy we were faced with the fact that other issues like gender, generations and ethnic group/races were not incorporated since the broad scheme was based on redistribution of wealth and not on the recognition of the situation in a comprehensive manner. Hence, the structuring criterion was changed from income to gender identity.

Gays, lesbians and trans persons are victims of the prevailing heterosexism and homophobia in society. By underestimating their sexuality, homosexuals and trans persons have to face blame, harassment, discrimination and violence. Their rights and protection are denied. The meetings held and the implementation of actions jointly proposed made the Mainstream Perspective Division (DPT, its Spanish acronym) a highly valued space of reference, mostly for trans persons.

Likewise, the joint work of the different ministries led to working out, developing and proposing different ways to implement the policy, involving the experiences and expertise within MIDES. Thus, four potential scenarios to implement the Uruguay Social Card for trans persons were discussed and the fourth alternative was chosen: to grant the Uruguay Social Card to trans persons merely on the ground of being trans, certifying their identity by signing an affidavit stating that the person has lived at least two years with that identity (see Annex 1).

The implementation of the Uruguay Social Card for trans persons implied a lot of efforts and commitments to expand information channels and the work of the Civil Status

Registry, the Identity Program and eventually MIDES with trans populations. Simultaneously, the DPT, under the Agreement signed with the University of the Republic, provided training to all the actors involved.

Currently, the process for granting a Uruguay Social Card to trans persons is the following: the person goes to any MIDES office in Montevideo or in any other part of the country and he/she is informed about his/her rights. To apply for a card the person must sign an affidavit stating his/her gender identity. Under law 18.620, the applicant must certify gender identity stability and persistence for at least two years. The applicant must also fill in a specific form. If the application was not submitted in the capital city, the Territorial Offices (TOs) will send the affidavit and the specific form to the Card Program at MIDES in Montevideo, where the information is systematized. A form is filled in the Card Program and sent to the Bank of the Republic where the card is issued with the name of the person (in case the person has not changed his/her name, the card is issued with the two surnames only). The cards are collected and those issued for persons living outside Montevideo are sent to the TOs of the concerned Departments. MIDES contacts the applicant by phone and informs that his/her card is ready. The card is delivered in person.

#### Difficulties in the implementation

a) Reaching the target-population. The results of TUS-Trans applications led us to wonder if the life expectancy of the trans populations in Uruguay is higher than the regional average, since qualitative studies show that the average life expectancy in Latin America does not exceed 40 years (12) or (and more likely) to the conclusion that this benefit is reaching mainly the adult population. Such assumptions provide grounds for the Program to intensify its dissemination of access to that right.

There are still people who are not aware of the existence of such benefit while others are highly distrustful about it (e.g., they have their doubts that this policy will not entail certain demand by the State). In both cases, we must continue working at the territorial level to reach those populations and continue building confidence and for this, the involvement of civil society and the action of MIDES at the territorial level are strategic.

Though the number of TUS-Trans applications is significant we still have to reach more effectively the target-population. To this end, the information booklet on opportunities for and rights of trans persons was reissued and a new series of leaflets was launched and distributed at the territorial level (by MIDES TOs, Socat, MEC Centers).

The originally planned dissemination lines through institutional and non-institutional bodies must be renewed as well as the dissemination work carried out by the civil society.

b) Strengthen training on human rights and sexual diversity to address resistance. The objectives of the training workshops were the following:

- introduce basic concepts about sexual diversity and LGBT terminology;<sup>7</sup>
- discuss and exchange views on how existing public policies are not designed from a sexual diversity perspective and how direct or indirect hetero-normativity infringe on the rights and opportunities of LGBT persons;
- jointly work out public policies aimed at or which include a perspective to address discrimination on the basis of sexual orientation or gender identity.

A total of 908 persons attended the events that were held in 2012 and 2013 (402 in 2012 and 506 in 2013). Most of the persons attending the course were women, accounting for 83% of the attendance, while males only accounted for, on average, 17%

in both years. As to distribution by Departments, 69% of the attendance in 2012 came from the interior of the country while 31% were from Montevideo. In 2013, the distribution by Departments was vice versa: 29 % from the interior and 71% from Montevideo. This was due to a training strategy that was designed to start in Montevideo, where 50% of the national population lives and continue with the interior.

Overall, comments regarding the content of the course pointed out the need to expand its duration and dwell more on the different topics, providing concrete cases in the field of labor. In general and in accordance with the duties of the persons trained, the need for more tools for intervention in concrete cases was suggested.

About the deficiencies of the course, comments focused on the lack of time to dwell on topics. We must point out that it is a four-hour course and that its extension depends on the time available for participants to attend. Regarding the request to dwell more on the topics, the strategy has been to hold a new course to review concrete labor cases of the institution making the request.

It was also suggested that other courses could cover personal testimonies and life experiences. In this regard, the inclusion of audiovisuals and experiences of other countries in implementing policies, as well as more materials and references for the stakeholders, was suggested.

c) Differences between Montevideo and the interior. Since application is done through MIDES TOs throughout the country, the procedure is easier for those living in the interior. Nevertheless, there are still difficulties for those who live in places where there are no MIDES TOs both in terms of information as well as for the purpose of submitting their applications. Faced with the need to work out strategies for trans persons to reach

MIDES TOs, we coordinated with the MEC Centers, which are found everywhere in the national territory.

As to processing time, it varies depending to a great extent on whether the application is submitted in Montevideo or in the interior. In most cases the average time for the procedure has not been exceeded (twenty days in Montevideo and a little over a month in the interior). We should point out that the procedure for the TUS-Trans is significantly less than the time it takes for the Uruguay Social Card, since self-identification as a trans person and the signing of an affidavit is enough to grant the TUS-Trans while in the second case they have to wait for the visit of the social security worker to the household.

There have been delays in some cases resulting in claims by members of trans groups to MIDES. Some of these claims were directly made to the DPT since from the very beginning the area contact data was circulated among social organizations to overcome any difficulty with the TUS-Trans and for early detection of any resistance. In this regard, the team opened a direct communication channel with the Uruguay Social Card Program to facilitate communication regarding the TUS-Trans and strengthen communication with the TOs as well.

### 3. CHARACTERIZATION OF THE TRANS POPULATION IN URUGUAY BASED ON THE DATA COLLECTED FROM THE TUS-TRANS

#### First data

Granting of cards began in October 2012. Since then and to date (May 2015) 837 cards have been granted throughout the country. Two years after the implementation of the Program and without certainty about the number of trans persons living in Uruguay, the applications have been steadily increasing. Lack of information regarding the total



number of potential beneficiaries makes it impossible to foresee or estimate its future potential growth.

Most of the applications were submitted in Montevideo while, in the interior, Rivera and Canelones are the Departments with the highest figure of cards granted<sup>8</sup> (see Table 1).

TABLE 1. REQUEST OF CARDS BY DEPARTMENT WITH CUMULATIVE TOTALS. MAY 2015				
Department	2012	2013	2015*	% Dep.
Artigas	0	12	32	3.8
Canelones	27	44	62	7.4
Cerro Largo	11	39	60	7.2
Colonia	4	14	17	2.0
Durazno	12	14	18	2.2
Flores	5	7	13	1.6
Florida	9	13	14	1.7
Lavalleja	5	8	21	2.5
Maldonado	5	16	25	3.0
Montevideo	108	217	285	34.1
Paysandú	0	14	24	2.9
Río Negro	7	14	23	2.7
Rivera	13	48	95	11.4
Rocha	1	3	7	0.8
Salto	0	40	50	6.0
San José	13	25	32	3.8
Soriano	18	33	37	4.4
Tacuarembó	2	6	15	1.8
Treinta y Tres	5	9	7	0.8
TOTAL	245	576	837	100.0
Source: Based on the data provided by the Uruguay Social Card Program, MIDES.				
* 2014 data is not included since, due to software development, data is not verifiable.				

The first thing we must highlight is that out of the total number of persons who applied for the benefit, 97% were trans women while only 3% were trans men.

As to the age of the applicants, the average age is 37.2 years old, showing a slight decrease compared to the April 2013 report (38.5 years old). As to distribution by age, it is the same in all age groups, though there is a slight increase in the youngest age group (see Table 2).

	2013	2015
18—29 years	29.4	34.7
30—40 years	30.5	24.3
41—50 years	23.9	20.6
Over 51 years old	16.1	20.5
Total	100	100

Source: Based on information provided in the Uruguay Social Card application form for trans population, MIDES.

Results show that the benefit is more effectively reaching the older population though the average age of applicants is slightly decreasing. A hypothesis about the cause could be that older women are more anxious to access social programs since sexual work is not so economically profitable as at a younger age. This has been one of the arguments of trans groups for demanding specific policies for old trans women who are not old enough (60 years old) to apply for old age benefits.

Secondly, since the implementation of the program it was assumed that the younger population, which is grouped in social networks and with higher education levels, would be the first to apply for the benefit since they are better informed. Data shows,

however, that increasing age group is not that of the younger population, probably because they had no urgency in applying for the benefit.

Regarding education level, we found that 50.8% had primary level completed or less. This, among other things, can explain why they find it difficult to get quality jobs, highlighting the need for high school or vocational training strategies to improve their chances in the labor market (see Table 3).

	2013	2015
No education	0.9	1.2
Primary level not completed	12.2	17.8
Primary level completed	30.6	31.8
Basic Cycle not completed	25.6	22.8
Basic Cycle completed	12.4	9.3
High School not completed	10.9	10.5
High School completed	4.5	4.7
University not completed	2.8	1.6
University completed	0.2	0.2

Source: Based on information provided in the Uruguay Social Card application form for trans population, MIDES.

Table 3 clearly shows the high dropout rates in secondary school. It follows that the discrimination experienced by trans persons in educational institutions is a key factor in their low academic level. Therefore, supporting them during their secondary school education avoiding bullying and institutional discrimination, such as the use of the name of the document, is required.

If we analyze the composition by age group, we can see that academic education decreases in the older age groups. Most of the persons between 18 and 40 years old have reached the secondary level but have not completed the initial cycle. In the third and fourth age groups we find that most of them have completed the primary level (see Table 4).

TABLE 4. EDUCATIONAL LEVEL ATTAINED BY AGE GROUPS, IN PERCENTAGE, MAY 2015

	18—29 years old	30—40 years old	41—50 years old	Over 51 years old
No education	0	0.8	0	4.6
Primary level not completed	6.9	6.8	16.5	26.2
Primary level completed	30.5	27.3	33	27.7
Basic Cycle not completed	31.3	27.3	23.3	16.9
Basic Cycle completed	13.7	14.4	9.7	9.2
High School not completed	2.3	12.9	10.7	6.2
High School completed	1.5	6.1	4.9	7.7
University not completed	0	3.8	1.9	1.5
University completed	0	0.8	0	0.2
Total	100	100	100	100

Source: Based on information provided in the Uruguay Social Card application form for trans population, MIDES.

As to family households, the highest percentage is that of trans persons living alone (13).

The health status of the trans population is highly vulnerable and is characterized by a short life expectancy that does not reach half the life expectancy of the Uruguayan population at large (14); a high incidence of HIV/aids; transphobic violence and health complications due to inappropriate hormone treatments.

#### 4. REFLECTIONS ON THE SCOPE OF TUS-TRANS AS AN AFFIRMATIVE ACTION

##### a) Adequate and necessary training in the territory

Regarding the importance of education on sexual diversity, most of the persons who completed the course stated that education on diversity is very important so it follows that:

- it is a technical tool that contributes to professional development;
- allows for rethinking existing and deeply rooted standards;
- offers the possibility of expressing and deconstructing personal and social prejudices;
- provides more information and greater knowledge on the matter;
- improves the capacity to promote rights;
- contributes to improve the quality of life of trans populations;
- contributes to respect diversity.

The implementation of this policy begun in October 2012 and has been in place for 18 months. During this period, most efforts have been focused on disseminating the existence of this benefit among the potential beneficiaries. Bearing in mind that the trans population has been the victim of historical and systematic exclusion, most efforts were aimed at providing information to the target-population. A lot of effort was required in circulating information and building confidence on the institutions. In this framework, the DNPS worked closely with social organizations dealing with diversity—particularly those working with trans persons—and MIDES TOs throughout the country.

##### b) Recognition of the status of trans populations by the State

The TUS-Trans is in principle a symbolic policy, visualizing the trans population. It also takes into consideration its social exclusion and vulnerability and provides a benefit that, apart from being an economic benefit, summarizes and includes such recognition in a concrete benefit.

The benefit has fulfilled its purpose and has been positively evaluated by trans groups and individuals since they consider that recognition a turning point in the relation between the trans population and the State.

c) Link with social benefit systems and re-affiliation

Since the trans population has to apply for a TUS at the MIDES TOs throughout the country, there is a direct link with the beneficiaries providing more knowledge about their situation. In turn, it opens up the possibility of disseminating information among the trans population about current benefits, promoting their rights, and bringing about and strengthening their interaction with social organizations in order to jointly work out other benefits that will contribute to improve their quality of life.

This is being mostly done by the TOs. In some cases, trans persons found in these offices the answers to specific problems, a space where to meet and build and develop their groups. As a result of this relationship, the trans population has brought up new demands to MIDES, particularly the need to seek alternatives for their social and labor inclusion.

d) Increase knowledge about the trans population

To apply for the cards, applicants must fill in a form that collects information about education level, household members and health, among other data. The forms have served to create a data entry with specific information about the population applying for

their TUS-Trans. Based on this data, a Preliminary Report on the Characterization of the Trans Population Applying for the Uruguay Social Card was drafted in May 2013 and updated in September of that same year. Data for this work is based on this report.

The data-collection is done by MIDES specialists dealing with the public. There have been difficulties in filling in the forms, particularly when data is not available. Taking into consideration that this data entry is a key factor for learning more about the trans population, a set of meetings were held to coordinate with the specialists working with the forms of the Uruguay Social Card Program.

They are also working on data-collection using MIDES software. The DNPS is coordinating with the National Directorate on Monitoring and Assessment (DINEM, its Spanish acronym) to interview members of applicant's households, in order to elaborate on the information available. This stage has not begun.

The adoption of the Political Agenda on Sexual Diversity by MIDES identified training deficiencies in specialists regarding human rights issues. If there is no training in this issues, actions will continue to be taken on the basis of political stands instructed from above, the implementation of which will highly depend on the will of those responsible for their implementation. Therefore, "training decision-makers and civil servants in human rights issues" (15) (MIDES) was the starting point of the TUS-Trans process.

#### e) Scope of affirmative actions as equality policies

To develop a social vision based on the principle of equality and non-discrimination, we need to consolidate a vision that goes beyond the assistance-based paradigm establishing a human rights approach. The TUS-Trans faced resistance by certain actors

in the territory, which translated into delays in granting the cards or inappropriate treatment to applicants.

One of the difficulties of such resistance is that as these offices are poorly staffed and have to deal with many problems every day, the trans population is a problem that adds to the many problems they already have to deal with. Likewise, from a traditional social policy approach, working with socially and economically poor sectors has a priority over groups that are excluded due to their gender identity.

f) Social participation, a form of power redistribution

Most of the progress achieved with the Diversity Agenda was due to the input of civil society groups which promoted the agenda. The role of these groups was and is essential in developing social policies and for the success of their implementation. Progress in the implementation of the TUS-Trans is mainly due to the dissemination work of these organizations. However, diversity groups, particularly those who group trans persons in the interior of the country are still small. The DPT is working to strengthen these groups, generating spaces for their participation and involvement, contributing with logistic support whenever there is a meeting, since contributing to the consolidation of an autonomous, solidary and interrelated civil society is the responsibility and duty of policy-makers in charge of social policies with a human rights perspective.

Social programs are tools for moving towards the moral and political horizon proposed by human rights (16): equality and freedom of all persons. In its governmental policy, Uruguay has embarked on the path of a social transformation process with a human rights perspective, involving the different identities which, given the current homogenizing system, become factors that increase existing inequalities. The change must be done by working simultaneously on the cultural and structural aspects.



Uruguay is moving towards the development of social policies that include rights, inclusion and non-discrimination, as a tool for power redistribution.

In order to prioritize this process, consolidate the work done and give more importance to social participation, we need another step forward to institutionalize a space for the participation of civil society, like the Sexual Diversity Consultancy Council (CCDS, its Spanish acronym) in MIDES, established under Ministerial Resolution 1646/013. Currently, organizations are being called to become members of the CCDS.

### Annex 1

Escenarios	Postulación	Implementación	Acompañamiento	Acción Afirmativa	Observaciones
<b>Básico</b>	Postulación en cualquier puerta de entrada hasta tanto no se defina un procedimiento y protocolos específicos para el programa TUS. Dicha postulación sería sistematizada por DINIS.	Mecanismo previsto en el corto plazo por el MIDES		No	No implica cambios a la estrategia que ya se está discutiendo. Ocurre a partir de la inclusión de todos los hogares en pobreza extrema en TUS.
<b>Avanzado</b>	Se postula a través de una Organización de la Sociedad Civil (OSC) referente en la temática (de manera temporal) o a partir del inicio de la tramitación del cambio de nombre y/o sexo registral.	Se asigna de oficio, siempre que la persona postule.	El equipo de campo MIDES realiza supervisión del hogar como en cualquier otro hogar que acceda a TUS por defecto.	Sí	Se requiere copia del recibo de inicio de cambio de nombre o sexo registral o la mediación de una OSC que avale la solicitud. El Registro Estado Civil o el Programa Identidad deberían contar con la potestad de iniciar el proceso de asignación de TUS El ICC se aplica igual para todas las personas La única consideración positiva hacia la población trans es la asignación provisoria por defecto, por parte del Registro Estado Civil o Programa Identidad o de la OSC.
<b>Acción afirmativa gradual</b>			El equipo de campo MIDES realiza supervisión del hogar, aplicando un algoritmo que pondera de manera especial a las personas trans.	Sí	Se requiere copia de recibo de inicio de cambio de nombre o sexo registral o la mediación de una OSC que avale la solicitud. El Registro Estado Civil o el Programa Identidad deberían contar con la potestad de iniciar el proceso de asignación de TUS El algoritmo integra la variable persona trans y pondera especialmente a esta población
<b>Acción afirmativa</b>		Todas las personas trans que postulen a TUS accederán al beneficio.	Igualmente se realiza supervisión del hogar, pero no se aplica algoritmo.	Sí	El Registro Estado Civil y/o el Programa Identidad deberían contar con la potestad de iniciar el proceso de asignación de TUS

## NOTES

1. This text was drafted based on the presentation made on May 12, 2014 at the Seventh Cuban Meeting against Homophobia and Transphobia, Havana, Cuba.

2. In past decades the positive discrimination concept was also used to refer to this type of actions but is no longer used since there is a general agreement "to use the word 'discrimination' solely to denominate 'arbitrary,' 'unfair' or 'illegitimate' actions. The term 'positive discrimination' is a contradiction. The distinction to which it makes reference is justified and legitimate since it is not arbitrary and cannot be called 'discrimination' or is unjustified and illegitimate since it is arbitrary and therefore cannot be 'positive.' The term 'positive action', instead, is equivalent to 'affirmative action'. The first is most commonly used in the United Kingdom. In many other countries it is known as 'preferential policies,' 'reservations,' 'compensatory or distributive justice,' 'preferential treatment,' etc." (5).

3. Rita Segato states that affirmative action grant power, understood as the combination of three factors: "social status, economic power, and political power." When the power structure discriminates and subdues positive actions must aim at "readdressing the inequality and exclusion" generated by the power of an elite that seems set in stone.

4. It should be said that there are indications that in Uruguay family detachment is no longer a strong factor in the life of trans adolescents.

5. The ICC is the tool for determining TUS recipients. This index was designed in 2008 for the implementation of the Family Allotment Program (AFAM, its Spanish acronym) and was updated in 2011. Values range between 0 and 1, the latter accounting for the highest probability of identifying a household living under extreme social and economic vulnerability. To this end, a statistic model is used to estimate the probability of belonging to the 20%

fourth income group in Uruguay, based on structural variables of wellbeing such as housing, household members and comfort. The only indicator that is not strictly economic is the educational level. Thus, households are classified according to their social and economic situation (11).

6. DNSP has not been directly working with immigrants and returnees.

7. In this paper the abbreviation LGBT is used to refer to all sexual diversity groups.

8. In the case of Artigas, cards were granted through a special channel before the policy was implemented, therefore the category of the card was changed to TUS-Trans in April 2013.

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