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Annex

1. 2001 Statistical Yearbook.*

* Available for consultation in the secretariat files.

Introduction

1. The present document is an update of the core document submitted on 12 December 1995 and covers the period until January 2003. The document has been drawn up in connection with the various human rights reports that Aruba is obliged to submit at periodic intervals. The aim of this document is to complement the information provided in the reports and to give more background information on Aruba.
2. Chapter I contains information on the general characteristics of the island, economy and labour, social infrastructure, education, health care and housing. Chapter II deals with the general political structure in Aruba and Chapter III discusses the general legal framework within which human rights are protected. In Chapter IV information is provided on the procurement and dissemination of information required under the human rights conventions.
3. In October 2000 the Fourth Population and Housing Census was conducted on Aruba. For statistical information on Aruba relating to specific issues such as population, birth rate, public health, education etc, please refer to the 2001 Statistical Yearbook of the Central Bureau of Statistics which may be consulted in the files of the secretariat.

I. GENERAL INFORMATION

A. Land and people

4. Aruba, which until 1986 formed part of the Netherlands Antilles, is now an autonomous partner within the Kingdom of the Netherlands. Aruba is an island of 70.9 square miles (193 square kilometres) situated in the Southern Caribbean, approximately 18.6 miles (30 kilometres) from the northern coast of South America, 12° north of the Equator and 70° west longitude. The island is geographically divided into eight regions and each region is subdivided in several zones.
5. Even though the island is located in the Caribbean, it cannot be associated with the lush greens of the tropics; it has a dry, healthy climate. Its high temperatures are compensated by the refreshing effect of the north-east trade winds. The lack of sufficient rainfall, however, inhibits agricultural subsistence.
6. Aruba is one of the few islands in the Caribbean where traits of the native Indian population are still in evidence. The Aruban population of over 92,000 is made up of a mixture of Carib and Arawak Indians, European and African heritage. Dutch is the official language, while the native language is Papiamentu, a mixture of modern languages and old native Indian words. In addition, Spanish and English are compulsory school subjects and are also widely spoken.
7. In Aruba, 79 nationalities have contributed towards creating a unique and peaceful society. Between 1991 and 2000 the population increased by 35.7 per cent; this was mainly due to immigration. In the year 2001, the density of the population was 515 inhabitants per square kilometre compared to 374 in 1991. The main industry is tourism, while in 1991 the oil refinery resumed its operations after a six-year period of closure.

8. The quality of life is reflected in the island's educational and health-care systems, social provisions and housing. Average life expectancy is 76 years of age for women and 70 for men.

B. Economy and labour

9. Aruba has an open economy that encourages free enterprise and competition, maintaining a clear distinction between the public and private sectors. Due to its small scale, the absence of commercially exploitable mineral resources and a minimal amount of manufacturing, the island is heavily dependent on imports, and conducts as such foreign trade on a large scale. Foreign trade management is geared towards maintaining a proper balance of trade, and there is a constant search for ways of expanding exports.

10. Experience has taught that an open and small-scale economy is very vulnerable to external influences that may have a significant impact on the economy. In order to maximize economic opportunities, the Government's policy is primarily focused on international developments. As a result, the economy's most dynamic sectors are tourism, oil refining and transshipment, and international trade and finance.

11. Up until 1985, the oil industry had been the leading sector with the tourist industry in second place. The closure of the Exxon refinery in March of that year, after almost 60 years of operations, marked the turning point in the policy of the island's economy. Besides having been a substantial job provider, the refinery was the largest contributor to the Government's total revenue and foreign exchange earnings. The closure had led to a drop of approximately 50 per cent in government income and caused unemployment rates to rise to an estimated 27 per cent. From 1983 on tourist earnings and businesses on the island also suffered from a sharp decline in the Venezuelan market as well as from the worldwide depression.

12. Following the dramatic events of 1985, the Government decided to develop Aruba's potentials as a tourism destination more fully. Through a massive construction campaign, backed by government guarantees and favourable fiscal conditions, the number of hotel rooms increased drastically. In 1985, the island had 2,040 hotel rooms. At the end of 1990, there was a total of 4,500 rooms on the island. And in 1995, Aruba had no fewer than 6,500 rooms. Several well-known international hotel chains have chosen Aruba for development of luxury hotels. In the year 2001 there were approximately 30 hotels on the island with a total of 7,060 rooms.

13. The Government also found a firm to operate the abandoned oil refinery. In 1989, the Coastal Aruba Refining Company started to rehabilitate the infrastructure of the former Exxon refinery with the objective of realizing a refining capacity of 180,000 barrels a day. In 1990, the refinery became officially operational; it now provides approximately 670 jobs (excluding subcontractors) and contributes to the foreign exchange reserve. Today the company produces over 220,000 barrels per day. The company is operating under new owners El Paso Corporation, since 2001.

14. Aruba has achieved a relatively high level of prosperity, with a per capita income among the highest in the region. At present, tourism is the principal source of income. The number of tourists surpassed the half million mark for the first time in 1991 and by the year 2000 the number of visitors staying on the island was 721,224. In the period 1985-2000 the number of cruise ship tourists increased almost sevenfold from 72,000 to 490,148.

15. In the second half of 2001, however the number of stay-over visitors went down by 4.1 per cent compared to the previous year. One of the major contributing factors to the downturn in tourism is the economic situation in the United States, which was aggravated by the 11 September attacks. The United States (65 per cent of the stay-over visitors in 2001) is the most important market for Aruba, followed by Venezuela (15.8 per cent). The tourism expenditures, increased although with a mere 0.7 per cent in 2001. This was due to a higher average length of stay combined with a higher average daily expenditure per tourist.

16. The number of stay-over visitors continued to decline during the first quarter in 2002, down 9.6 per cent compared to the same period in the previous year. The tourism expenditures is expected to go down by 7.6 per cent in 2002. This has a great effect on the GDP growth, as tourism is the most important driving force for the Aruban economy.

17. The economic development of Aruba over the last 15 years would not have been possible without large influx of foreign labour. The census shows that the labour force in the year 2000 was 45,037, while the total employment increased to 41,918 in the same year. This shows a slight increase since 1997. The increase in labour force was mainly due to the continued growth of the economy, which demanded for the import of foreign labours.

Table 1
Labour market indicators (as per December 2000)

	1991	1994	1997	2000
Population	66 687	78 534	87 767	90 506
Labour force	31 111	38 412	44 840	45 037
Employment	29 220	35 936	41 501	41 918
Unemployment	1 891.1	2 476	3 339	3 119
Unemployment (%)	6.1	6.4	7.4	6.9
Participation rate (%)	46.7	48.9	51.1	49.76

Source: Central Bureau of Statistics.

18. In the year 2000 41,918 people aged 15-64 years had a job, of whom 24,745 were born on Aruba and 17,173 elsewhere. This means that 41 per cent of the employed population came to Aruba from abroad, 39.7 per cent of men and 42.4 per cent of women. Foreign workers now constitute a significant part of the local labour market.

19. This caused an increase in population. Still, the increase in employment followed the demand for labour, as witnessed by a further increase in vacancies and continued relatively low unemployment and unemployment rate. For a summary of the development of the labour market indicators, see Table 1.

Table 2
Gross domestic product

Year	1998	1999	2000	2001	2002
GDP (nominal, in Afl. million)	2 980.5	3 086.5	3 326.0	3.381.0	3.356.8
Nominal growth (%)	8.7	3.6	7.8	1.7	-0.7
Real growth (%)	6.7	1.3	3.6	-1.2	-3.8
GDP (nominal) per capita (in Afl. million)	33 697	34 425	36 657	36 810	35 966

Source: Central Bureau of Statistics.

20. The nominal gross domestic product (GDP) increased by 7.8 per cent in 2000. When removing the effects of inflation real percentage growth remains 3.6 per cent. It is estimated that the nominal GDP will experience a negative growth of 0.7 per cent in 2002, following a nominal GDP growth of 1.7 per cent in 2001. Real GDP growth in 2002 is expected to be -3.8 per cent.

21. Statutory minimum wages are in force for workers 18 years of age and over. General legal guidelines stipulate a maximum of 8½ hours per day for a 5-day working week or a maximum of 8 hours per day not exceeding 45 hours per week. The law permits deviations from this general rule for certain sectors of the economy, namely hotel and catering, bakers, casinos and business of a technical, social or other nature requiring continued labour to be performed.

22. Employees are free to affiliate with workers' organizations and trade unions. Each employee is lawfully entitled to a paid holiday of at least 15 working days per year. An employee, whose employment has been terminated for reasons other than his/her own fault, is entitled to a severance pay equal to one week's salary per year of service up to 10 years; in excess thereto, the compensation would equal 13 and 2 week's salary for years 11-20 and 21-25 or more of service, respectively.

C. Social infrastructure

23. Despite the economic expansion that Aruba has enjoyed in recent years, some inhabitants are unable, either temporarily or for a longer period of time, to provide for themselves. To alleviate this problem, a social security system is provided for under national legislation.

24. Although in principle all Arubans are responsible for supporting themselves through income from labour, the National Social Care Ordinance and the National Income Support Ordinance provide assistance in the form of a financial contribution to basic living costs for families or households that have no income or not enough income to support themselves and are not covered by any other statutory schemes or benefits.
25. The following persons are entitled to income support:
- (a) Dutch nationals born in Aruba;
 - (b) Dutch nationals who were not born in Aruba, but who have resided in Aruba for at least three years;
 - (c) Foreign nationals married to persons referred to in (a) or (b) provided they are members of the same household;
 - (d) Unmarried minor foreign nationals who are members of the same household as persons referred to in (a) or (b);
 - (e) Foreign nationals who have filed an application for naturalization.
26. Where applicable, the income benefit is supplemented with a foster-child benefit or special disability benefit.
27. Both employer and employee contribute to a social security plan which provides coverage for medical expenses, old age and widows' and orphans' benefits. At the age of 60 every citizen is entitled to an old age pension.
28. The Accident Insurance Ordinance provides employees who have suffered an accident at work with financial compensation. Each employee, regardless of income, must be insured by his employer for on-the-job accidents. If the employee dies as a result of the accident, the scheme entitles his or her surviving relatives to financial compensation.
29. The Health Insurance Ordinance provides employees with a financial compensation in the event of sickness. For the purposes of this legislation, sickness includes pregnancy and childbirth. The beneficiaries are all those who work for an employer, whether on a permanent basis or according to the terms of a contract. Public officials are likewise insured by the Government.
30. The severance pay legislation provides employees with a compensatory payment in the form of a lump sum if their employment is terminated through no fault of their own. All employees are entitled to this benefit, with the exception of persons employed by public law bodies and officials or teachers in State-aided schools.
31. Since the introduction of the General Medical Insurance Ordinance as of 1 January 2001 the existing free medical insurance legislation has been repealed. The new general medical insurance legislation provides access to medical care to all whom are registered at the national registry office. It provides the insured with a basic package of medical care, including access to family physicians, medical specialists, access to limited dental care, access to physiotherapy as

well as access to foreign medical resources. The introduction of this General Medical Insurance has made the existence of the free medical insurance legislation unnecessary due to the complete accessibility of medical care to all layers of the population.

D. Education

32. Article 1.20 of the Constitution of Aruba states that “education shall be an object of constant concern on the part of the Government”. This article also stipulates that education may be freely received, without prejudice to restrictions laid down by Country Ordinance, while paying due respect to every person’s religion or belief. Furthermore the Constitution stipulates that the Government must submit annual reports on the state of education to Parliament.

33. The literacy rate is 98 per cent (10-75 years). Financing of education has dropped from 6.10 per cent of the GDP in 1981 to 4.75 per cent in 2000. Public expenditure on education as a percentage of total public expenditure is approximately 17 per cent.

34. At present, education in Aruba is not yet compulsory. However, moves in this direction are far advanced, partly because of the obligations under article 14 of the International Covenant on Economic, Social and Cultural Rights and article 28 of the Convention on the Rights of the Child. School attendance is voluntary, and in this light the high percentages are all the more encouraging (over 93 per cent in every age group except 4-year-olds). However, due to a number of factors, including heavy immigration from the region, this rate has been declining in recent years.

35. The Aruban educational system is largely modelled on the Dutch system. The total number of pupils in 2001 was 20,170, of which 2,776 in the pre-primary education, primary education with 9,245 pupils, special primary education with 285, 2,203 in the vocationally oriented secondary education, 4,492 in the general secondary education, 1,169 in the middle level professional education and 424 in higher education. Another 491 pupils attend private schools.

36. Higher education is available, although the range of subjects is limited. Aruba has a school for secretarial and administrative education, a teacher training college and a hotel school. In 1988 the University of Aruba opened its doors, with a faculty of law; in August 1994 teaching started in the faculty of finance and economics.

37. Because of Aruba’s limited range of tertiary education, a relatively large number of students continue their studies abroad, mainly in the Netherlands and the United States of America. The Government offers students financial support (loans) to enable them to continue their education. In 2001 more than half of those receiving study loans were women (58.3 per cent).

38. That changes are needed in the Aruban educational system has been known for some time. The percentage of pupils who have to repeat a year is fairly high, which is largely due to language problems. Although Dutch is the official language of instruction, the great majority of the Aruban population normally speak Papiamentu. Furthermore, since 1988 many foreigners have migrated to Aruba, in some cases with their children. The educational infrastructure was not prepared for the specific needs of the immigrant children and increased demand for school

places. Besides dealing with claims of overcrowded classrooms, the schools also have to deal with pupils from other cultures, who speak different languages and have often been absent from school for a long period.

39. In the beginning of the 1990s, the Prisma project was developed with the aim to make non-Dutch speaking students as soon as possible familiar with the Dutch language in order for them to follow the regular school programme. Prisma started as a pilot programme at a public primary school and was later extended to all public primary schools in Aruba.

40. The 1999-2008 Strategic Plan for restructuring of pre-primary, primary and special education includes a proposal to restructure language use in schools to reflect the real socio-linguistic reality in Aruba but still recognize the fact that Dutch is the language of instruction in secondary education and that this is likely to remain the case for some time to come. This has led to the proposal to introduce Papiamentu as both a language of instruction and a school subject in primary education while retaining Dutch as the second language of instruction.

41. To comply with the obligations under the Convention on the Rights of the Child and to prepare for the introduction of compulsory school attendance, a steering group was appointed in May 2000. The group tried to establish how many children aged 4 to 18 in Aruba were not attending school and the reason for their non-attendance.

E. Health care

42. Aruba's health care is of a relatively high standard and is available to everyone. The Public Health Service consists of several departments which provide physical and mental health services, curative as well as preventive. For example, the Department of Contagious Diseases registers cases of these diseases as well as providing counselling and vaccinations. There are also departments for youth health care, information and education, the inspection of medicines, epidemiology and research, vector control, psychiatric and social services, and an occupational health centre.

43. Aruba has one hospital, the Dr. Horacio Oduber Hospital, which is a private and non-profit hospital, administered by a foundation. The hospital was built in 1970 and has a reputable staff and modern, sophisticated equipment. It is situated in the north-western part of the island. The services provided by the hospital are: internal medicine, surgery, cardiology, urology, gynaecology and obstetrics, paediatrics, otorhinolaryngology, ophthalmology, neurology, neuro-surgery, orthopaedics, dermatology, plastic surgery, and psychiatry. The Dr. Horacio Oduber Hospital is considered an average size hospital, having 305 beds for inpatient care, plus 41 beds for the psychiatric ward. The outpatient care facilities provide consultation rooms for most of the specialists. It also offers haemodialysis and auxiliary facilities like physiotherapy, wound care, radiology, among others.

44. The Dr. Rudy Engelbrecht medical centre is located in the south-east part of Aruba. It provides a central place for medical care to the residents of this part of the island, as well as the prisoners of the Correctional Institute. Mainly primary care is given in this centre. Also limited

secondary attention is provided. The centre has an emergency room that operates 24 hours under the supervision of a general practitioner. Still, most of the intramural curative care is concentrated in the Dr. Horacio Oduber Hospital.

45. There is also a public health laboratory which is equipped with modern analytical instruments and a well-trained staff, including professionally qualified bio-analysts and laboratory specialists. The laboratory is enrolled in a number of external quality control programmes, including those run by the College of American Pathologists, the Centers for Disease Control (CDC), the Caribbean Epidemiological Center (CAREC) and the Foundation for hospital laboratory quality control of the Netherlands.

46. The White and Yellow Cross Foundation provides domestic nursing services primarily for patients with chronic diseases such as diabetes and for neonates. Other services include the activities of the Family Planning Foundation, the Red Cross and the Blood Bank Foundation.

47. In May 1999 the UNAIDS-Theme group was established in Aruba. The main objective of this group is to get more sectors involved in the strategy against HIV/AIDS. The group consists of several departments of the Government, non-governmental organizations, and private sectors. The UNDP Representative of Trinidad chairs the Theme group.

F. Housing

48. Due to the accelerated growth of the economy and the related influx of thousands of foreigners, there is currently still a demand for rented accommodation. Numerous housing projects have been realized, alleviating the housing shortage to some extent. The number of households grew from 19,276 in 1991 to 29,246 in 2000. A large number of new houses were built. Also many house owners decided to build apartments around their house. In 2000 4,838 households were living in an apartment compared to 1,830 households in 1991. The number of households living in rooms in houses and in trailers and containers has also increased drastically since 1991.

49. According to the census 17,640 (77.9 per cent) out of a total of 22,658 households that lived in a house, owned the house they lived in. Social housing on the island is coordinated by the "Fundacion Cas pa Comunidad Arubano", the Community Housing Foundation (FCCA). In 2000, a total of 3,654 persons in 1,180 households live in houses rented from FCCA, and another 50 people live in apartments belonging to FCCA houses.

II. GENERAL POLITICAL STRUCTURE

A. Political history and framework

50. The present constitutional structure of the Kingdom of the Netherlands may be described as follows. Aruba is part of the Kingdom, which consists of three autonomous partners: the Netherlands, the Netherlands Antilles and Aruba. The relationship between the three Kingdom partners is stipulated in the Charter of the Kingdom of the Netherlands.

51. Until 1986, Aruba formed part of the Netherlands Antilles. Although from 1951 onwards Aruba had its own insular government within the political structure of the Netherlands Antilles, Aruba continued to strive for a greater say in internal matters. This struggle intensified in the

early 1970s, culminating in a public referendum in March 1977, when the majority of Arubans opted for autonomy in the form of separation from the Netherlands Antilles. On 1 January 1986, an amendment to the Charter of the Kingdom of the Netherlands was passed, giving Aruba the autonomous status within the Kingdom of the Netherlands (*status aparte*) to which it had long aspired.

52. During the 1983 Round Table Conference, where agreement was reached on this separate status, the Netherlands urged that it be granted for a period of 10 years, after which (i.e. in 1996) Aruba should become constitutionally independent. Article 62, paragraph 1, of the Constitution stated: “With regard to Aruba, the constitutional order laid down in the Charter shall end as of 1 January 1996.”

53. From the outset, most Arubans resented this contentious condition, and Aruban politicians constantly expressed their rejection of what was perceived as an imposed independence. In 1990 the Dutch policy was revised, with the Dutch administration declaring its willingness to postpone Aruba’s independence for an indefinite period. On 13 July 1990, the Minister for Netherlands Antillean and Aruban affairs and the Aruban Prime Minister agreed that article 62 would be rescinded and that both Caribbean countries (the Netherlands Antilles and Aruba) would retain the right to secede from the Kingdom.

54. In 1993, the three Kingdom partners discussed the future status of the Kingdom at two conferences. With regard to Aruba, the parliaments of the Netherlands, the Netherlands Antilles and Aruba agreed to delete article 62 of the Kingdom Charter, which stated that Aruba would become independent as from 1 January 1996. In December 1994 a Kingdom Act was signed to this effect.

The Charter of the Kingdom of the Netherlands

55. The Charter (*Statuut*), the highest constitutional instrument of the Kingdom, is a legal document *sui generis*, based upon its voluntary acceptance by the three countries. It consists of five paragraphs. The first two paragraphs define the association between the three countries, which is federal in nature. The fact that the three countries together form one sovereign entity implies that a number of matters need to be administered jointly; these are called Kingdom affairs. They are enumerated in the Charter, and include the maintenance of independence, defence and foreign relations.

56. The third paragraph deals with the relationship between the countries as autonomous entities. This partnership implies that the countries respect each other and give one another support and assistance, material or otherwise, and that they consult and coordinate in matters which are not Kingdom affairs, but in which a reasonable degree of coordination is in the interest of the Kingdom as a whole.

57. In accordance with article 3 of the Charter, foreign affairs (including the authority to conclude treaties with other States and/or organizations) are Kingdom affairs, and as such are dealt with by the Council of Ministers of the Kingdom. This Council consists of the Cabinet of the Netherlands, supplemented by a Minister Plenipotentiary each for Aruba and the Netherlands Antilles.

58. It is also laid down in the Charter that each of the countries is responsible for promoting fundamental human rights and freedoms, but that the safeguarding of these rights is a Kingdom affair (art. 43).

B. Type of government

59. Aruba's system of government is a parliamentary democracy. The head of State is the Queen of the Netherlands, represented by a Governor, who is appointed for a six-year period of office by the Queen upon the recommendation of the Aruban Council of Ministers.

60. The Council of Ministers is accountable to a 21-member Parliament (*Staten*) consisting of one House. Members of Parliament are chosen in general elections according to a system of proportional representation every four years, on the basis of a multiparty system. The Governor and the Council of Ministers jointly form the Government of Aruba.

1. Government

61. The executive powers are vested in an eight-member Council of Ministers headed by the Prime Minister. The Ministers currently have the portfolios of General Affairs, Finance and Economic Affairs, Tourism and Transport, Justice, Education, Public Health and Environment, Social Affairs and Infrastructure, and Labour, Culture, Human Development and Sport. The Minister Plenipotentiary, residing in The Hague, represents Aruba's interests in the Netherlands.

2. Parliament

62. The principal task of parliament is to enact legislation in cooperation with the Government. Every national law has to be decided upon jointly by government and parliament. Apart from this co-legislative task, parliament supervises and monitors the Government in order to ensure that the executive power functions properly.

3. Judiciary

63. The Judiciary is independent of the legislative and executive powers. Judges are appointed for life by the Crown. Since 1 January 1986, the organization and composition of the judiciary in the Netherlands Antilles and Aruba have been regulated according to the same procedure. In both countries, proceedings are conducted before the court of first instance, with scope for appeal to the Joint Court of Justice of the Netherlands Antilles and Aruba and for appeal in cassation to the Supreme Court in The Hague.

4. Advisory bodies

64. The Advisory Council plays an important part in the preparation of legislation. The Government sends every draft ordinance for advice to the Advisory Council. Only after the Advisory Council has made its recommendations is the draft ordinance sent, together with these recommendations, to parliament.

65. Apart from advising the Government on draft legislation, the Advisory Council can also make recommendations on its own initiative concerning matters related to its work. At the Government's request the Advisory Council can give advice on any matter, in which case the Government is obliged to give the Council all the relevant information.

66. Besides the recommendations it receives from the Advisory Council, the Government also receives advice from the General Auditor and the Social and Economic Council. The reports of these three advisory bodies are public and are available to any citizen who wishes to consult them, unless this would be contrary to the national interest or the interests of the Kingdom.

III. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

67. The main frame of reference for fundamental human rights (including civil and political rights) in Aruba is the Constitution (*Staatsregeling*), chapter I of which, and to some extent the other chapters (for example, article V.22 on sufficient employment and article V.23 on the provision of sufficient living accommodation) enshrine the most important basic human rights. The catalogue of these rights is extensive and is based on international conventions such as the Universal Declaration of Human Rights, the European Social Charter, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the American Convention on Human Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms, in addition to the Constitution of the Netherlands and generally acknowledged principles of fundamental rights.

68. In addition, since Aruba attained its current *status aparte* (semi-sovereign status) in 1986, the relationship between the Netherlands Antilles and Aruba has been governed by the Cooperation Agreement (*Samenwerkingsregeling*), article 3 of which directs the countries to incorporate human rights, as enshrined in the European Convention on Human Rights of 4 November 1950, into their legislation.

69. Furthermore, Aruba is a party to the following human rights treaties and periodically submits reports in accordance with its obligations as defined in these treaties.

- (a) International Covenant on Civil and Political Rights and Optional Protocol;
- (b) International Covenant on Economic, Social and Cultural Rights;
- (c) International Convention on the Elimination of all Forms of Racial Discrimination;
- (d) Convention on the Elimination of All Forms of Discrimination against Women and Optional Protocol;
- (e) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- (f) Convention on the Rights of the Child;

(g) European Convention for the Protection of Human Rights and Fundamental Freedoms and Protocols;

(h) European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

(i) European Social Charter.

70. Article 14 of the Charter of the Kingdom of the Netherlands implies that the articles dealing with Kingdom affairs in the Netherlands Constitution also apply to Aruba. Thus, the articles of the Netherlands Constitution which stipulate the order of precedence of international conventions and national guidelines also apply to the constitutional order of Aruba. The provisions of these articles solve the problems which arise should the application of provisions of a convention or decision by a human rights organization, which are binding on each individual, conflict with the statutory provisions of the country concerned. In such cases the provision of the convention or of the human rights organization take precedence over domestic statutory provisions. Of crucial relevance are the words "binding on each individual".

71. As of 1 January 2002 the New Civil Code entered into force for Aruba. With the introduction of Book 1 of the New Aruban Civil Code the old law of persons and family was replaced. With the revision of this law a large number of discriminatory provisions has been abolished. The radical modernization of the law of persons and family is the result of the human rights instruments concluded over the last 50 years, especially the European Convention for the Protection of Human Rights and Fundamental Freedoms and the International Covenant on Civil and Political Rights, but also social developments made it necessary to revise legislation that dated from 1869. As regards the interpretation of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the rulings of the European Court of Human Rights are binding on Aruba.

72. The principles of a fair and public hearing are enshrined in the Constitution and in other regulations. The equality of all persons before the law is expressed in statutory regulations on procedural law. All parties in legal proceedings, whether these are criminal, civil or administrative proceedings, have the same rights and obligations. Statutory provisions provide for free legal counsel for residents who have an income from employment that is equal to, or less than, the statutory minimum wage. Aliens who are not residents of Aruba but who fulfil the other requirements of this law are also eligible for free legal assistance.

73. Many statutory regulations provide for the right of appeal against certain decisions by administrative bodies. Public servants can appeal to the Public Servants' Tribunal. The courts involved are independent and impartial. In a number of cases, the Governor or a Minister act as administrative appeal bodies. Partly as a result of the judgement of the European Court of Human Rights of 23 October 1985 (Bentham), whereby appeal to the Netherlands Crown, in Aruba represented by the Governor, may not be regarded as independent and impartial justice, the introduction of an administrative procedure was prepared, whereby all exceptional appeal and objection procedures are to be replaced by one administrative procedure. Under this system,

appeal may be lodged with a court of first instance against any decision by an administrative body that has legal consequences, provided an obligatory objection procedure has first been completed. It should be noted that since its introduction many citizens have found their way to this court.

74. In those cases which are not provided for in the above-mentioned legislation, the individual may initiate civil proceedings on the grounds of tort on the part of the Government (article 6:162 of the New Civil Code of Aruba). Such proceedings are conducted before the court of first instance, with scope for appeal to the Joint Court of Justice of the Netherlands Antilles and Aruba and appeal in cassation to the Supreme Court in The Hague.

75. The New Code of Criminal Procedure entered into force for Aruba in 1997. This was a milestone in the history of Aruba's criminal law system. As a consequence, the general system regarding the manner in which the powers of control of the Government are used, was revisited and harmonized thus establishing a clear new system. The New Code provides fundamental safeguards against unlawful action by the authorities. The application of constraints against a suspect is made the subject of precise rules. Very importantly, provision is made in many places in the law for the assignment of defence counsel. If necessary, the assistance of counsel may be free under a legal aid order. This means that from the moment of the initial contact with the criminal justice authorities a suspect can be assisted by a lawyer, who monitors the lawfulness of the treatment accorded to the suspect in the course of the criminal proceeding and can apply to the court in the event of any irregularities. This provides a strong safeguard against arbitrary and unlawful action by the authorities.

76. The introduction of the New Code of Criminal Procedure has also strengthened the victim's position. An injured party may join as a party to criminal proceedings at first instance, provided certain conditions are being met (e.g. for a claim not exceeding 50,000 guilders and not yet submitted to the civil courts). A victim may register as an injured party even during the preliminary phase of action. When an injured party indicates that he/she will claim compensation or wishes to be informed about the progress of proceedings, mention of this should be made in the official report. When the injured party requires help and support, the necessary assistance must be provided. The police and Public Prosecutor have the duty to help victims obtain any assistance or support they may require.

77. When an interested party as defined in the Aruban Code of Criminal Procedure believes that there has been a failure to prosecute after a criminal offence has been committed, he may complain to a court of justice (article 15 of the New Code of Criminal Procedure). If the court reaches the same conclusion as the complainant, it may instruct the relevant official at the Public Prosecutions Department, after having received the official's report on the matter, to institute, or order the institution of, criminal proceedings, or to expedite existing criminal proceedings.

78. Complaints about the alleged misconduct of public officials are investigated by the public prosecutions department. The head of the public prosecutions department, the Attorney-General, is empowered to issue to officials in charge of the police whatever instructions for the prevention of indictable or non-indictable offences he may deem necessary in the interest of the proper

dispensation of justice. The National Bureau of Criminal Investigation conducts criminal investigations into the alleged misconduct of public officials in general and police officers in particular. This Bureau is subject to the authority of the Attorney-General and is directly accountable to him; it thus operates independently of the police.

79. A victim of ill-treatment by a government official may seek compensation along a variety of paths. If the official concerned is prosecuted under criminal law, the New Code of Criminal Procedure offers the victim the possibility of joining the criminal proceedings. If the victim wishes to receive a larger sum in compensation, he can present his claim before a civil court. By invoking article 6:162 of Aruba's New Civil Code, he may hold either the official concerned or the State of Aruba liable for material or non-material damage suffered.

80. In 1999, a State Ordinance on public information passed Parliament, providing every citizen with the right to ask and receive information the Government used to reach certain decisions or prepare legal measures. The Government has the obligation to provide this information. Only in certain limited cases - regarding public and national safety, as well as the prosecution of criminal acts - the information may be refused. In such a case, however, the citizen has the right to go to court in order to oblige - in case the refusal was unlawful - the Government to comply with the principle of public information.

IV. INFORMATION AND PUBLICITY

81. In connection with the various human rights reports that Aruba is obliged to draw up at periodic intervals, a suitable structure had to be devised for the procurement of the necessary information from government bodies. To this end, an Aruban human rights committee was appointed in 1991, its members drawn from government bodies and NGOs, which together provide the material for the reports. The institution of a human rights committee had two beneficial effects: firstly, it designated certain persons as permanent liaison officers, and secondly, it raised awareness of the existence and importance of human rights within the relevant government bodies.

82. By decision of the Council of Ministers of 29 September 1993, the human rights committee was given a formal basis, and has the following tasks:

- (a) To advise the Government on human rights issues;
- (b) To comply with reporting obligations in pursuance of international human rights conventions;
- (c) To promote general awareness among the public regarding human rights.

83. Informing the public about human rights is one of the tasks of the human rights committee. This has led inter alia to the holding of workshops, lectures at schools and an art exposition commemorating the anniversary of the Universal Declaration in 1998. In addition, booklets have been published on the Universal Declaration and a drawing competition was organized for the primary schools in Aruba. Booklets have also been published on the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.

84. The Convention on the Rights of the Child entered into force for the Kingdom of the Netherlands with respect to Aruba on 17 January 2001. A commission, consisting of representatives of both governmental and non-governmental organizations has been established by Ministerial Decree of the Prime Minister of 12 April 2001. In addition to making periodic reports to the United Nations, and advising the Government, the Committee has also the task to promote general public awareness of the rights of the child in Aruba.

85. The Committee on the Rights of the Child intends to fulfil this promotional task primarily by supporting and encouraging existing initiatives by NGOs and government agencies. The Convention on the Rights of the Child will be translated into explanatory materials of varying levels of difficulty in the national language Papiamentu and in Dutch, English and Spanish. The realization of these activities depends, of course, on the availability of adequate resources. The committee will also have to ensure that its reports are circulated and publicized within Aruba.

86. Long before the ratification of the Convention on the Rights of the Child a range of governmental and non-governmental organizations has been organizing activities and calling for attention to the Declaration and Convention on the Rights of the Child. In 1994, the Government responded to an initiative of the Children Foundation, by designating 20 November as National Children's Day; the establishment of this day is to draw more public attention to the rights of the child in Aruba. Every year since then, on and around this day attention has been focused on the rights of the child by the NGOs, media and government.

87. In October 2002, as part of the Year of the Child and prompted by the participation of Aruba in the United Nations Children's Summit, the youth affairs section of the Social Affairs Department organized a youth forum entitled "My Rights". The forum was centred on youth participation and the right of young people to express an opinion on matters directly affecting them. During the forum the young people considered the Government's plan to establish a Youth Parliament and had the opportunity to present proposals on observance of the rights of the child in the national Parliament.

88. The Department of Foreign Affairs is currently preparing the introduction of a web site, which will make it possible to publicize among others information on human rights issues, such as the reports of Aruba and the recommendations of the international committees on these.
